



City of Cambridge

Executive Department

YI-AN HUANG
City Manager

May 8, 2023

To the Honorable, the City Council:

In response to Awaiting Report Items Numbered 23-02 & 23-034, related to exploring the need for a special permitting process for cannabis dispensaries, special permitting fees and bicycle parking requirements, and Response to Awaiting Report No. 23-4 regarding establishing the framework that will allow for the immediate elimination of the bicycle parking fees imposed on Economic Empowerment and Social Equity applicants and cannabis dispensary operators, Community Development, Law, and Traffic, Parking, and Transportation Departments report the following.

In 2012, medical cannabis was legalized in Massachusetts. In Cambridge, between 2013 and 2022 three Registered Marijuana Dispensaries (RMDs) received permits and opened for business. In 2017, retail cannabis was legalized and between 2019 and the present four retail cannabis stores received permits and are currently open for business in Cambridge. Fifteen additional retail cannabis stores, and two additional cannabis delivery/courier establishments are in the local permitting and state licensing process.

The local permitting process in Cambridge for both RMDs and retail cannabis businesses includes compliance with (1) the Cambridge Zoning Ordinance and (2) the Cannabis Business Permitting Ordinance.

The Cambridge Zoning Ordinance Article 4 and Section 11.800 of the Zoning Ordinance allows the establishment of cannabis retail stores, cannabis couriers, delivery operator establishments and production facilities, for medical and/or adult use cannabis, by special permit from the Planning Board in certain districts and subject to certain requirements. Additional conditions may be required as part of the special permit approval process. A cannabis courier establishment is permitted without a special permit.

The Cannabis Business Permitting Ordinance, Chapter 5.50 of the Cambridge Municipal Code, was adopted by the City Council in September 2019 and created a local permitting requirement for cannabis businesses, including cannabis retail stores, cannabis cultivators, cannabis product manufacturers, cannabis microbusiness, cannabis courier establishments, and cannabis delivery operator establishments. The goal was to ensure that the public interest was protected and to prioritize cannabis businesses owned by communities disproportionately harmed during the war on drugs.



CAMBRIDGE EXPERIENCE WITH CANNABIS SALES

We have learned a great deal in the 10 years that the cannabis industry has been in operation in Cambridge. As reported by City staff at the January 18, 2023, joint committee hearing of the Civic Unity and the Economic Development & University Relations Committees, neighborhood impacts due to medical and adult use cannabis businesses have been minimal. To date, the anticipated levels of reported police incidents, customer queueing problems, traffic and/or parking congestion, and public health incidents have not materialized. Working together, staff from the Community Development, Law, and Traffic, Parking, and Transportation Departments have the following observations regarding the local permitting process:

- No other retail use requires a special permit from the Planning Board. Some retail uses require a Board of Zoning Appeal (BZA) special permit but most, including liquor stores, do not.
- Securing a special permit is the longest step in the overall permitting process for retail cannabis stores.
- Some components of the special permit review process have become routine and standardized. Other components remain valuable but could be replaced by permitting requirements in the Cannabis Business Permitting Ordinance (5.50.050), review criteria in the Host Community Agreement (HCA) or “live on” as as-of-right standards in the Cambridge Zoning Ordinance, subject to administrative review during issuance of building permits and/or certificates of occupancy. Useful items include:
 - o Confirmation that proposed location is not within 1800 feet of another retail cannabis store or within 300 feet radius of a K-8 school or facility/playground. Applicants have regularly needed to confirm with staff how this criterion applies to their business location.
 - o Evaluating a Transportation Logistics Plan for traffic, parking, loading/delivery service and drop off/pick up activities for the proposed location.
- There is some overlap in the information requested during the special permit and HCA application processes. Since the applications occur at different times and information is not always consistent at the two stages, it can result in additional reconciliation time.
- The special permit allows the City to enforce conditions through zoning enforcement. The City also has other methods to enforce local standards for cannabis uses, including through the Cannabis Business Permitting Ordinance and HCA.
- Other general zoning requirements, such as bicycle parking requirements, are the same for cannabis retail stores as for all other retail and consumer service uses under existing zoning requirements in the City. The same is true of review and requirements related to the City’s Parking and Transportation Demand Management (PTDM) Ordinance.

RECOMMENDATION

We recommend that the **special permit requirement for cannabis retail uses, as set forth in Sec 11.800 of the Zoning Ordinance, be eliminated** for a Cannabis Retail Store, Cannabis Courier Establishment, and Cannabis Delivery Operator Establishment. **The only cannabis use that we recommend would still require a special permit would be Cannabis Product Manufacturer.** Presently no Cannabis Product Manufacturers are in operation, nor in the process of opening, in the City of Cambridge.

Items from the special permit review that are valuable should be converted to as-of-right zoning standards, moved to the HCA, or added as permitting requirements in the Cannabis Business Permitting Ordinance as appropriate.

Removing the special permit requirement would **automatically eliminate special permit conditions, including the \$35,000 transportation mitigation payment** that has been included as a special permit condition for cannabis retail stores going forward, which staff supports. There are now more retail

cannabis stores in the region for customers to choose from which helps to disperse traffic impacts across a broader area.

Standards and policies that apply to all development, such as the Parking and Transportation Demand Management (PTDM) Ordinance review and requirements and parking, including any applicable bicycle parking, requirements in the Cambridge Zoning Ordinance would continue to apply to cannabis retail stores, similarly to all other retail establishments.

It should be noted that bicycle parking requirements in the Zoning Ordinance for a cannabis retail store are the same as for any other retail store or consumer service use. Some applications for a cannabis retail store included elective bicycle parking above and beyond the requirements of the zoning ordinance. When the Planning Board grants approval for a special permit, that approval incorporates the plans and application elements also contained therein. If an applicant proposes bicycle parking in an application, subsequently removing that bicycle parking requires that the special permit be amended.

While changes to the HCA process would require some additional processing time, the proposed changes **could reduce overall processing time by as much as four months** if the special permit requirement is eliminated and key requirements are moved to the HCA process, the Cannabis Business Permitting Ordinance, and/or as-of-right zoning provisions.

We have drafted proposed amendments to the Zoning Ordinance to affect these changes. These are presented below for the City Council's consideration. These proposed changes, if adopted, will require modifications to the staff review process and to the cannabis permitting process. We will develop process changes based on the Council's direction regarding the proposed policy changes.

PROPOSED CHANGES TO THE ZONING ORDINANCE

CDD staff, in consultation with the Law Department, have prepared proposed amendments to the Zoning Ordinance (appended hereto) which would eliminate the special permit requirement for cannabis retail uses cannabis delivery operator uses and include other language edits for the purpose of clarity and consistency and to improve the overall construction of the zoning text.

Should the special permit requirement be removed, the special permit criteria summarized below would also be eliminated. Some elements of these criteria are already part of staff review of building permit applications, but other criteria (such as the criterion related to window transparency) are inherently more discretionary and have been reviewed on a case-by-case basis by the Planning Board:

- That the site is designed to provide convenient, safe, and secure access for customers and employees, using all modes of transportation.
- That service functions of the cannabis use (i.e., loading, deliveries and refuse storage) are secure and shielded from abutting uses.
- That the storefront is designed to maximize transparency and provide visual interest between the cannabis use and the public realm.
- That the cannabis use provides information to qualifying Medical Marijuana patients on how to obtain service under the Massachusetts Medical Use of Marijuana Program.

ADDITIONAL PROPOSED CHANGES

Staff have identified a conflict between the Zoning Ordinance and the Cannabis Business permitting

Ordinance in the language which defines the criteria for being designated as a Social Equity Applicant. The Zoning Ordinance identifies "... applicants that have been designated as Economic Empowerment Applicants or certified as eligible to participate in the Social Equity Program by the Massachusetts Cannabis Control Commission..." whereas the Cannabis Business Permitting Ordinance identifies Social Equity applicants as also being Cambridge residents.

We recommend that either the Zoning Ordinance language be changed to require eligible Social Equity applicants to be Cambridge residents or to remove the Cambridge residency requirement from Social Equity status in the Cannabis Business Permitting Ordinance. To date, none of the Social Equity applicants whose applications are in process or who have inquired about the process are Cambridge residents. There are, however, Social Equity applicants as certified by the state who are in permitting process and who qualify under the Cannabis Business Permitting Ordinance because they also identify as women of color.

Very truly yours,

A handwritten signature in black ink, appearing to read "Yi-An Huang", with a stylized flourish at the end.

Yi-An Huang
City Manager

Attachment(s)

Amend Article 4.30 of the Zoning Ordinance as follows:

	Open Space	Res A 1&2	Res B	Res C, C-1, C-1A, 2, 2A, 2B, 3, 3A, 3B	Off 1, 2A, 2, 3, 3A	Bus A-1, A-2, A-3 ¹	Bus A, A-4	Bus B, B-1, B-2	Bus C	Ind A-1, A-2	Ind A	Ind B-1, B-2	Ind B
4.32 Transportation, Communication & Utility Uses													
l. Cannabis Courier Establishment	No	No	No	No	Yes ₅₈	Yes ₅₈	Yes ₅₈	Yes ₅₈	Yes ₅₈	Yes ₅₈	Yes ₅₈	Yes ₅₈	Yes ₅₈
4.35 Retail or Consumer Service Establishments													
s. Cannabis Retail Store	No	No	No	No	No	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	No	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈
4.37 Light Industry, Wholesale Business and Storage													
n. Cannabis Production Facility	No	No	No	No	No	No	No	No	No	No	No	PB ₅₈	No
o. Cannabis Delivery Operator Establishment	No	No	No	No	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈	PB₅₈ Yes ₅₈

Amend Article 11.800 of the Zoning Ordinance as follows:

11.800 CANNABIS USES

11.801Statement of Purpose. The purpose of this section is to provide for the limited establishment of Registered Marijuana Dispensaries for the medical use of cannabis products and Cannabis Establishments for the non-medical use of cannabis products, as they are authorized pursuant to applicable state laws and regulations.

11.802General Requirements

11.802.1 Allowed Cannabis Uses.

- (a) Cannabis Retail Stores, Cannabis Delivery Operator Establishments, and Cannabis Production Facilities shall be allowed ~~only after the granting of a special permit by the Planning Board~~ as set forth in the Table of Use Regulations (Section 4.30 of this Zoning Ordinance), subject to the requirements set forth in this Section 11.800, et seq.
- (b) Cannabis Retail Stores, Cannabis Delivery Operator Establishments, or Cannabis Production Facilities, as defined in Article 2.000 of this Zoning Ordinance, may be established to provide cannabis products for medical or non-medical use, or both, in accordance with applicable state laws and regulations.
- ~~(c) A Cannabis Retail Store, Cannabis Delivery Operator Establishment, or Cannabis Production Facility that has previously received a special permit from the Planning Board only to authorize another type of Cannabis Establishment (including, but not limited to, a Registered Marijuana Dispensary) shall be required to amend its previously issued special permit to authorize the conversion to or co-location of a new type of Cannabis Establishment for the non-medical use of cannabis or marijuana.~~
- ~~(d) Cannabis Courier Establishments shall be permitted as set forth in the Table of Use Regulations (Section 4.30 of this Zoning Ordinance) without a special permit, provided that they conform to all other applicable requirements of this Section 11.800 and all other applicable state and local laws, regulations, and ordinances.~~
- (~~c~~e) A Cannabis Establishment that is licensed as a Cannabis Independent Testing Laboratory or Cannabis Research Facility pursuant to applicable state laws and regulations, but is not authorized to sell or otherwise transfer Cannabis Products to consumers or to cultivate, manufacture, or otherwise produce Cannabis Products that are intended to be sold or otherwise transferred to consumers, shall be regulated within the Table of Use Regulations in Section 4.30 of this Zoning Ordinance as a Technical Office (Section 4.34, Item "f") or, if such establishment is noncommercial, a Noncommercial Research Facility (Section 4.33, Item "c"). Such establishment shall comply with all state and local laws and regulations, including regulations promulgated by the Cambridge Public Health Department, where applicable.

11.802.2 Licenses and Registration. A ~~special permit~~ Building Permit or Certificate of Occupancy issued pursuant to this Section shall be conditioned on the Permittee maintaining all required state and local licenses and/or registrations and complying with all applicable state and local public health regulations and all other applicable laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a Cannabis Use that is not properly licensed and/or registered with the applicable state and local agencies.

11.802.3 Limitation of Approval. A ~~special permit~~, Building Permit, or Certificate of Occupancy authorizing the establishment of a Cannabis Use shall be valid only for the licensed or registered entity to which the permit was issued, and only for the site on which the Cannabis Use has been permitted. If the license or registration for a Cannabis Use has not been renewed or has been revoked, transferred to another controlling entity, or relocated to a different site, a new ~~special permit and~~ building permit, where applicable, shall be required prior to issuance of a Certificate of Occupancy.

11.802.4 Building. A Cannabis Establishment shall be located only in a permanent building and not within any mobile facility. All sales, cultivation, manufacturing, and other related activities shall be conducted within the building, except in cases where home deliveries are authorized in accordance with 935 CMR 500.000 and other applicable state and local regulations.

11.803 Location Standards.

11.803.1 Cannabis Retail Stores.

- (a) Cannabis Retail Stores shall be allowed ~~only by Planning Board Special Permit and~~ only in those districts set forth in the Table of Use Regulations (Section 4.30 of this Zoning Ordinance) and special districts and overlay districts whose use regulations are based on those districts, subject to any limitations set

forth in the regulations of those districts. In the Business A-1 district, only applicants that have been designed as Economic Empowerment Applicants or certified as eligible to participate in the Social Equity Program by the Massachusetts Cannabis Control Commission may be permitted and ~~it shall be made a condition of the special permit that~~ such designation or eligibility shall be maintained.

- (b) A Cannabis Retail Store shall not be permitted within one thousand and eight hundred (1,800) feet of another Cannabis Retail Store, except if the applicant has been designated as an Economic Empowerment Applicant or certified as eligible to participate in the Social Equity Program by the Massachusetts Cannabis Control Commission and it is made a condition of the special permit that such designation or eligibility shall be maintained.
- (c) All products offered to consumers shall be pre-packaged off-site, and no packaging or repackaging of cannabis or marijuana products shall take place on the premises of a Cannabis Retail Store unless it is also meets the requirements for a Cannabis Production Facility.

11.803.2 Cannabis Delivery Operator Establishments shall be allowed ~~only by Planning Board Special Permit and~~ only in those districts set forth in the Table of Use Regulations (Section 4.30 of this Zoning Ordinance) and special districts and overlay districts whose use regulations are based on those districts, subject to any limitations set forth in the regulations of those districts and provided that the establishment is not greater than 10,000 square feet in Gross Floor Area and that no packaging or repackaging of cannabis or marijuana products shall take place on the premises.

11.803.3 Cannabis Production Facilities shall be allowed only by Planning Board Special Permit in those districts set forth in the Table of Use Regulations (Section 4.30 of this Zoning Ordinance) and special districts and overlay districts whose use regulations are based on those districts, subject to any limitations set forth in the regulations of those districts and provided that the establishment is not greater than 10,000 square feet in Gross Floor Area.

11.803.4 Buffer Zones.

- (a) A Cannabis Retail Store or Cannabis Production Facility shall not be permitted within 300 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12, except where the Planning Board, in issuing a special permit, approves a reduced distance upon finding that the location will cause no substantial adverse impact due to site-specific factors or other mitigating efforts agreed to in writing by the permittee and made conditions of the special permit.
- (b) A Cannabis Retail Store or Cannabis Production Facility shall not be permitted within 300 feet of a pre-existing public children's playground, public youth athletic field, or public youth recreation facility, except where the Planning Board, in issuing a special permit, approves a reduced distance upon finding that the location will cause no substantial adverse impact due to site-specific factors or other mitigating efforts agreed to in writing by the permittee and made conditions of the special permit.

11.804 Parking and Transportation.

~~(a) Off-street parking for employees and customers shall be regulated by Article 6.000 of this Zoning Ordinance. Provisions set forth in Article 6.000 that allow for a reduction or waiver of required off-street parking shall apply except that required off-street parking for delivery vehicles may not be waived, as set forth below.~~

~~(b)~~ Any Cannabis Courier Establishment, Cannabis Delivery Operator Establishment, or other Cannabis Establishment shall park and store all delivery vehicles off-street. Such requirement may not be reduced or waived. Delivery vehicles shall not be parked on-street except for authorized active loading/unloading activities. Delivery vehicles may be parked in facilities that are accessory to the Cannabis Use or in authorized principal use parking facilities.

~~(c)~~ All parking spaces to be used by customers, employees, visitors, or delivery vehicles shall be registered with the Cambridge Traffic, Parking and Transportation Department (TPTD), including a parking layout

plan, in accordance with Chapter 10.18 of the City of Cambridge Code of Ordinances, and shall comply with all other applicable state or local laws, regulations, and ordinances.

- (~~dc~~) All Cannabis Retail Stores, Cannabis Courier Establishments, Cannabis Delivery Operator Establishments, and Cannabis Production Facilities shall submit an Operations and Logistics Plan to the Cambridge TPTD and Cambridge Police Department before applying for a special permit (where applicable), ~~building permit~~, or certificate of occupancy, ~~whichever occurs sooner~~. Such plan shall include the following information using narratives and graphics:
- (1) hours of operation and anticipated numbers of employees and consumers on-site during operating hours;
 - (2) expected frequency of loading/unloading trips by delivery and service vehicles;
 - (3) access and egress routes for customers and employees;
 - (4) locations of parking and bicycle parking areas for customers and employees;
 - (5) number of delivery vehicles, where applicable, and locations where they will be stored on-site;
 - (6) locations where loading/unloading and service activities will take place and a description of how such activities will be conducted;
 - (7) a description of transportation options for customers and employees, including public transportation services, on-site and off-site parking facilities, transportation demand management measures to encourage and support sustainable forms of travel for employees and customers, and short-term and long-term bicycle facilities;
 - (8) specific measures that will be employed by the Cannabis Use to prevent adverse impacts on the public way including but not limited to sidewalk crowding, blocking of vehicular or bicycle travel lanes, potential safety hazards, and other issues identified by City departments; and
 - (9) a specific plan for the initial opening period that includes measures to identify and respond to unexpected impacts.
- (e) The Cambridge TPTD and Cambridge Police Department shall approve a final Operations and Logistics Plan prior to issuance of a certificate of occupancy for a Cannabis Use, and may require operational practices to prevent or correct adverse impacts of the operation of the Cannabis Use on the public way, including but not limited to crowding on the public sidewalk, blocking of travel lanes by vehicles, or hazardous conditions. Such practices may include, but are not limited to, restrictions on the use of the public way, required pre-purchase and/or appointment-only customer service for a period of time, restrictions on the location and/or timing of loading/unloading activities, or similar measures. When granting a special permit, where applicable, the Planning Board may also include conditions pertaining to the Operations and Logistics Plan.

11.805 Application Requirements. An application to the Planning Board for a Cannabis Production Facility shall contain, at a minimum, the following information:

- (a) Description of Activities: a narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of Cannabis Products, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
- (b) Context Map: A map identifying, at a minimum, the location of the proposed establishment, the locations of all other Cannabis Uses in the vicinity, the locations of all public or private schools providing education in kindergarten or any of grades one through 12, and the locations of all children's playgrounds, youth athletic fields, or other youth recreation facilities, with measured distances provided to demonstrate whether the location complies with the standards of Section 11.803 above.

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- (c) Site Plan: A plan or plans depicting all existing and proposed development on the property, including the dimensions of the building, the detailed layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.
 - (d) Building Elevations and Signage: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.
 - (e) Initial Operations and Logistics Plan: Containing the information set forth in Paragraph (d) of Section 11.804 above.
 - (f) License or Registration Materials: Copies of all materials submitted to applicable state and local agencies for the purpose of licensing and/or registration, and any certification or license issued by any such agency, excluding any information required by law to be kept confidential.

11.806Special Permit Criteria. In granting a special permit for a Cannabis Production Facility Use, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Zoning Ordinance, the Planning Board shall find that the following criteria are met:

- (a) The site is designed such that it provides convenient, safe and secure access and egress for customers and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.
- (b) On-site loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- (c) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior and/or from restrictions on direct access by consumers.
- (d) ~~In retail areas, the location and design of the Cannabis Use will not detract from the sense of activity with opaque, unwelcoming façades at the ground floor. Cannabis Uses that are delivery only and not permitted to operate a retail storefront should occupy minimal ground-story frontage along major retail streets and are encouraged to collocate with active uses to preserve a vibrant streetscape. Where interior activities must be screened from public view or where there is no access by customers, such areas should be screened by transparent, publicly accessible active business uses where possible. Opaque façades should be minimized, and where they are necessary they should include changing public art displays or other measures to provide visual interest to the public.~~
- (e) If the proposed ~~Cannabis Retail Store or~~ Cannabis Production Facility is not proposed to include a Medical Marijuana Treatment Center, it will nevertheless provide programs to assist qualifying patients within the city or neighborhood who are registered through the Massachusetts Medical Use of Marijuana Program in obtaining services under that program.

(Ord. No. 2021-8 , 6-28-2021)

Editor's note(s)—Ord. No. 2021-8 , adopted June 28, 2021, repealed the former § 11.800, and enacted a new § 11.800 as set out herein. The former § 11.800 pertained to similar subject matter and derived from Ord. No. 1404 , adopted Dec. 17, 2018.