



DATE: August 28, 2023

TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator

FROM: Jessica Jagoe, Community Development Director

SUBJECT: Planning Case #23-014 – Public Hearing Required
Applicant: City of Arden Hills
Request: Zoning Code Amendments – Chapter 13, Sale of Lower-Potency Hemp Edibles

Budgeted Amount:	Actual Amount:	Funding Source:
N/A	N/A	N/A

Council Should Consider

Motions to approve, table, or deny the following:

- Adoption of Ordinance 2023-009 for Planning Case 23-014 for Zoning Code Amendments to Chapter 13, Section 1305.04 Zoning Code Definitions, Section 1320.05 Land Use Chart in the B-2, B-3, B-4, and GB Zoning Districts, and Section 1325.02 Accessory Uses to establish requirements and criteria for Lower-Potency Hemp Edible Sales as a conditional accessory use.
- Authorization to publish a Summary Ordinance of 2023-009 for Planning Case 23-014.

Approval for authorization to publish summary ordinance requires an affirmative vote of four councilmembers.

Overview of Ordinance Amendments

Staff has prepared a draft ordinance identifying language to be added for the City Council’s review (Attachment A). The proposed ordinance would add a new land use type for the sale of lower-potency hemp edibles. As drafted based on the Planning Commission amendments, the City would allow as a conditional accessory use only to businesses with a principal Retail Sales and Service, Restaurant or Service Station land use in the B-2, B-3, B-4, and GB Zoning Districts. This means there could not be a standalone shop exclusively selling lower-potency hemp products and any business interested in selling lower-potency products would need to come before the Planning

Commission and City Council for a Conditional Use Permit. The draft language would require a distance separation of a lower-potency sales operation to schools, day cares, residential treatment facilities, and public parks as allowed by State Statute. The applicable Sections to be amended are as follows:

- Section 1305.04, Zoning Code Definitions
- Section 1320.05, Land Use Chart in the B-2, B-3, B-4, and GB Zoning Districts
- Section 1325.02, Accessory Uses

Proposed Ordinance Language:

- 1) Add definitions relevant to the Sale of Lower-Potency Hemp Edibles
 - a. Hemp Concentrate
 - b. Hemp-Derived Consumer Product
 - c. Hemp Plant
 - d. Lower-Potency Hemp Edible
 - e. Lower-Potency Hemp Edible Sales
 - f. Nonintoxicating Cannabinoid
- 2) Land Use Chart within Section 1320.05 would be amended to include Lower-Potency Hemp Edible Sales:
 - a. Add a land use category for Lower-Potency Hemp Edible Sales as a Conditional and Accessory Use under the B-2, B-3, B-4, and GB Zoning Districts.
- 3) Amend Section 1325.02, Accessory Uses
 - a. Create a new Subdivision 6 that establishes the requirements and criteria for Lower-Potency Hemp Edible Sales as an accessory use on a property where the principal use is Retail Sales & Service, Restaurant, or Service Station.

Proposed language:

A. Lower-Potency Hemp Edible Sales shall be a Conditional Accessory use only permitted in the B-2 General Business, B-3 Service Business, B-4 Retail Business, and GB Gateway Business Zoning Districts.

B. Applicants for Conditional Accessory Lower-Potency Hemp Edible Sales shall follow the conditional use permit procedures prescribed in Section 1355.04, subd. 3, and Appendix A, Procedure Manual. The City shall review a site plan and specifics of the proposed lower-potency hemp edibles business and may issue the permit subject to, but not limited to, the following requirements:

1. Lower-potency hemp edible sales shall only be permitted as an accessory use on a Subject Property where the principal use is Retail Sales & Service, Restaurant, or Service Station, and when such accessory use is clearly incidental to the principal use.
2. The Subject Property shall not be located within 1,000 feet of any school.

3. The Subject Property shall not be located within 500 feet of any property providing day care or residential treatment services, or an attraction within a public park that is regularly used by minors including a playground or athletic field.
4. No lower-potency hemp edible sales shall occur between the hours of 10:00 p.m. and 8:00 a.m. the following day.

An ordinance amendment to the Zoning Code does require a public hearing before the City Council.

Suggested Findings of Fact

The Planning Commission reviewed this application at their August 9, 2023 meeting and have offered the following findings of fact for your consideration:

General Findings:

1. The City of Arden Hills is proposing to amend ordinance language to allow for lower-potency hemp edible sales in the zoning code as a conditional accessory use within the B-2, B-3, B-4, and GB Zoning Districts.
2. The proposed ordinance will include amendments to the language of Chapter 13 – Zoning Code, Sections 1305.04 - Definitions, 1320.05 – Land Use Chart, and 1325.02 – Accessory Uses of the City Code.
3. The proposed ordinance amendments will allow lower-potency hemp edible sales as a conditional accessory use where the principal use is Retail Sales & Service, Restaurant, or Service Station.
4. The proposed ordinance amendments are consistent with State law for the City’s authority to regulating the sale of lower-potency hemp edibles under the zoning code.
5. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.
6. If the zoning amendments were approved, an Applicant would be required to submit a land use application that would be subject to the formal review process.
7. The Planning Commission conducted a public hearing for the Text Amendment on August 9, 2023.

Options and Motion Language

The Planning Commission reviewed this application at their August 9, 2023 meeting. At that time, they recommended approval with amendments of Planning Case 23-014 for Zoning Code Amendments to Chapter 13 by a 6-0 vote (Commissioner Mitchell was absent). The following are motion language options for the City Council to consider.

- Approval: Motion to *adopt* Ordinance 23-009 for Planning Case 23-014 for a Zoning Code Amendments to Chapter 13 of the Arden Hills City Code to allow the Sale of Lower-Potency Hemp Edibles as a Conditional Accessory Use in the B-2, B-3, B-4, and GB

Zoning Districts, based on the findings of fact and as presented in the August 28, 2023 Report to the City Council.

- Approval with Amendments: Motion to *adopt* Ordinance 23-009 for Planning Case 23-014 for a Zoning Code Amendments to Chapter 13 of the Arden Hills City Code to allow the Sale of Lower-Potency Hemp Edibles as a Conditional Accessory Use in the B-2, B-3, B-4, and GB Zoning Districts, based on the findings of fact and August 28, 2023 Report to the City Council with amendments: *a specific reason should be included with all amendments.*
- Denial: Motion to *deny* Planning Case 23-014 for a Zoning Code Amendments to Chapter 13 of the Arden Hills City Code to allow the Sale of Lower-Potency Hemp Edibles as a Conditional Accessory Use in the B-2, B-3, B-4, and GB Zoning Districts, based on the following findings: *findings to deny should specifically reference the reasons for denial and why those reasons cannot be mitigated.*
- Table: Motion to *table* Planning Case 23-014 for a Zoning Code Amendments to Chapter 13 of the Arden Hills City Code to allow the Sale of Lower-Potency Hemp Edibles as a Conditional Accessory Use in the B-2, B-3, B-4, and GB Zoning Districts: *a specific reason and information request should be included with a motion to table.*

Authorization to Publish Summary Ordinance

- Approval as Presented: Motion to *approve* authorization to publish a Summary Ordinance 2023-009 for Planning Case 23-014, Zoning Code Amendments to Chapter 13, Section 1305.04 Zoning Code Definitions, Section 1320.05 Land Use Chart in the B-2, B-3, B-4, and GB Zoning Districts, and Section 1325.02 Accessory Uses.
- Denial: Motion to *deny* authorization to publish a Summary Ordinance 2023-009 for Planning Case 23-014, Zoning Code Amendments to Chapter 13, Section 1305.04 Zoning Code Definitions, Section 1320.05 Land Use Chart in the B-2, B-3, B-4, and GB Zoning Districts, and Section 1325.02 Accessory Uses.
- Table: Motion to *table* authorization to publish a Summary Ordinance 2023-009 for Planning Case 23-014, Zoning Code Amendments to Chapter 13, Section 1305.04 Zoning Code Definitions, Section 1320.05 Land Use Chart in the B-2, B-3, B-4, and GB Zoning Districts, and Section 1325.02 Accessory Uses.

Budget Impact

N/A

Attachments

- A) Draft THC Ordinance Amendment
- B) Summary Ordinance Amendment
- C) Presentation