



City of Sidney, MT
Zoning/Board of Adjustment Meeting
January 12, 2022 8:00 AM
115 2nd Street SE |Sidney, MT 59270

Minutes

The City Council meetings are open to the public attending in person, with masks encouraged when social distancing cannot be accomplished. If the public does not wish to participate in person, they are also invited to participate via a Zoom meeting. You can participate via phone:

Meeting ID: 894 1779 1513 Passcode: 4332809 Call: 1-346-248-7799

New Business

Recreational Marijuana Zoning Update: Staff report attached from City Planner Sanderson.

City Planner Sanderson stated the current code is for medical marijuana that recognizes the statutory authority but did not allow dispensaries within the City Limits because of federal laws not recognizing medical marijuana. The State of Montana and Richland County has now legalized recreational marijuana and so City Staff is proposing to strike the outright prohibitions and the requirement of federal rules and regulations, but it would limit dispensaries to the industrial and manufacturing districts with required setbacks from churches, schools, playgrounds, etc and elevated performance standards. He stated his staff report shows the exact changes of additions and deletions from the City Code and details the elevated performance standards.

Mr. Meldahl stated it would be a conditional use in manufacturing and industrial districts, but where does it prohibit them from other zones, such as business districts. City Planner stated it is in the structure of the zoning codes and if that is not listed under permitted or conditional lists, it is a prohibited use and cannot go into that district. Mr. Meldahl asked if growing is addressed at all or if it can be, and City Planner Sanderson stated agriculture purposes are disallowed in all districts. Mr. Seitz asked about ag exemptions for subdivision and Mr. Sanderson stated it would not change the zoning. Mr. Meldahl stated for the home occupations it does differentiate for the agriculture and City Planner Sanderson stated that would be for home gardens that have limitations in zoning code that is outlined in zoning code. He stated those can be strengthened and state that marijuana growth and dispensaries are not allowable in in-home occupations because it could be considered detrimental to residential characteristics. Mr. Jones stated that there will be permitting and licensing via the state also, so that is another layer that will help with them not being in residential districts.

Mr. Seitz asked what other cities are doing in the State and City Planner Sanderson Counties where the initiative failed they could hold another election to decide if they want to do, such as Dawson County and Glendive who voted not to allow. He stated Yellowstone County and Billings passed the initiative

and they are starting the reviewing of zoning code also, similarly to how Sidney is looking at theirs now.

Mr. Jones asked why the manufacturing and industrial districts for this retail business and City Planner Sanderson stated these are the districts that were looked at for medical marijuana, as they allow for more noise and adverse impacts than other zones which would limit issues in the future. The City then decided to do the outright exclusion for medical marijuana, which is an option for the City Council for recreational also. He stated by opening the door and presenting to the City Council a proposal to allow it, it opens the discussion in front of the City Council.

Mr. Meldahl asked the Chief of Police Mark Kraft if locating them on the other side of the railroad tracks will create an issue and Chief Kraft stated there is response time issues being over there, but there will be issues no matter where located.

Mr. Smith asked if there would be tax money received to help mitigate the increased policing costs. It was stated that there is some revenue that will come back to the municipality from the State tax revenue.

Mr. Jones asked if the separation from other dispensaries and that onsite consumption is allowable also, Clerk/Treasurer Chamberlin stated the Montana Clean Air Act would go into effect for smoking, but as for edibles she is not sure.

PWD Hintz asked how to prevent people from growing and making edibles for sale from their homes and City Planner stated the sale would be prohibited. Clerk/Treasurer Chamberlin stated the growing, using and/or of making edibles for personal use is completely legal and cannot be stopped as long as they are within the laws of the State and not selling.

Mr. Seitz asked if the Zoning Board does the public hearing and recommends approval, is there a chance to make changes to some of these issues. Clerk/Treasurer Chamberlin stated after the public hearing the zoning board

Mr. Seitz opened the public hearing at 8:51am. He called for any opponents and any proponents, with none present. Motion was made to close the public hearing by PWD Hintz and seconded by Mr. Smith. All present voted aye and the public hearing was closed at 8:52pm.

City Planner Sanderson stated he recommends adding that the home-occupations are outright prohibited in all districts and that should be addressed today. He stated by definitively answering that question, that door will be closed today. He stated that the rest of the issue, since it is prohibited, is for investigation and he recommends looking into it further and reconvene in 30 days to further review. He stated it will give himself, the Police Department and City Staff better opportunities to see what other communities are doing and how.

PWD Hintz made a motion to not allow in-home occupations, seconded by Mr. Jones. With no further discussion, all present voted aye.

Mr. Meldahl asked if there are legal issues if someone wants to put in a dispensary now and it has not been decided. City Planner Sanderson stated this use has not been allowed for many years and if someone would like to open a dispensary, they can partake in the discussions to change the zoning

code. He stated it is a lengthy process to go from not allowed at all to possibly an allowable occupation and needs to be given the time to try to prevent issues that cannot be corrected. City Planner Sanderson stated there is areas in the zoning code that states specifically medical marijuana, striking the word medical for marijuana would make all marijuana dispensaries not allowed in any zone until the Zoning Board and City Council can further review and decide. PWD Hintz amended his motion to include striking the word medical and Mr. Smith seconded. With no further discussion, all present voted aye.

Mr. Meldahl made a motion to table the remaining discussion on marijuana dispensaries until February 9th, 2022, when the zoning board will review again. Mr. Jones seconded the motion and all present voted aye.

Mr. Jones asked if they can also see information on the tax revenues. Clerk/Treasurer Chamberlin stated she would get that information sent out.

City Planner Sanderson stated the zoning board is forwarding a recommendation to the City Council to prohibit the home-occupations for marijuana and strike medical from marijuana and treat all dispensaries the same. The Zoning Board will meet again on February 9th, 2022, at 8:00am to further look into the remaining marijuana items and zoning changes.