

CITY OF BATAVIA

DATE: October 24, 2019
TO: Committee of the Whole - CD
FROM: Drew Rackow AICP, Planner
SUBJECT: **Ordinance 19-67** – Amending the Text of the Zoning Code
City of Batavia, Applicant

Summary: Attached is draft Ordinance 19-67 which revises Chapter 6 of the Zoning Code by adding and modifying definitions related to cannabis production and sales uses. The definitions are reflective of terms used in the Illinois Cannabis Regulation and Tax Act which legalizes recreational cannabis use and sales in Illinois effective January 1, 2020. The addition of these definitions alone will not allow the recreational sale of cannabis or any of the other proposed defined uses within the City of Batavia. The definitions provide a framework for future decisions about these uses. The Ordinance includes other minor changes to the Glossary by adding definitions for various yard types and modifies a definition of Banks and Other Financial Service Institutions. The Plan Commission conducted a Public Hearing on October 2nd and recommended the amendments as proposed in the draft Ordinance.

Background: On August 27th, the Committee of the Whole discussed and took public comment regarding recreational cannabis uses and dispensaries, based on the pending statewide legalization. At the conclusion of the discussion, the Committee gave direction to add definitions of these uses but made no recommendation to allow or not allow the uses until further deliberation occurs at some point in the future.

The Ordinance would add a definition for *Cannabis Business Establishment*, which acts as an overarching category of all such uses and could be used to establish regulations in the Zoning Code applicable to all cannabis uses. The draft adds a definition for a *Cannabis Craft Grower*, which is a state licensing type that allows for the growth, production/processing and sale of cannabis products in one location. Other uses that would be defined include *Cannabis Infuser Organization*, in which one takes raw cannabis or cannabis product and adds it to another, creating a new product, such a candy or baked good. Similarly, *Cannabis Processing Organization* defines a use that creates products such as cannabis oil that could then be used by an Infuser. Lastly, the definition changes add a *Cannabis Transporting Organization* which is a shipping entity that is licensed to handle cannabis goods. Staff used draft definitions provided by the Illinois Municipal League for the proposed definitions. For additional explanation of these uses, please see the attached Staff Report to the Plan Commission.

The existing definition for Cannabis Cultivation Center would be revised to include reference to the State's Cannabis Regulation and Tax Act, permitting recreational cannabis cultivation in addition to medical cannabis cultivation, in Zoning Districts that currently permit medical cannabis cultivation. Definitions of Medical Cannabis Dispensary and Recreational Cannabis Dispensaries would remain unmodified in the Zoning Code.

Separate from the changes regarding Cannabis uses, the Ordinance would also add definitions for Yards, with definitions being added for Corner Side Yard, Front Yard, Interior Side Yard and Rear Yard. This would address a situation in the Zoning Code where some regulations reference a yard instead of a setback area. Each essentially refers to the provided yard area, instead of a required setback area. The change would provide a consistent definition and regulation where the term yard is used.

The other revision contained in the Ordinance would revise the definition of Bank and Other Financial Service Institutions, removing a reference to check cashing establishments. This would clarify a change that was made in 2015, which classified such establishments as a Personal Loan Agency, which is prohibited in all Zoning Districts.

Plan Commission Review: The Plan Commission reviewed the proposed cannabis related terms and discussed the differences between the different use types. The Plan Commission felt that the proposed language sufficiently addressed the uses and noted that there was a significant number of new uses to consider in connection with the state's regulations. Commissioners understood that their action on Glossary changes does not imply or constitute a position on allowing or not allowing any of these uses.

Commissioners agreed that the other changes to add Yard definitions and modify the Bank and Financial Institution definitions were straight forward changes and would reduce the potential for misunderstanding of the Zoning Code requirements.

Alternatives: The City Council can approve or deny the Ordinance as presented, approve with modifications, remand the issue back to the Commission for further review, or take no action.

Impacts: Approving Ordinance 19-67 would define uses consistently with State law related to recreational cannabis sales and production. This will aid City elected and appointed officials and staff in discussion and development of regulation of cannabis related uses. As the addition of these definitions does not change the status of these uses (i.e. allowing them) staff does not identify any budget or staffing impacts.

Timeline for Actions: There is no required timeline for action, but staff feels the proposed amendments will allow the City to better discuss cannabis regulation and effectively regulate yards and financial establishments. Recreational Cannabis production and sales will become legal on January 1, 2020. With a COW recommendation, Ordinance 19-67 can be placed on the City Council agenda for final action on November 4, 2019.

Recommendations: By a vote of 7-0, the Commission recommended the City Council approve the amendments to the Zoning Code as presented in Ordinance 19-67.

Staff recommends approval of Ordinance 19-67 as presented.

Attachments

1. Draft Ordinance 19-67
2. Staff Memo to the Plan Commission

C: City Council
Department Heads
Media

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 19-67
AMENDING THE CITY OF BATAVIA ZONING CODE
TITLE 10 OF THE CITY CODE**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS _____ DAY OF NOVEMBER, 2019**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This ___ day of November, 2019

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

CITY OF BATAVIA, ILLINOIS
ORDINANCE 19-67
AMENDING THE CITY OF BATAVIA ZONING CODE
TITLE 10 OF THE CITY CODE

WHEREAS, the City of Batavia's Zoning Code (City Code Title 10) contains definitions and provisions relating to the use and development of land in the City of Batavia; and

WHEREAS, on June 25, 2019, the State of Illinois enacted the Illinois Cannabis Regulation and Taxation Act which defines and regulates uses related to the growth, production and sales of cannabis and cannabis derived products;

WHEREAS, it has been determined that it is in the best interest of the City of Batavia to revise the Zoning Code to define these uses prior to making any determination as to where these newly defined uses may or may not be located; and

WHEREAS, Other Zoning Code provisions have been reviewed and it has been determined that these and certain other provisions, and requirements should be amended in order to better regulate the use and development of land in the City of Batavia; and

WHEREAS, public notice of proposed amendments to Title 10 of the Batavia City Code was duly given and published as required by law; and

WHEREAS, the Plan Commission of the City of Batavia did, on October 2, 2019 conduct a public hearing with respect to proposed amendments that would accomplish the appropriate changes to Title 10, and voted to recommend approval of said amendments to Title 10 of the City Code to the City Council's Committee of the Whole; and

WHEREAS, the City Council's Committee of the Whole has received the recommendation of the Batavia Plan Commission and recommended approval of said amendments; and

WHEREAS, the City Council of the City of Batavia has received the recommendation of both the Batavia Plan Commission and the Committee of the Whole, and has considered same; and

WHEREAS, it is in the best interests of the City of Batavia and its residents that the proposed Ordinance be adopted by the City Council of the City of Batavia.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

SECTION 1: That the City of Batavia Zoning Code (Title 10 of the City Code) is hereby amended in conformance with the terms of this Ordinance.

SECTION 2: That the City of Batavia Zoning Code Chapter 6: Glossary is hereby amended as follows:

1. That a definition of "**Cannabis Business Establishment**" be added to Chapter 6, alphabetically to read "A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

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2. That a definition of “**Cannabis Craft Grower**” be added to Chapter 6, alphabetically to read “A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.
3. That a definition of “**Cannabis Cultivation Center**” be revised under Chapter 6, to read “A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Illinois Compassionate Use of Medical Cannabis Pilot Program Act (P.A. 98-112) or Cannabis Regulation and Tax Act, (P.A.101-0027), as they may be amended from time-to-time, and regulations promulgated thereunder.”
4. That a definition of “**Cannabis Infuser Organization (Infuser)**” be added to Chapter 6, alphabetically to read “A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.”
5. That a definition of “**Cannabis Processing Organization (Processor)**” be added to Chapter 6, alphabetically to read “A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.
6. That a definition of “**Cannabis Transporting Organization (Transporter)**” be added to Chapter 6, alphabetically to read “An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.”
7. That a definition of “**Bank and Other Financial Service Institutions**” be revised under Chapter 6, to read “Establishments that provide retail banking, credit, and mortgage services to individuals and businesses. This classification includes banks and savings and loan establishments, and credit unions.”
8. That a definition of “**Yard**” be added to Chapter 6, alphabetically to read “The space between a horizontal plane of the principal structure and the property line that is generally parallel to that plane.”
9. That a definition of “*Corner Side Yard*” be added to Chapter 6, alphabetically as a sub-item definition under **Yard** to read “A *Yard* between the principal structure and the Corner Side Lot Line that is also between the front plane of a Principal Structure and the rear lot line. A *Corner Side Yard* supersedes a *Rear Yard*.”

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10. That a definition of “*Front Yard*” be added to Chapter 6, alphabetically as a sub-item definition under **Yard** to read “A *Yard* between the Principal Structure and the front lot line. A *Front Yard* supersedes a *Corner Side Yard* and an *Interior Side Yard*.”
11. That a definition of “*Interior Side Yard*” be added to Chapter 6, alphabetically as a sub-item definition under **Yard** to read “A *Yard* between the Principal Structure and the interior side property line. An *Interior Side Yard* is superseded by the *Front Yard* and *Rear Yard*.”
12. That a definition of “*Rear Yard*” be added to Chapter 6, alphabetically as a sub-item definition under **Yard** to read “*Rear Yard*. A *Yard* between the Principal Structure and the Rear Lot Line. A *Rear Yard* is superseded by a *Corner Side Yard*.”

SECTION 3: That this Ordinance 19-67 shall be in full force and effect upon its presentation, passage and publication according to the law.

PRESENTED to the City Council of the City of Batavia, Illinois, this ___ day of November, 2019.

PASSED by the City Council of the City of Batavia, Illinois, this ___ day of November, 2019.

APPROVED by me as Mayor of said City of Batavia, Illinois, this ___ day of November, 2019.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Salvati				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Knopp				
5	Uher					Beck				
6	Cerone					Russotto				
7	McFadden					Miller				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Ellen Posledni, City Clerk