



To the Honorable Council
City of Norfolk, Virginia

September 27, 2022

From: George M. Homewood
Director of Planning

Subject: Zoning Text Amendment - City
Planning Commission

Reviewed:

Ward/Superward: Citywide

Patrick Roberts, Deputy City
Manager

Approved:

Dr. Larry H. Filer II, City Manager

Item Number: PH-02

I. **Planning Commission Recommendation:**

By a vote of 6 to 0, the Planning Commission recommends **Approval**.

II. **Request:** Text amendment to the *Norfolk Zoning Ordinance* to establish use categories and performance standards for medical and recreational cannabis sales and processing.

III. **Applicant:** City Planning Commission

IV. **Description:**

- In 2021 the state legislature passed HB 933/SB 671, which allows localities to approve Medical Cannabis Dispensaries if approved by the Department of Health: Board of Pharmacy.
 - The legislation established five regional 'Health Service Areas' with only one company permitted to operate Medical Cannabis Dispensaries in each zone.
 - Each company can operate up to 5 dispensaries in their zone.
 - The locational criteria proposed in this text amendment are also required by the Board of Pharmacy.
- Recreational Cannabis Dispensaries will not be allowed in Virginia until such time an appropriate state entity is created and issues permits to regulate the dispensaries. Regulations are being put in place now in anticipation of that action.
- The proposed amendment would:
 - Create a "Cannabis Dispensing Facility" definition which would combine both medical (currently legal) and recreational (not yet currently legal) cannabis dispensaries into one use.

- The use would be allowed by Conditional Use Permit (CUP) in the (C-C) Community-Commercial and (C-R) Regional-Commercial zoning districts.
- The use would not be permitted within 1,000 feet of a school or childcare facility, nor within 1,000 feet of another cannabis dispensary.
- The use will only be permitted to operate between the hours of 7:00 AM and 10:00 PM.
- Define “Cannabis cultivation or manufacturing facility”
 - The use would be allowed by CUP in the (I-G) Industrial – General district.
 - All cultivation, manufacturing, and processing operations must be conducted entirely indoors.

The use shall not generate perceptible noise, odor, smoke, electrical interference, or vibration outside of the hours of 7:00 a.m. until 10:00 p.m.

Staff contact: Robert Brennan at (757) 620-5911, Robert.Brennan@Norfolk.gov

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated August 25, 2022 with attachments
- Ordinance

PROPONENTS AND OPPONENTS

PROPONENTS

none

OPPONENTS

none

Supporting Material:

- Ordinance Exhibits (A-E) (PDF)
- Definitions and Use Categories (PDF)



City Planning Commission Public Hearing: August 25, 2022

Executive Secretary: George M. Homewood, FAICP, CFM

Paula M. Shea

Staff Planner: Robert Brennan

Sheri Williams

Staff Report		Item No
Applicant	City Planning Commission	
Request	Zoning Text Amendment	Text amendment to the <i>Norfolk Zoning Ordinance</i> to establish use categories and performance standards for medical and recreational cannabis sales and processing.

A. Summary of Request

- The text amendment would:
 - Define “Cannabis”, “Cannabis dispensing facility” and “Cannabis cultivation or manufacturing facility”.
 - Create performance standards.
- These amendments address new uses that the 2021 Session of the Virginia General Assembly placed on a trajectory toward legality, some of which are currently legal and others requiring further action by the General Assembly.
- While not all of the uses potentially included in this relatively broad language are currently legal in Virginia, there is a lot of movement in that direction and to ensure being out in front, staff recommends **approval**.

B. Plan Consistency

plaNorfolk2030 does not discuss cannabis. However, “Cannabis Dispensing Facility” does not conflict with the commercial districts outlined in the plan.

C. Analysis

- In 2021 the state legislature passed HB 933/SP 671, which allows localities to approve Medical Cannabis Dispensaries if approved by the Department of Health: Board of Pharmacy.
 - The legislation established five regional ‘Health Service Areas’ with only one company permitted to operate Medical Cannabis Dispensaries in each zone.
 - Each company can operate up to 5 dispensaries in their zone.
 - The locational criteria proposed in this text amendment are also required by the Board of Pharmacy.

- Recreational Cannabis Dispensaries will not be allowed in Virginia until such time an appropriate state entity is created, and issues permits to regulate the dispensaries. Regulations are being put in place now in anticipation of that action.
- The proposed amendment would:
 - Create a “Cannabis Dispensing Facility” definition which would combine both medical (currently legal) and recreational (not yet currently legal) cannabis dispensaries into one use.
 - The use would be allowed by Conditional Use Permit (CUP) in the (C-C) Community-Commercial and (C-R) Regional-Commercial zoning districts.
 - The use would not be permitted within 1,000 feet of a school or childcare facility, nor within 1,000 feet of another cannabis dispensary.
 - The use will only be permitted to operate between the hours of 7:00 AM and 10:00 PM.
 - Define “Cannabis cultivation or manufacturing facility”
 - The use would be allowed by CUP in the (I-G) Industrial – General district.
 - All cultivation, manufacturing, and processing operations must be conducted entirely indoors.
 - The use shall not generate perceptible noise, odor, smoke, electrical interference, or vibration outside of the hours of 7:00 a.m. until 10:00 p.m.

D. Communication Outreach/Notification

Civic leagues will be contacted as a part of the CUP process when specific applications are being considered.

E. Recommendation

Staff recommends that the Zoning Text Amendment be **approved**.

Supporting Material:

- Ordinance Exhibits (A-E) (PDF)
- Definitions and Use Categories (PDF)

Form and Correctness Approved: *BAP*

Contents Approved:



By: _____
Office of the City Attorney

By: _____
DEPT. Planning

NORFOLK, VIRGINIA

Ordinance No.

AN ORDINANCE TO AMEND SECTIONS 4.2.3.F, 4.2.3.G AND 8.3.2 AND TABLES 3.3.9 AND 3.5.7 OF THE NORFOLK ZONING ORDINANCE SO AS TO DEFINE AND CREATE PERFORMANCE STANDARDS FOR A NEW USE LABELED "CANNABIS DISPENSING FACILITY," TO BE PERMITTED IN CERTAIN COMMERCIAL DISTRICTS BY CONDITIONAL USE PERMIT ONLY, AND FOR A NEW USE LABELED "CANNABIS CULTIVATION OR MANUFACTURING FACILITY," TO BE PERMITTED IN THE I-G (INDUSTRIAL-GENERAL) DISTRICT BY CONDITIONAL USE PERMIT ONLY.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Section 4.2.3.F(6) of the Norfolk Zoning Ordinance, entitled "Definitions and Standards Applicable to Individual Retail Sales and Service Uses," is hereby amended so as to create a new use, defined as "Cannabis Dispensing Facility" and to adopt performance standards applicable to any such use. The text shall read as forth in "Exhibit A," attached hereto. Said text shall be added to Section 4.2.3.F(6) in the appropriate alphabetical position, all existing subsections shall be re-alphabetized accordingly, and all reference to such re-alphabetized subsections shall be update accordingly.

Section 2:- That Section 4.2.3.G(2) of the Norfolk Zoning Ordinance, entitled "Definitions and Standards Applicable to Individual Industrial Uses," is hereby amended so as to create a new use, defined as "Cannabis cultivation or manufacturing facility" and to adopt performance standards applicable to any such use. The text shall read as forth in "Exhibit B," attached hereto. Said text shall be added to Section 4.2.3.G(2) in the appropriate alphabetical position, all existing subsections shall be re-alphabetized accordingly, and all reference to such re-alphabetized subsections shall be update accordingly.

Section 3:- That Table 3.3.9 of the Norfolk Zoning Ordinance, entitled "Principal, Accessory, and Temporary Use Table for Commercial Base Zoning Districts," is hereby amended and reordained so as to allow "Cannabis Dispensing Facility" as a principal use, by Conditional Use Permit only, in the C-C (Community Commercial) and C-R (Regional Commercial) Districts. The table shall read as set forth in "Exhibit C," attached hereto.

Section 4:- That Table 3.5.7 of the Norfolk Zoning Ordinance, entitled "Principal, Accessory, and Temporary Use Table for Industrial Base Zoning Districts," is hereby amended and reordained so as to allow "Cannabis cultivation or manufacturing facility" as a principal use, by Conditional Use Permit only, in the I-G (Industrial - General) District. The table shall read as set forth in "Exhibit D," attached hereto.

Section 5:- That Section 8.3.2 of the Norfolk Zoning Ordinance, entitled "Terms Defined," is hereby amended and reordained so as to add a definition of "Cannabis" consistent with the definition found in state law. The text shall read as forth in "Exhibit E," attached hereto. Said text shall be added to Section 8.3.2 in the appropriate alphabetical position.

Section 6:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 7:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

- Exhibit A (1 page)
- Exhibit B (1 page)
- Exhibit C (1 page)
- Exhibit D (1 page)
- Exhibit E (1 page)

EXHIBIT A

ARTICLE 4: PERFORMANCE STANDARDS

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4.2 PERFORMANCE STANDARDS FOR PRINCIPAL USES

...

4.2.3. PERFORMANCE STANDARDS FOR ALL PRINCIPAL USES

...

F. STANDARDS SPECIFIC TO COMMERCIAL USES

...

(6) Definitions and Standards Applicable to Individual Retail Sales and Service Uses

...

(f) Cannabis dispensing facility

A facility that has obtained a permit or license from the Virginia Board of Pharmacy or other state regulatory entity to dispenses and sell cannabis products.

- (i) The facility shall not operation outside the hours of 7:00 a.m. until 10:00 p.m. on any day.
- (ii) No facility shall be located within 1,000 feet of any boarding school, elementary school, secondary school, vocational or trade school, adult day care center, or child day care center.
- (iii) No facility shall be located within 1,000 feet of any other cannabis dispensing facility.

EXHIBIT B

ARTICLE 4: PERFORMANCE STANDARDS

...

4.2 PERFORMANCE STANDARDS FOR PRINCIPAL USES

...

4.2.3. PERFORMANCE STANDARDS FOR ALL PRINCIPAL USES

...

G. STANDARDS SPECIFIC TO INDUSTRIAL USES

...

(2) Definitions and Standards Applicable to Individual Industrial Uses

...

(b) Cannabis cultivation or manufacturing facility

A facility that has obtained a permit or license from the Virginia Board of Pharmacy or other state regulatory entity to cultivate, label, package, manufacture, or process cannabis products.

- (i) All cultivation, manufacturing, and processing operations must be conducted entirely indoors.
- (ii) The use shall not generate perceptible noise, odor, smoke, electrical interference, or vibration outside of the hours of 7:00 a.m. until 10:00 p.m. on any day.

EXHIBIT C

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS									
P = PERMITTED BY RIGHT C = ALLOWED ONLY WITH APPROVAL OF A CONDITIONAL USE PERMIT									
BLANK CELL = PROHIBITED									
USE CATEGORY	USE TYPE	<u>C-N</u>	<u>C-C</u>	<u>C-R</u>	<u>O</u>	<u>BC-O</u>	<u>BC-I</u>	PERFORMANCE STANDARDS	
COMMERCIAL USES									
Retail Sales and Service Uses	Cannabis dispensing facility		C	C				<u>4.2.3.F(1)</u>	<u>4.2.3.F(6)(f)</u>

EXHIBIT D

TABLE 3.5.7: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR INDUSTRIAL BASE ZONING DISTRICTS						
P = PERMITTED BY RIGHT C = ALLOWED ONLY WITH APPROVAL OF A CONDITIONAL USE PERMIT						
BLANK CELL = PROHIBITED						
USE CATEGORY	USE TYPE	<u>I-L</u>	<u>I-G</u>	<u>I-W</u>	<u>I-DW</u>	PERFORMANCE STANDARDS
INDUSTRIAL USES						
Industrial Uses	Cannabis cultivation or manufacturing facility		C			<u>4.2.3.G(1)</u> <u>4.2.3.G(2)(b)</u>

EXHIBIT E

ARTICLE 8: DEFINITIONS AND RULES OF MEASUREMENT

8.3 DEFINITIONS AND RULES OF MEASUREMENT

8.3.2. TERMS DEFINED

...

CANNABIS

Any part of a plant of the genus Cannabis (also commonly known as marijuana) whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Cannabis does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Cannabis does not include any of the following:

1. Industrial hemp that is possessed by a person, or his agent, registered to grow, deal in, or process industrial hemp in the Commonwealth.
2. Industrial hemp that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture.
3. A hemp product containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp that is grown, dealt, or processed in compliance with state or federal law.

...

Section 8.3.2

Cannabis

Any part of a plant of the genus Cannabis (also commonly known as marijuana) whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Cannabis does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Cannabis does not include (i) industrial hemp that is possessed by a person, or his agent, registered to grow, deal in, or process industrial hemp in the Commonwealth; (ii) industrial hemp that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture; (iii) a hemp product containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp that is grown, dealt, or processed in compliance with state or federal law.

4.2.3.F(6)(f)

Cannabis dispensing facility

A facility that has obtained a permit or license from the Virginia Board of Pharmacy or other state regulatory entity to dispenses and sell cannabis products.

Performance standards

- i. Hours of operation shall be limited to 7:00 a.m. until 10:00 p.m.
- ii. No cannabis dispensing facility shall be located within 1,000 feet of any school or daycare.
- iii. No cannabis dispensing facility shall be located within 1,000 feet of any existing cannabis dispensing facility.

Zoning District	Cannabis Dispensing Facility
C-C (Community Commercial)	C
C-R (Regional Commercial)	C

4.2.3.G(2)(b)

Cannabis cultivation or manufacturing facility

A facility licensed to cultivate, label, package, manufacture, or process cannabis products.

Performance standards

- i. All cultivation, manufacturing, and processing operations must be conducted entirely indoors.
- ii. The use shall not generate perceptible noise, odor, smoke, electrical interference, or vibration outside of the hours of 7:00 a.m. until 10:00 p.m.

Zoning District	Cannabis Cultivation or Manufacturing Facility
I-G (Industrial – General)	C