

City of Fayetteville Staff Review Form

2017-0305

Legistar File ID

6/20/2017

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Andrew Garner

6/2/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

ADM 17-5841: Administrative Changes to UDC Section 161.28 and 161.29: Submitted by CITY PLANNING STAFF to allow Use Unit 16, Shopping Goods, in the I-1 and I-2 zoning districts (Fayetteville Unified Development Code Sections 161.28 and 161.29).

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u>No</u>	Item Cost
Budget Adjustment Attached? <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Approval Date: _____

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 20, 2017

TO: Mayor and City Council

FROM: Andrew Garner, City Planning Director

DATE: May 31, 2017

SUBJECT: **ADM 17-5841: Administrative Changes to UDC Section 161.28 and 161.29:** Submitted by CITY PLANNING STAFF to allow *Use Unit 16, Shopping Goods*, in the I-1 and I-2 zoning districts (Fayetteville Unified Development Code Sections 161.28 and 161.29).

RECOMMENDATION:

City Planning Division staff recommends approval of an ordinance to amend the I-1 and I-2 zoning districts (UDC Sections 161.28 and 161.29) to allow *Use Unit 16, Shopping Goods*, by right.

BACKGROUND AND DISCUSSION:

The Arkansas Medical Marijuana Amendment of 2016 includes requirements for local zoning regulations. Section 14 of the Amendment discusses that zoning regulations for medical marijuana dispensaries and cultivation facilities should be the same as those for a licensed retail pharmacy.

The City's zoning code currently limits retail pharmacies and drug stores to commercial districts. Cultivation facilities will likely be in industrial districts and it may be desirable for dispensaries to be in close proximity to these facilities, also within industrial districts. To address this potential issue staff recommends amending the I-1 and I-2 zoning district to allow *Use Unit 16, Shopping goods* by right. A similar proposal was recently approved by the City of Fort Smith.

These changes will allow for general retail in the City's industrial zonings districts, which will address the potential conflict noted above. This change will provide more complete neighborhoods with industry and shopping in the same district. Staff does not anticipate adverse impacts by introducing retail businesses into industrial areas.

BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed UDC Code Changes in highlight-underline
- Arkansas Medical Marijuana Amendment of 2016

Proposed code changes in highlight and underline

161.28 - District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
<u>Unit 16</u>	<u>Shopping goods</u>
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

Proposed code changes in highlight and underline

Unit 43	Animal boarding and training
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(C) *Density*. None.

(D) *Bulk and Area Regulations*. None.

(E) *Setback Regulations*.

Front, when adjoining A or R districts	50 feet
Front, when adjoining C, I, or P districts	25 feet
Side, when adjoining A or R districts	50 feet
Side, when adjoining C, I, or P districts	10 feet
Rear	25 feet

(F) *Height Regulations*. There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of 1 foot for each foot of height in excess of 25 feet.

(G) *Building Area*. None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5472; 12-20-11; Ord. No. 5800, § 1(Exh. A), 10-6-15)

Proposed code changes in highlight and underline

161.29 - District I-2, General Industrial

(A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
<u>Unit 16</u>	<u>Shopping goods</u>
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives.
Unit 36	Wireless communications facilities
Unit 38	Mini-storage Units
Unit 39	Auto salvage and junk yards

(C) *Density.* None.

Proposed code changes in highlight and underline

(D) *Bulk and area regulations.* None.

(E) *Setback Regulations.*

Front, when adjoining A or R districts	100 feet
Front, when adjoining C, I or P districts	50 feet
Side, when adjoining A or R districts	50 feet
Side, when adjoining C, I or P districts	25 feet
Rear	25 feet

(F) *Height Regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building Area.* None.

(Code 1965, App. A., Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5800, § 1(Exh. A), 10-6-15)

Section 14 of the Arkansas Medical Marijuana Amendment of 2016

marijuana.

(3) A cultivation facility shall label the marijuana that is moved between the cultivation facility and a dispensary or other cultivation facility with a trip ticket that identifies the cultivation facility by identification number, the time, date, origin, and destination of the marijuana being transported, and the amount and form of marijuana that is being transported.

§ 12. Prohibitions for dispensaries.

(a) Except as provided in § 3 of this amendment, a dispensary may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or designated caregiver.

(b)(1) Except as provided in § 3 of this amendment, the Alcoholic Beverage Control Division shall immediately revoke the registry identification card of a dispensary agent who has dispensed, delivered, or otherwise transferred marijuana to a person other than a qualifying patient or designated caregiver, and that dispensary agent shall be disqualified from serving as a dispensary agent.

(2) A dispensary employing a dispensary agent found to violate subdivision (b)(1) of this section is not subject to penalties, including without limitation the revocation of its license, for the actions of a dispensary agent unless the dispensary knowingly aided or facilitated the violation.

§ 13. Prohibitions for cultivation facilities.

A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary or other cultivation facility.

§ 14. Local regulation.

(a) This amendment does not prohibit a city, incorporated town, or county of this state from enacting reasonable zoning regulations applicable to dispensaries or cultivation facilities, provided that those zoning regulations are the same as those for a licensed retail pharmacy.

(b) This section does not allow a city, incorporated town, or county to prohibit the operation of any dispensaries or cultivation facilities in the city, incorporated town, or county unless such a prohibition is approved at an election under Article 5, § 1, of this constitution.

§ 15. Prohibited conduct for physicians.

A physician shall not:

(1) Accept, solicit, or offer any form of pecuniary remuneration from or to a dispensary or cultivation facility provided however, that this does not prohibit a physician who is also a qualifying patient from purchasing usable marijuana from a dispensary;

(2) Offer a discount or other thing of value to a qualifying patient who uses or agrees to use a particular dispensary;

(3) Examine a patient for purposes of diagnosing a qualifying medical condition at a dispensary; or

(4) Hold an economic interest in a dispensary or cultivation facility if the physician certifies the qualifying medical condition of a patient for medical use of marijuana.