

City of Biddeford

Policy Committee

February 25, 2021 5:00 PM Via ZOOM

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- 1. Roll Call**
- 2. Adjustments to the Agenda**
- 3. Acceptance of Minutes**
 - 3.1. November 19, 2020 Policy Committee Meeting Minutes
[11-19-2020 Policy Comm Meeting Minutes.docx](#)
- 4. Discussion/Review**
 - 4.1. Amendment/Ch. 22, Businesses/Various Sections/Add Marijuana Facilities Licensing Requirements
[2-02-2021 Marijuana Facilities Licensing-ORDER.doc.docx](#)
[2-02-2021 Marijuana Facilities Licensing-MEMO.docx](#)
- 5. Adjourn**

**Policy Committee Meeting
November 19, 2020**

*NOTE: Due to COVID-19, this meeting was held virtually (via ZOOM),
and was live streamed on the City's website*

Committee Chair, Councilor John McCurry, Jr. called the meeting to order at 4:00 p.m.

Roll Call: Councilors John McCurry, Jr., Norman Belanger and Doris Ortiz; Committee Members Renee O'Neil and Nathan Bean

Staff Members present: Carmen Morris, City Clerk, Roger Beaupre, Police Chief, Brian Phinney, Chief Operating Officer

There were no adjustments to the agenda.

Acceptance of Minutes: **September 17, 2020**

Motion by Member Bean, seconded by Councilor Ortiz to accept the minutes as printed.

Vote: Unanimous.

Discussion/Approval: **Establishment of Citizens' Advisory Committee**

Abigail Smallwood, from the Planning & Development Office and who will serve as the liaison for the Citizens' Advisory Committee, presented this item. The main idea behind the establishment of this committee is to have a liaison between the citizens and the Council.

Councilor Belanger suggested a clarification in the vacancy section for someone who is appointed to replace another member. He asked if the member appointed as a replacement would be considered serving their first term, or would they be taking over the term period of the previous member?

Councilor Belanger suggested noting how many meetings this committee is expected to have. Abigail suggested to at least committing to quarterly meetings.

A Conflict of Interest Policy has been attached and Councilor Belanger asked if this is also being formally accepted, or just provided for information. Abigail explained that she is fine either way, and that the Conflict of Interest Policy is being provided simply to show what is expected of each member.

Councilor Belanger suggested formalizing the placement of a Councilor on this committee if this is going to be codified.

COO, Brian Phinney suggested that the Conflict of Interest Policy be referenced in the ordinance, but not necessarily be fully stated in the ordinance.

Councilor McCurry clarified that anything that comes out of this committee would need to go to Council for final approval.

Motion by Councilor Ortiz, seconded by Member O'Neil to include the suggestions and recommendations made above in the proposed ordinance.

Vote: Unanimous.

*Discussion/Approval: **Amendment/Ch. 2, Administration/Art. IV-Boards, Committees, Commissions/Division 12-Police Advisory Committee***

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 2, Administration, Article IV BOARDS, COMMITTEES, COMMISSIONS, DIVISION 12 POLICE ADVISORY COMMITTEE Sections 2-230 et seq.** be amended by adding or deleting to read as follows:

Sec. 2-320 Establishment.

There is hereby created and established the Biddeford Police Advisory Committee, herein after BPAC, comprised of five members and a member of the Biddeford Police Department to serve as an ex officio member. All members shall be citizens and reside within the corporate limits of the City of Biddeford, with the exception of the ex officio member who may reside outside of the City. In appointing members to the BPAC, the Mayor and City Council shall seek to appoint members from a cross section of all citizens, taking into consideration the person's expertise, background and other relevant experiences. The BPAC is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.

Sec. 2-321 Purpose; responsibilities.

(a) The purpose of the Committee is to provide an organized forum for two-way communication between the Biddeford Police Department and the community.

(b) Responsibilities shall include:

(1) ~~Where~~ When appropriate, make recommendations to ~~the City Council and~~ Police Department on substantive issues matters, with a goal of ~~improved~~ enhancing police-community relations services. For the purpose of this article, "substantive" issues are defined as matters of major or practical importance to all concerned. ~~It~~ These recommendations shall not include personnel ~~matters~~ issues involving individual members or officers of the Police Department, or matters that deal with **daily** police operational enforcement and implementation strategies.

(2) Assist in identifying potential Police Department community partnerships ~~to~~ that focus or address public safety ~~related issues~~ matters within the community.

(3) Identify community resources and support for public safety activities ~~(such as parking and traffic); and give input to the City Council and the Police Department regarding perceived effectiveness.~~

(4) Receive information and comments from citizens at the Committee's open and public meeting forum regarding public safety issues.

(5) Make reports to the **City Council and/or Police Chief** at such times as may be requested by the **City Council, Police Chief or as the BPAC** determines is necessary. Make reports to the City Council at such times as may be requested by the City Council.

Sec. 2-322 Membership.

Members shall be appointed by the Mayor and confirmed by a majority of the City Council for staggered three-year terms. All subsequent appointments, except to fill a vacancy, shall be for three-year terms. A

vacancy is created upon the death or written resignation to the BPAC Chair, or upon the vote of the City Council to remove a member. Members of the Committee shall serve without pay and at the discretion of the City Council. The Biddeford Police Chief, or his designee, shall serve as the administrator, advisor and ex officio member, and shall provide assistance to the BPAC.

Sec. 2-323 Organization of Committee.

(a) The Mayor shall appoint a Chair and a Vice Chair. The Chair shall serve a two-year term. A quorum shall consist of three members. The Chair shall be counted in determining a quorum and shall have one vote.

(b) The Vice Chair shall serve a two-year term. The Vice Chair shall serve as Chair upon the death or resignation of the Chair, or upon the office of the Chair becoming vacant. The Vice Chair shall discharge the powers of the office of the Chair at any meeting at which the Chair is absent. The Vice Chair shall be counted in determining a quorum and shall have one vote.

(c) The ex officio member of the BPAC is a nonvoting member and shall serve in an advisory capacity.

(d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.

(e) A quorum consisting of three members shall be necessary to take any BPAC action authorized or required by this article. An issue shall carry by a majority of those voting.

(f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.

(g) The BPAC may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.

Sec. 2-324 Meetings.

(a) Meetings of the Biddeford Police Advisory Committee shall be at the call of the Chair, and established by the BPAC. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting.

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.

Police Chief Roger Beaupre presented this item, that had been tabled by the Council and sent back to the Policy Committee. He suggested in section (5) to change Police Chief back to City Council. He also suggested not striking "daily" in Sec. 2-321 (b)(1).

Member Bean asked why this was tabled and sent back to the Policy Committee by the Council. Councilor McCurry explained that the Council wanted to ensure there was public input on these ordinance amendments, and that there would be oversight by the Council.

Motion by Councilor Belanger, seconded by Councilor Ortiz to amend with Chief Beaupre's suggestions.

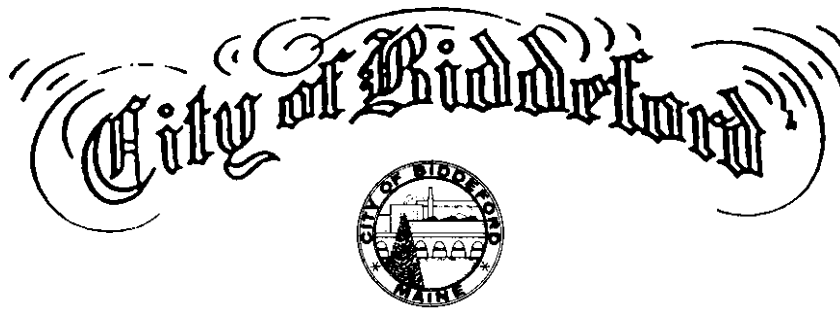
Vote: Unanimous.

The committee voted unanimously to forward this back to the Council for consideration.

Motion by Councilor Belanger seconded by Councilor Ortiz to adjourn.

Vote: Unanimous.

Time: 4:20 p.m.



2021.16

IN BOARD OF CITY COUNCIL...FEBRUARY 2, 2021

BE IT ORDAINED by the City Council of the City of Biddeford, Maine that the Code of Ordinances, Chapter 22 -Businesses, be amended by adding or ~~deleting~~ to read as follows:

Sec. 22-10. Application and procedures.

[Ord. of 4-21-1998(4); amended 9-1-2009 by Ord. No. 2009.42]

(a) All applications shall be made in writing on a form provided by the City Clerk. Each application submitted to the Clerk shall state the name and business address of each applicant, the license desired, location to be used, if any, the date of the application, and such additional information as may be deemed necessary or useful by the Clerk in determining whether such permit or license applied for should be issued.

(b) Other papers:

(1) Any application for a license for which a criminal conviction is a disqualification under this Code shall be accompanied by a written waiver of the applicant's right to privacy or confidentiality under the State Criminal History Records Act (16 M.R.S.A. § 611 et seq.) and otherwise to the extent necessary for the City Clerk, acting through the Chief of Police, to determine whether or not such disqualification exists.

(i) Any application for a marijuana cultivation or manufacturing facility must include a copy of the ~~a~~ State of Maine ~~permit~~/conditional license.

(ii) Medical marijuana registered caregivers and other applicants submitting applications and supporting documentation ~~information containing that is~~ confidential information under 22 M.R.S.A. § 2425-A(12), as may be amended, and the Maine Freedom of Access Act, 1 M.R.S.A. § 403(3)(F), shall identify ~~mark~~ such information as confidential and if so identified the information shall not become a public record.

(2) If the applicant is other than a natural person, the names of all principal officers shall accompany the original application.

- (3) A statement to the fact that no employee or officer of the City is beneficially interested in the license or licenses, or in lieu thereof, a statement of the names of such employees or officers as are beneficially interested.
- (4) In the case of a renewal, the licensee shall submit to the Clerk on a form provided by the Clerk, a certified ownership report for the previous twelve-month period. Such report, among other things, shall list the names of all persons or groups of persons acting in concert who at any time during the period had an actual ownership interest.
- (5) Any organization claiming status as a bona fide nonprofit organization shall furnish sufficient evidence of such status.
- (c) The City Clerk, upon receipt of a completed application, all applicable fees/taxes, and appropriate state licenses, will forward the application to the following departments for inspections/approval:
 - (1) Life and Safety Inspector.
 - (2) Police.
 - (3) Health/welfare.
 - (4) Tax Collectors.
 - (5) City Clerk.
- (d) The Tax Collector will verify that the following taxes have been paid, and or payment arrangements made:
 - (1) Tenant only businesses: personal property and sewer fees in the name of the tenant.
 - (2) Property owner/operator businesses: personal property, sewer and real estate taxes.
- (e) Upon completion of the above inspections/approvals, the City Clerk will issue the license.
- (f) Liquor licenses. All liquor license renewals will follow the process as stipulated in state law.

Sec. 22-11. Fees.

[Ord. of 4-21-1998(4); Ord. No. 99.97, 11-16-1999; Ord. No. 2000.54, 7-5-2000; Ord. No. 2001.49, 5-16-2001; Ord. No. 2002.34, 4-2-2002; Ord. No. 2003.114, 11-18-2003; Ord. No. 2003.131, 12-16-2003; amended 9-1-2009 by Ord. No. 2009.42; 5-1-2012 by Ord. No. 2012.33]

- (a) **Application fees.** Except as expressly provided, all applications for original licenses or for the consent of the City Council other than a flea market or auction, shall be accompanied by an administrative fee of \$10 to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of \$10 to defray the cost of processing the application. The latter shall be refundable if the application is denied. In any case where notice by publication or mail is required, the applicant shall pay the cost of publication and postage in advance.
- (b) **Appeals fee.** Appeals from determinations of the City Clerk shall be accompanied by a filing fee of \$25, and the appellant shall also pay the full cost of publication and postage in advance, if such notice is required. For the purposes of this subsection, notice by publication shall be deemed to apply to the hearing on appeal whenever the requirement of publication would exist in the first instance.
- (c) **Fees for issuance.**
 - (1) Fees for issuance of licenses shall be as provided in Section 22-11.
 - (2) The City Clerk will use the following fee structure to develop the appropriate license fees. [Amended 2-1-2011 by Ord. No. 2011.3; 4-19-2011 by Ord. No. 2011.14; 5-1-2012 by Ord. No. 2012.33; 4-2-2013 by Ord. No. 2013.19; 4-16-2013 by Ord. No. 2013.28; 11-19-2019 by Ord. No. 2019.118]

Type of License or Service	Fee
Places of amusement/entertainment	\$150 (single/multiple events)
Concerts	
Exhibitions (including live performances)/shows	
Playhouses/plays	
Circuses	
Carnivals	
Air shows	
Indoor skating rinks	\$150 (annual)
Theater/moving-picture houses	Plus \$25 per screen
Bottle clubs	
Billiard rooms	

Public firing ranges	
Bowling lanes	
Automobile service/repair; automobile graveyards, automobile recycling businesses, and junkyards	
Automobile graveyard	\$200
Automobile recycler business	\$250
Junkyard without hazardous materials	\$100
Junkyard with hazardous materials	\$250
Recycling facilities	\$200
Recycling facilities with hazardous materials	\$500
Automobile service/repair	\$75
Places/dealers in products	\$200
Antique dealers	
Dealers in gold jewelry, etc.	
Flea markets	
For 20 tables	
For each additional table	\$5
Junk dealers	
Secondhand dealers	Required to pay a one -time licensing fee of \$200 when the business is first established; not required to go through the annual license renewal process
Pawnbrokers	\$200
Operating license	
Taxicabs, motorbuses, public automobiles	\$50 (plus \$20 per sticker)
Victualers	\$75
If serving beer and/or wine	\$100
Serving liquor	\$150
Massage establishments	\$100
Massage therapists	\$100

Combined massage establishment/ massage therapist	\$150
Ice cream truck, per truck	\$75
Miscellaneous	\$10
Newspaper vending machines (per machine)	
Video game devices (per 5 machine to A maximum of \$50)	
Other	
Advertising/liquor license (See state law)	At cost plus 10%
Vendors on public places (See appropriate section)	\$50
Waste Haulers	
Per business	\$150
Per truck	\$150
Sludge disposal	\$50
City Clerk fees	
Notary attesting for residents	\$2
Notary attesting for nonresidents	\$5
Dedimus justice services	\$10
Marriage ceremony	\$100
Motor vehicle agent fee	As set within the limits of legislative action
Sale of Zoning Ordinances	\$50
Sale of Subdivision Ordinances	\$10
Vital records research	\$10 per hour
Sale of voter I.D. card	\$5

Marijuana Establishments

<u>Marijuana caregiver retail store</u>	<u>\$ 500.00 per year</u>
<u>Marijuana cultivation facility less than 20,000 square feet floor area</u>	<u>\$1,500.00 per year</u>
<u>Marijuana cultivation facility equal to or more than 20,000 square feet floor area</u>	<u>\$3,000.00 per year</u>
<u>Marijuana products manufacturing Facility</u>	<u>\$250 per year</u>

- (d) ¹Prorated license fees. On any initial application for a business license received by the City Clerk during the last four months of the licensing year, the licensing fee is 1/2 of the annual licensing fee. All fees are due at the time of business license application submittal. Proration of licensing fees does not apply for business license renewals. **[Added 5-1-2012 by Ord. No. 2012.33]**
- (e) Waiver of fee. No fee for a victualer's license shall be charged to any organization that operates a concession stand at a school- aged sporting event whose proceeds are used exclusively for the purchase of team uniforms, equipment, operating supplies, or for the improvement of the sports fields and facilities. For the purpose of this subsection, "school-aged sporting event" shall mean and include all sponsored sporting events that are organized and operated within the structure of a league, or under the auspices of the Biddeford School Department or a Biddeford private school, or under a program that is sanctioned by the City's Recreation Department and whose participants are enrolled in school and not older than 19 years of age. **[Added 4-6-2010 by Ord. No. 2010.27]**

1. Editor's Note: Former Subsection (d) was redesignated as Subsection (e) to accommodate the addition of this new Subsection (d).

Sec. 22-13. Expiration.

[Ord. of 4-21-1998(4); amended 9-1-2009 by Ord. No. 2009.42]

- (a) All annual licenses and permits, except victualers licenses, issued under this article shall expire at 12:00 midnight on December 31 of the year of issuance, unless otherwise indicated. A victualers license issued under this chapter expires annually on May 31 of the year of issuance.
- (b) Existing Marijuana Establishments licensed under this article shall be effective on the date of issuance and shall expire ~~on~~ at 12:00 midnight on December 31 of the year of issuance.

Sec. 22-36. Marijuana Establishments.

(a) Purpose. The purpose of this aArticle is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in this aArticle and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended, and to provide for and regulate the issuance of Local Licenses for Medical Marijuana Establishments as defined in this aArticle and by the State of Maine under the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended

(b) General Licenses Requirements

- (1) All provisions of the Biddeford Land Use Code Performance Standards Sec. 77 shall apply. Except as otherwise provided in this aArticle, the provisions of Chapter 22 shall apply to all Local L licenses applied for and issued under this aArticle.
- (2) Operating without a Local L license prohibited. No individual or entity may operate a marijuana establishment within the City without first obtaining a Local L license from the City.
- (3) Burden of proof. The applicant for any license under this AArticle bears the burden of proving that all qualifications for licensure have been satisfied.
- (4) Current information. Any applicant or licensee must keep all information disclosed in their application current and must notify the City of any change in information within ten business days of any such change.
- (5) No vested rights. No person shall have any entitlement or vested right to a Local L license under this aArticle, ~~and o~~ Operating a marijuana establishment is a privilege and not a right in the City.
- (6) Local Licenses issued under this aArticle are not transferable to a new owner. Any change in ownership whereby at least 25% of the ownership interest of Licensee is sold or otherwise transferred ~~or change in the officers of an owner~~ shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location

(c) License Suspension. In addition to the provisions of ~~Pursuant to~~ Article Sec. 22-15, the following ~~and~~ criteria ~~below~~; also may serve as the basis ~~shall be used for~~ licensure suspension:

- (1) Any event or condition that would have disqualified an applicant from obtaining an original Local L license, until that disqualification is resolved to the satisfaction of the City; or
- (2) The licensee has failed to timely supplement its license information, as

required; or

- (3) The licensee has failed to file any required reports or furnish any information, as required; ~~and~~ or
- (4) The licensee has knowingly permitted, encouraged, failed to prevent, or failed to remedy a violation of this Article; or
- (5) Ongoing odor issues, which means a licensee ~~who~~ has experienced more than 3 odor complaints, validated by the code enforcement office, in the calendar year of the Local License.

(d) License Revocation. In addition ~~Pursuant~~ to the provisions of Article Sec. 22-15, ~~and~~ the following criteria also may serve as the basis ~~below; shall be used~~ for licensure revocation:

- (1) Failing to remedy any condition in (b) ~~a~~ and (c) above or any provision ~~condition~~ in Sec. 22-15; or
- (2) Repeated violations of Biddeford Code of Ordinances specifically Performance ~~S~~standards Sec. 77; or
- (3) Any event that would have disqualified the licensee from initially obtaining a license.

(e) Procedures for Suspension or Revocation

- (1) Suspension or revocation proceedings shall be conducted by the City Council.
- (2) Any appeal of a decision of the City Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

(f) Penalties. Penalties shall be ~~enforced~~ ~~set forth~~ pursuant to Biddeford Code of Ordinance Chapter 1, General Provisions Sec. 1-12 (General penalty for violation of the ~~C~~ode; continuing violations).

Sec. 22-37 through Sec. 22-45 (Reserved)

Editing Note: Section 22-36 and the reserved sections of 22-37 through 22-45 require renumbering of the existing remaining sections of Chapter 22. The renumbering is an administrative change and will affect existing Sec. 22-36 through 22-54. The renumbering will be addressed if/when this amendment is adopted and becomes effective.

February 2, 2021

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the first reading of the ordinance amendment.

Motion by Councilor Lessard, seconded by Councilor Ortiz to table the ordinance amendment and send to the Policy Committee for further review and recommendation.

Vote: Unanimous.



City Council

Meeting Date: February 2, 2021
Meeting Time: 6:00 p

Agenda Item No: 5.e.
Item Description: 2021.16) Amendment/Ch 22, Businesses

Submitted by: Roby Fecteau, Director, Codes Enforcement
Mathew Eddy; Director, Planning and Development

Supporting Information/Documentation:

- February 11 Meeting with City Council
https://docs.google.com/gview?url=https%3A%2F%2Fgranicus_production_attachments.s3.amazonaws.com%2Fbiddeford%2F42ba50743da7b037969ef4ffdaae44310.pdf&embedded=true
- April 18, 2019 Email from Roby Fecteau
https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/375160/6-11-2019_Workshop-Marijuana-Fecteau_Email-April_2019.pdf
- June 11, 2019 – Council Workshop – 1.2 Adult Use Marijuana: State Rule Changes (timestamp 1:16:00) https://biddeford.granicus.com/MediaPlayer.php?view_id=1&clip_id=551
- Zoning Amendment Recommendations and Referral to Planning Board/Adult Use Marijuana White Paper - https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/594989/Marijuana_White_Paper_-_May_2020.pdf
- Council order: [Converted from C:\Windows\Temp\ufc\conversion-2688884\input.docx to C:\Windows\Temp\ufc\conversion-2688884\output.pdf by EasyPDFConvert.exe version 17.12.8.0 at 2021-01-08 18:55:03Z \(legistarweb-production.s3.amazonaws.com\)](#)
- Attachment 1: revisions to Section 77-Conditional Use Performance Standards (500 foot setback)

Key Terms:

- o Marijuana Legalization Act (or Adult Use Marijuana Law) 28-B M.R.S. Ch. 1
 - 18-691 C.M.R. Ch. 1 – Adult Use Marijuana Program Rule
<https://legislature.maine.gov/statutes/28-B/title28-Bch1sec0.html>
- o Maine Medical Use of Marijuana Act 22 M.R.S. Ch. 558-C
 - 18-691 C.M.R. Ch. 2 - Maine Medical Use of Marijuana Program Rule
<https://www.mainelegislature.org/legis/statutes/22/title22ch558-Csec0.html>
- o Industrial hemp 7 M.R.S. Section 2231
<https://legislature.maine.gov/statutes/7/title7sec2231.html>

- o Marijuana Manufacturing: 18-691 C.M.R. Ch. 4 - Marijuana Manufacturing Facilities
<https://www.maine.gov/dafs/omp/medical-use/rules-statutes/18-691-C.M.R.-ch.-4>
- o Adult use statute: <https://www.maine.gov/dafs/omp/adult-use/rules-statutes/18-691-C.M.R.-ch.-1>

Executive Summary:

Council has asked us to put together a licensing requirement for marijuana establishments. The amended City Ordinance for Section 22, which revises §§22-10, 22-11, 22-13 and adds 22-36 is intended to accomplish this goal.

Discussion:

The Section 22 Business Ordinance revisions will establish licensing requirements for the operation of marijuana establishments in Biddeford. Changes are shown in underline for additions. The projected fees, incorporated in Sec. 22-11, were drawn from other communities who have already established such licensing. In Sec. 22-36, the terms and definitions link directly to the land use ordinance approved in January 2021. For example, in licensing, codes enforcement will insure that the odor specifications of the land use ordinance, specifically the conditional use requirements required for review and approval, are adhered to.

Funding Source:

N/A

Staff Recommendation: Recommend Approval