

MEMORANDUM

TO: Ordinance Revisions Committee
FROM: Alexis DiLeo, City Planner
DATE: October 26, 2021
SUBJECT: Amendment to Marijuana Facility Use Specific Standards – Licenses per Lot, Types of Uses on a Lot

This memo introduces a request to amend Section 5.16.3.G, Marijuana Facility use specific standards, regarding the number of licenses per lot and the types of uses on a lot, and suggests different approaches for discussion.

Background: Marijuana Facilities Use Specific Standards

Section 5.16.3.G provides use specific standards for Marijuana Facilities. There are nine types of marijuana facilities:

1. Grower
2. Processor
3. Infused Product Processor
4. Secure Transporter
5. Provisioning Center
6. Retailer
7. Designated Consumption Facility
8. Microbusiness
9. Safety Compliance Facility

Section 5.16.3.G.3.d regulates how many State marijuana licenses can operate per lot by zoning district. Lots zoned M1, M1A or M2 may have up to 5 licenses per lot, lots zoned RE or ORL may have up to 2 licenses per lot, and lots in all other zoning districts may have just 1 license.

Section 5.16.3.G.3.e regulates the types of uses that may be located on a lot by stating “no more than one type of the following uses shall be located on a lot.”

Amendment Concept

It no longer seems necessary, or beneficial, to regulate both the number of state license per lot and the types of uses that may be located on a lot for several reasons. Clarification, simplification, and updates may be appropriate.

- The current language of e (type per lot) is somewhat vague and can be interpreted two ways. One interpretation is no more than one of any listed type may be located on a lot, and therefore lots that may have 2 or 5 licenses must have two or five different types of uses. Another interpretation is no more than one type of use is permitted per lot, and therefore lots that may have 2 or 5 licenses must have two or five of the same uses under the same or different ownership. Any code language should be clear, easily interpreted and consistently administered.
- The State now allows the same business to ‘stack’ licenses. The cap on grower’s plants remains, but the State will now issue several grow licenses to the same grower. Potential conflicts between State procedures and the ambiguity of paragraph e should be resolved.
- The previous concerns that strict limits are necessary on numbers of licenses and types of uses per lot to avoid concentrations of marijuana facilities seems to have abated. Two kinds of marijuana facilities, provisioning centers/retailers and designated consumption facilities, have caps provided elsewhere (a maximum of 28 each in the City) and several kinds of marijuana facilities have separation requirements from each other and from K-12 schools. These regulations alone are working to ensure there are no intense concentrations of marijuana facilities found in the city. Allowing any number of licenses on a lot, and/or allowing any mix of types on a lot, should be considered for simplification and updating for best practices.

Concept A: Change or Eliminate Section 5.16.3.G.3.d Number of State Marijuana Licenses Per Lot

Amend the table to increase the number of licenses, combine categories, or eliminate this paragraph entirely.

d. Number of State Marijuana Licenses per Lot

TABLE 5.16-1: STATE MARIJUANA LICENSES PER LOT	
ZONING DISTRICT	MAXIMUM NUMBER [A]
M1, M1A, M2	5
RE, ORL	2
All Other Districts	1

Notes:
 [A] A Medical Marijuana Provisioning Center and Marijuana Retailer under common ownership and operating at the same location shall be considered as one State Marijuana License, and a Marijuana Retailer and a Designated Marijuana Consumption Facility under common ownership and operating at the same location shall also be considered as one State License.

Concept B: Clarify and Change Section 5.16.3.G.3.e Type Located on a Lot

Amend the paragraph to clearly explain the limitations, amend the list to allow more combinations of types on each lot, or eliminate this paragraph entirely.

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| <p>e. No more than one type of the following uses shall be located on a Lot:</p> <ul style="list-style-type: none">▪ Marijuana Grower▪ Marijuana Processor▪ Marijuana-Infused Product Processor▪ Marijuana Secure Transporter▪ Medical Marijuana Provisioning Center▪ Marijuana Retailer▪ Designated Marijuana Consumption Facility▪ Marijuana Microbusiness▪ Marijuana Safety Compliance Facility, except for a Medical Marijuana Provisioning Center and Marijuana Retailer under common ownership▪ Marijuana Retailer and a Designated Marijuana Consumption Facility under common ownership |
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An example of more clearly described limitations is:

e. Types of Marijuana Facilities Per Lot

For Lots that may have more than one license per Table 5.16-1 above, each license shall be for the same type of marijuana facility except as noted below. [Alternative: For Lots that may have more than one license per Table 5.16-1 above, each license shall be for a different type of marijuana facility except as noted below.]

Concept C: Eliminate Sections 5.16.3.G.3.d and e

If these two paragraphs are eliminated, the following limitations will still apply:

- No lot containing a provisioning center/retailer or microbusiness shall be located within 600 feet of a lot containing a provisioning center/retailer or microbusiness. (Section 5.16.3.G.3.c)
- Not lot containing a provisioning center/retailer, grower, microbusiness, designated consumption facility, processor, or infused product processor shall be located within 1000 feet of an existing K-12 school. (Section 5.16.3.G.3.f)
- No more than 28 provisioning center/retailers and no more than 28 designated consumption facilities in the City. (Section 5.16.3.G.3.g)

Ordinance Revisions Committee
October 26, 2021
Amendment: Marijuana Licenses and Types per Lot

Staff Comments – Staff welcome a discussion with the Ordinance Revisions Committee about the need for amendments to the marijuana facility use specific standards and which approach should be prepared for an ordinance amendment petition.