



City of Malden

Malden City Hall
215 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final Rules & Ordinance Committee

Chairperson Peg Crowe
Vice Chair Amanda Linehan
Councillor at Large Carey McDonald
Councillor Chris Simonelli
Councillor Jadeane Sica

Tuesday, May 31, 2022

7:05 PM

215 Pleasant Street
Room 105
Malden, MA 02148

Roll Call

Also in attendance City Solicitor Kate Fallon, Director of Strategic Planning Ron Hogan, Building Commissioner Nelson Miller, City Planner Michelle Romero.

Councillor Sica left the meeting at 8:00 P.M.

Present: 5 - Peg Crowe, Amanda Linehan, Carey McDonald, Chris Simonelli and Jadeane Sica

Minutes to be Approved

[265-22](#)

Minutes of the meeting of May 17, 2022

A motion was made by Councillor Simonelli, seconded by Vice Chair Linehan, that the Committee Minutes be approved. The motion carried by a unanimous vote.

Business

[211-22](#)

Order: that the Malden City Council undertake a review of Marijuana Establishment Zoning Ordinance Title 12, Chapter 12, Section 90 and Licensing Marijuana Establishments Ordinance Title 6, Chapter 08, Section 070 of the Code of the City of Malden in order to ensure competitive advantage for equity applicants, broader geographic diversity of retail parcels, and reasonable anticipation of pending state-level legislation meant to encourage diversity and equity when awarding the remaining available cannabis licenses for applicants that meet state-certified standards for Economic Empowerment and Social Equity as defined by the Massachusetts Cannabis Control Commission.

Sponsors: Amanda Linehan

Attachments: [Informational Memo on Buffer Zones Dimensional Controls \(1\)](#)

[April 2022 City Council Update S2801 Preview \(1\)](#)

[Proposed Marijuana Establishments Zoning Amendments June 1, 2022](#)

Chair Crowe handed the meeting over to Director of Strategic Planning Ron Hogan who passed out a handout of a comparison between the cities of Quincy, Taunton, Waltham,

Medford, Lynn, Salem, Somerville and Haverhill on the cannabis process for Zoning Passed, Principal Use Requirement, Buffer Zones and Special Permit. Mr. Hogan said the communities picked were similar to Malden. Mr. Hogan went on to say that the buffer zones were similar as it related to churches, schools, etc. but was difficult to compare because it depended on the zoning for that particular town.

Councillor McDonald thanked Mr. Hogan and said that what he presented shows Malden has more restrictions than most cities. With the zoning piece it's not apples vs apples.

Chair Crowe said we want to get as much done as possible in Rules and Ordinances.

Mr. Hogan stated CLEC could continue entertaining licenses under the current rules.

Building Commissioner Miller said we have 1 license under appeal so there is one license available and CLEC has 3 applicants before them. Mr. Miller went on to say if you eliminate accessory use being prohibited it would allow a gas station that sells gum and cigarettes as a marijuana establishment. Mr. Miller used the recent construction of 10 building spaces at 888 Eastern Ave as an example of principal business use and accessory use. There are 10 individual businesses at one location, if a marijuana license was given out to one of the businesses it would comply to the ordinance because it would be principal use for one location while there are other businesses at the location.

Mr. Hogan and Mr. Miller addressed the suggested changes in 12.12.190.

Mr. Hogan suggested that in 12.12.190, section E "must be the principal use of the property and" be stricken from the section.

In section 12.12.190 section H.2, for the Security Plan it is a duplication in what is in the Host Agreement, it doesn't need to be in 2 places. Mr. Miller said there was a reason why the council put this in the zoning ordinance. This can be stricken from this section and add "and Malden Cannabis Licensing and Enforcement Commission" after Malden Police Chief in the first sentence and strike all language after.

Eliminate in section 12.12.190 Section 9.a, the reason is the license from the state is one of the final steps and requires build out to be complete. This can be stricken from the ordinance

In section 12.12.190 Section 9.c. strike issued by the Malden License Board and replace it with issued by the Cannabis License and Enforcement Commission (CLEC).

Mr. Hogan said another topic worth discussion is Marijuana Transporter. The state has a delivery license now. If our ordinance stays as it is, Garden Remedies in Melrose can deliver to Malden residents but our marijuana licenses cannot deliver.

Councillor Sica stated we should change our ordinance regarding the transporter piece so our Malden businesses can deliver.

City Solicitor Fallon suggested striking the transporter definition and add in a courier definition.

Chair Crowe said the Courier piece needs some development, City Planner Romero said that Marijuana Transporter is in there and we could do it. We could turn it into a home delivery service, that's what a Marijuana Courier would be. Mr. Hogan stated we need to clean up the Marijuana Transporter section.

City Solicitor Fallon stated the courier piece is in committee now and can be addressed by the committee if there is a desire to allow an establishment to have a courier service deliver their product.

Commissioner Miller asked if the committee wants a new license for marijuana courier. Mr. Hogan said they will need time to develop marijuana courier.

Councillor McDonald handed out a sheet for the consideration of three amendments. Section 6.08.070 D.3 addressing Social Equity Applicants, 12.12.190 B. adding buffer zone. and 6.08.070 F clarifying typos in the Ordinance. Councillor McDonald acknowledged that it is a Catch 22 with the Board of Appeals in that they cannot grant zoning relief for variances regarding the buffer zones.

City Solicitor Fallon stated the Board of Appeals has a statutory authority under the law and if the council wanted to relax some rules they could review it.

Councillor O'Malley stated under current zoning, the applicant could petition the City Council under the special permit for relief. It is Councilor O'Malley's understanding that would be another path besides the Board of Appeal.

City Planner Romero said that the council did not grant relief for Dartmouth Street and 36 Charles Street in the Special Permit process, the Council made a finding to grant the Special Permit, there is a difference.

Councillor O'Malley said when the ordinance was passed, the Council did not understand the entire ordinance.

City Planner Romero stated that it was very clear at the time the ordinance was passed, Ms. Romero went on that both she and Building Commissioner Miller were part of the process and answered all the questions the council had.

City Solicitor Fallon stated that this need to be said into the Record, nobody has come to the City Council for buffer zone relief.

Building Commissioner Miller said buffer zones are not dimensional controls, dimensional controls are more to with issues like parking

Councillor Linehan stated we have been here for two hours, let's get some specifics.

City Solicitor Fallon told the committee on Councillor McDonald's first proposed amendment, you can't require the applicant to be a social equity applicant if you had other legitimate applicants before CLEC.

City Solicitor Fallon asked Building Commissioner Miller if he was OK with the Council determining buffer zones, Mr. Miller said to take it out of no man's land and put it in with the current zoning. Mr. Miller further stated that the applicant being referenced that was denied, went through the correct process.

City Solicitor Fallon stated nothing was done inappropriately, I don't even know why we are talking about it.

Councillor Linehan said the intent was to make recommended changes tonight in committee to be put on the council docket. Councillor Linehan made the following

motions to amend the Marijuana ordinance, seconded by Councillor Simonelli :

In Title 12. Chapter 12. Section 190 E "must be the principal use of the property and" be stricken from the section.

In Title 12. Chapter 12. Section 190 H.2 , add "and Malden Cannabis Licensing and Enforcement Commission" after Malden Police Chief in the first sentence and strike all language after.

Eliminate in section 12.12. 190 Section 9.a, the reason is the license from the state is one of the final steps and requires build out to be complete. This can be stricken from the ordinance

In section 12.12.190 Section 9.c. strike issued by the Malden License Board and replace it with issued by the Cannabis License and Enforcement Commission (CLEC).

A motion was made by Vice Chair Linehan, seconded by Councillor Simonelli, that the Ordinance be recommended favorably as amended to the City Council. The motion carried by the following vote:

Yea: 4 - Chairperson Crowe, Vice Chair Linehan, Councillor at Large McDonald and Councillor Simonelli

Tabled Papers

[254-20](#)

Order: That the City Council adopt the Rules of the Council Rule Book 2021.

Sponsors: Jadeane Sica

Attachments: [DRAFT Rule Book Changes](#)

[283-21](#)

Order: That the City of Malden submit to the Massachusetts Legislature for passage in substantially the following form: (See Attached).

Sponsors: Stephen Winslow

Attachments: [Traffic Comm. - Charter Update 2021.Paper.283.21 Attachment](#)

[313-21](#)

Order: Be it hereby ordained that the City of Malden Ordinances section 2.16 "Board, Commissions, and Committees" be amended to require remote participation by members of the public for all public meetings by inserting a new section 2.16.001 "Remote participation required."

Sponsors: Ryan O'Malley, Deborah DeMaria and Amanda Linehan

Adjournment

A motion was made by Councillor at Large McDonald, seconded by Councillor Simonelli, that the meeting be adjourned. The motion carried by a unanimous vote.