



# City Manager's Office

## MEMORANDUM

**DATE:** 10/10/2022

**TO:** Mayor and City Council

**THROUGH:** Doug Thornley, City Manager Approved Electronically

**FROM:** Angela Fuss, Development Services Assistant Director AF

**SUBJECT:** Zoning Code Text Amendment Summary - Cannabis, Package Alcohol, Live Entertainment and Adult Business

This memo is intended to provide an update on the key issues and proposed solutions related to the Zoning Code text amendment associated with cannabis, package alcohol, live entertainment and adult business operations. These text amendments are being brought forward as a result of overall confusion among both staff and the general public in trying to interpret the Zoning Code. The proposed changes are intended to clean-up the Zoning Code and make it easier for staff to interpret and administer, and for business owners to better understand the regulations related to cannabis, package alcohol and live entertainment.

This agenda item is scheduled for the October 12, 2022 City Council meeting.

<b>Zoning Code Text Amendment</b>	
<b>Issue to be Addressed</b>	<b>Solution</b>
<b><i>Cannabis</i></b>	
<p>With the transition from the old Zoning Code to the new Zoning Code, several spacing requirements for cannabis establishments changed.</p>	<ul style="list-style-type: none"> <li>✓ Bring back the previous spacing requirement that dispensaries need to be at least 2,500 feet apart.</li> <li>✓ Delete a new requirement that cannabis establishments need to be spaced 1,500 feet from a gaming overlay district. This did not exist in the old Zoning Code and is not necessary because NRS was changed in July 2020, requiring cannabis establishments to be located no closer than 1,500 feet from a nonrestricted gaming license establishment. This specific restriction is already included in the existing Zoning Code.</li> </ul>

<p><b>Package Alcohol</b></p> <p><i>No changes are proposed to package alcohol as a primary use. The proposed Zoning Code changes impact package alcohol when it is sold accessory to a primary use. It should also be noted that these changes are specific to accessory package alcohol and have no relation to alcohol sales to-go (e.g. cocktails made at a bar/restaurant and sold to-go), which was allowed during COVID, but is no longer allowed and is not part of this ordinance.</i></p>	
<p>The Zoning Code does not clearly define where accessory package alcohol is allowed and instead specifies that it is permitted when accessory to uses that include “food processing facility.” A “food processing facility” is not clearly defined and the Zoning Code needs to clarify what specific businesses that includes.</p> <p>Also, some typical accessory package alcohol uses, such as a microbrewery, are not currently allowed to have accessory alcohol. The Zoning Code needs to be cleaned up to more specifically define where accessory package alcohol is permitted.</p>	<p>✓ Expand the list of businesses that are allowed to have accessory package alcohol and include uses such as microbreweries, commercial kitchens, bakeries, restaurants, etc. This clarifies what is included in a “food processing facility,” rather than leaving it open to interpretation.</p>
<p>The Zoning Code does not allow accessory package alcohol in certain zoning districts that would typically allow uses that would include accessory package alcohol, such as restaurants, bars and microbreweries.</p>	<p>✓ Expand accessory package alcohol to be allowed in the MF21, MF-30, NC, PO, and MU-RES zoning districts, where uses such as restaurants, bars and microbreweries are permitted and likely to include accessory package alcohol.</p>
<p>The Zoning Code is unclear on which types of business with accessory package alcohol require fresh food.</p>	<p>✓ Modify the use standards to exempt certain types of businesses from having to provide fresh or frozen perishable food.</p> <ul style="list-style-type: none"> <li>• Restaurants</li> <li>• Commercial kitchens</li> <li>• Bakeries</li> <li>• Bars</li> <li>• Microbreweries</li> </ul> <p>✓ Uses that <u>will</u> require fresh food in association with accessory package alcohol include:</p> <ul style="list-style-type: none"> <li>• Hotels</li> <li>• General retail stores</li> <li>• Convenience stores</li> </ul>

<p>Businesses are required to go through a lengthy and costly discretionary review process when dealing with accessory package alcohol.</p>	<p>✓ Modify the discretionary review requirements from a conditional use permit to a minor conditional use permit for accessory package alcohol. This will help streamline the process, but still requires public noticing for community input and allows staff to add conditions of approval that are in alignment with the Safe Scape Standards. For clarification, Safe Scape Standards are required in the Downtown and 4<sup>th</sup> Street area, but are only required outside of the Downtown/4<sup>th</sup> Street area when triggered through a discretionary review (e.g. conditional use permit or minor conditional use permit).</p>
<p>The Zoning Code has conflicting requirements when a discretionary review is triggered related to accessory package alcohol.</p>	<p>✓ Clean up the Zoning Code language to specify that certain uses (bars, restaurants, bakeries, microbreweries, etc.) are allowed to have accessory package alcohol by-right, without any discretionary review. Uses that will continue to trigger a discretionary review for accessory package alcohol include general retail, hotels, and convenience stores.</p>
<p>The current Zoning Code language defines package alcohol accessory to a primary use, but does not address when a primary use has multiple accessory uses, such as a hotel with a retail store that sells package alcohol. This creates conflicts when a hotel with a retail store component has to provide a certain percentage of their square footage with perishable food. The current Code language is written so that both the hotel and retail store square footage are required to provide fresh food. This needs to be rewritten to specify that only the retail store square footage is applicable to the fresh food requirement.</p>	<p>✓ Add clarifying language to the definition of package alcohol sales accessory to a primary use that addresses the ambiguity of when perishable foods are required and what the minimum square footage of those perishable foods is based on.</p>
<p><b><i>Live Entertainment</i></b></p>	
<p>The existing Zoning Code regulations for Live Entertainment require a discretionary approval for activities that are very minor and otherwise accessory to a business, such as DJ Trivia or a musician playing a guitar while patrons are</p>	<p>✓ Modify the regulations and allow Live Entertainment as an accessory use by-right in all zoning districts, subject to the following specific use-standards.</p> <ol style="list-style-type: none"> <li>1. Outdoor Live Entertainment <ol style="list-style-type: none"> <li>a. Outdoor Live Entertainment activities shall be limited to the hours of 10:00 a.m. to 10:00 p.m.</li> </ol> </li> </ol>

<p>dining in a restaurant. If this was an event that only occurred six or fewer times per year, the business could apply for a Special Event permit. However, if the business wants to have Live Entertainment more than six times per year, they need a Cabaret License and need to comply with the Zoning Code regulations for Live Entertainment. This has become problematic for businesses that allow Live Entertainment as an accessory use to their primary business function, such as a restaurant. The previous Zoning Code did not interpret Live Entertainment the same way so many new businesses are now dealing with additional costs and discretionary reviews to allow accessory Live Entertainment uses.</p>	<ul style="list-style-type: none"> <li>b. Outdoor Live Entertainment shall not be located within 150 feet of any residentially zoned property.</li> </ul> <p>2. Indoor Live Entertainment</p> <ul style="list-style-type: none"> <li>a. Indoor Live Entertainment activities shall be limited to the hours of 10:00 a.m. to 11:00 p.m.</li> <li>b. Indoor Live Entertainment activities shall require doors and windows to be kept closed after 9 p.m.</li> <li>c. Exits and entrances to the establishment shall be oriented away from residentially zoned property immediately adjoining the site, except for emergency entrances and exits.</li> <li>d. Indoor Live Entertainment is permitted by-right.</li> </ul> <p>3. All Live Entertainment</p> <ul style="list-style-type: none"> <li>a. Any pedestrian queuing that overflows into the public right-of-way shall require a queuing plan, subject to the satisfaction of the Administrator.</li> </ul>
<p>Additional discretionary review should be allowed when a business wants to exceed the use standards. This should require going through a public hearing, where conditions of approval can be added based on site specific needs.</p>	<p>✓ Require approval of a conditional use permit for any establishment that wants to exceed the Live Entertainment use standards.</p>
<p>The current Zoning Code definition of Live Entertainment is too broad and needs to better define what is included. The current definition includes specifies <i>a facility that provides live performances and entertainment subordinate to the primary commercial use of the establishment. This use may be operated independently or in conjunction with another principal use such as a restaurant or an amusement or recreation facility.</i></p>	<p>✓ Expand the definition of Live Entertainment to align with typical best practices. The proposed definition includes <i>a facility that provides live performances and entertainment, including but not limited to singing, dancing, floor show and musical entertainment subordinate to the primary commercial use of the establishment.</i></p>
<p>The current Zoning Code definition of Inside and Outside Amusement or Recreation exempts the uses</p>	<p>✓ Modify the definition of Inside and Outside Amusement or Recreation so they have to follow Live Entertainment use-standards.</p>

<p>from triggering Live Entertainment use -standards.</p>	
<p>The current Zoning Code lumps all Live Entertainment into one of two categories (Day Entertainment and Live Entertainment). With these uses now going from a primary use to an accessory use, they no longer need to be standalone uses. However, the Zoning Code needs a definition for a standalone land use that covers event centers and banquet halls.</p>	<p>✓ Add a new definition and use category for Event Center/Banquet Hall.</p>
<p><b><i>Adult Business</i></b></p>	
<p>Spacing requirements for adult businesses near sensitive areas need to be updated to include those uses in the Mixed Employment zoning district. This was an oversight during the original Zoning Code update.</p>	<p>✓ Modify the use standards and require that all Adult Businesses follow the same spacing requirements from sensitive uses (i.e. schools, daycares, residentially zoned property, etc.) within the Industrial, Industrial Commercial and Mixed Employment zoning districts. The Industrial and Industrial Commercial zoning districts already require the minimum spacing from the sensitive uses, so the Zoning Code clean-up is specific to the Mixed Use zoning category.</p>