



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: November 29, 2022
TO: Mayor Teich and the Owosso City Council
FROM: Tanya Buckelew, Planning & Building Director
SUBJECT: Zoning Ordinance Amendment – Allow drive-thru window service at marihuana retail locations

RECOMMENDATION:

The Planning Commission recommends amending the following sections of **the Zoning Ordinance (Chapter 38 of the Code of Ordinances.)**

- Article IX. B-1 Local Business District – Sec. 38-197. Principal Uses Permitted (11) a. 2.
- Article X. B-2 Planned Shopping Center Districts – Sec. 38-217. Principal Uses Permitted (4) a. 2.
- Article XI. B-3 Central Business District – Sec. 38-242. Principal Uses Permitted (9) a. 2.
- Article XII. B-4 General Business Districts – Sec. 38-267. Principal Uses Permitted (10) a. 2.

The amendment is as follows –

Remove

- a. 2. Indoor activities text for the B-1, B-2, B-3 and B-4 Districts.

Replace with

- a. 2. Contactless or limited contact transactions. A marihuana provisioning center may designate an area for contactless or limited contact transactions either by curbside service or a drive through window service. Contactless or limited contact transactions must be completed during normal business hours. Marihuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.

BACKGROUND:

The City received a request from JARS Cannabis at 200 E. Main Street to amend the Zoning Ordinance to allow for drive-thru window service at marihuana retail locations. This amendment was presented to the Planning Commission.

The Planning Commission after the Public Hearing, voted at its regular meeting on November 28, 2022 to recommend to the City Council to approve the ordinance amendment.

FISCAL IMPACTS:

None

RESOLUTION NO.

**SETTING A PUBLIC HEARING TO AMEND VARIOUS SECTIONS OF
CHAPTER 38, ZONING,
OF THE CODE OF ORDINANCES
TO ALLOW DRIVE-THRU WINDOW SERVICE AT MARIHUANA RETAIL LOCATIONS**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, Planning Commission desires to amend the Zoning Ordinance to allow drive-thru window service at marihuana retail locations; and

WHEREAS, the Planning Commission held a public hearing on November 28, 2022, at its regularly scheduled meeting, regarding a request to amend various sections of Chapter 38, Zoning, to allow the purpose noted. Two citizens spoke, one in favor of the proposed amendments, the other, opposed; and

WHEREAS, the Planning Commission recommends approval of the proposed amendments to Chapter 38, Zoning; and

WHEREAS, it is the long-standing practice of the City Council to hold a public hearing to receive citizen comment regarding any and all proposed ordinance amendments.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF OWOSSO ORDAINS THAT:

SECTION 1. AMENDMENT. That Subsection (11)a.2. of Sec. 38-197, Principal uses permitted, of Article IX, *B-1 Local Business District*, of Chapter 38, Zoning, shall be amended as follows:

Sec. 38-197 (11)a.2.

- (11) A marihuana provisioning center as authorized by the city's medical marihuana facilities licensing — police power ordinance, chapter 16.5.
 - a. Provisioning centers shall be subject to the following standards:
 2. ~~*Indoor activities.* All activities of a provisioning center, including all transfers of marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.~~
 2. **Contactless or limited contact transactions. A marihuana provisioning center may designate an area for contactless or limited contact transactions either by curbside service or a drive through window service. Contactless or limited contact transactions must be completed during normal business hours. Marihuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.**

SECTION 2. AMENDMENT. That Subsection (4)a.2. of Sec. 38-217, Principal uses permitted, of Article X, *B-2 Planned Shopping Center Districts*, of Chapter 38, Zoning, shall be amended as follows:

Sec. 38-217 (4)a.2.

- (4) A marihuana provisioning center as authorized by the city's medical marihuana facilities licensing — police power authorizing ordinance.
 - a. Provisioning centers shall be subject to the following standards:
 2. ~~*Indoor activities.* All activities of a provisioning center, including all transfers of marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.~~

2. **Contactless or limited contact transactions. A marijuana provisioning center may designate an area for contactless or limited contact transactions either by curbside service or a drive through window service. Contactless or limited contact transactions must be completed during normal business hours. Marijuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.**

SECTION 3. AMENDMENT. That Subsection (9)a.2. of Sec. 38-242, Principal uses permitted, of Article XI, *B-3 Central Business District*, of Chapter 38, Zoning, shall be amended as follows:

Sec. 38-242 (9)a.2.

- (9) A marijuana provisioning center as authorized by the city's medical marijuana facilities licensing - police power authorizing ordinance.
 - a. Provisioning centers shall be subject to the following standards:
 2. ~~*Indoor activities.* All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive thru window service.~~
 2. **Contactless or limited contact transactions. A marijuana provisioning center may designate an area for contactless or limited contact transactions either by curbside service or a drive through window service. Contactless or limited contact transactions must be completed during normal business hours. Marijuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.**

SECTION 4. AMENDMENT. That Subsection (10)a.2. of Sec. 38-267, Principal uses permitted, of Article XII, *B-4 General Business Districts*, of Chapter 38, Zoning, shall be amended as follows:

Sec. 38-267 (10)a.2.

- (9) A marijuana provisioning center as authorized by the city's medical marijuana facilities licensing - police power authorizing ordinance.
 - a. Provisioning centers shall be subject to the following standards:
 2. ~~*Indoor activities.* All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive thru window service.~~
 2. **Contactless or limited contact transactions. A marijuana provisioning center may designate an area for contactless or limited contact transactions either by curbside service or a drive through window service. Contactless or limited contact transactions must be completed during normal business hours. Marijuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.**

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 6. PUBLIC HEARING. A public hearing is set for Tuesday, January 3, 2023 at 7:30 p.m. in the City Hall Council Chambers for the purpose of hearing citizen comment regarding the proposed amendments to the Code of Ordinances.

SECTION 7. AVAILABILITY. This ordinance may be purchased or inspected in the city clerk's office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

SECTION 8. EFFECTIVE DATE. This amendment shall become effective 20 days after passage.



803 W Big Beaver Rd Ste 202 Troy, MI 48084
(248) 268-8235 | licensing@jarscannabis.com

October 24, 2022

City of Owosso

301 W Main St
Owosso, MI 48867

To Whom It May Concern:

Please accept this letter as our formal request to amend ordinance Section 38-242(g)(a)(2) to allow drive-thru windows at marijuana provisioning centers.

Our proposed building at 200 E Main was previously utilized as a bank building that had drive-thru service. Our existing site is not in downtown. Authorizing a drive-thru window allows our customers ease of access to submit online orders and easily pick up. The window service also creates less curbside traffic pulling in and out of parking spots. A drive-thru window will be convenient for residents, and more accessible for our handicap customers.

We've been in contact with the Michigan Department of Transportation which has authorized this request from their perspective. Since this site was previously set up as a bank, the ingress/egress has already been optimized for drive through customers not to spill out into the roadway.

If you have any additional question, please contact Lisa Dawdy with additional questions at (616) 551-3855 or lisa.dawdy@jarscannabis.com

Sincerely,

A handwritten signature in black ink, appearing to read 'Hani Kassab Jr.', written in a cursive style.

Hani Kassab Jr

November 23, 2022

Planning Commission
City of Owosso
301 W. Main Street
Owosso, Michigan 48867

Subject: Zoning Text Amendment

Request: Consider amendments to the Owosso Zoning Ordinance text in Sections 38-197(11.a.2), 38-217(4.a.2), 38-242(9.a.2) and 38-267(10.a.2) to allow for drive-thru window services at marihuana provisioning centers.

Applicant: Hani Kassab Jr, Jars Cannabis

Dear Planning Commissioners:

At your request, we have reviewed the above application from Hani Kassab Jr to consider amending the above referenced sections of the City of Owosso Zoning Ordinance to allow for drive—thru service at marihuana provisioning centers in the City. Drive-thru services are not currently allowed but a change in the State of Michigan rules and legislation now permit this service if authorized by local zoning. It is not required that they be permitted.

Our comments are based on a review of the information submitted by the applicant, a site visit, meetings with the applicant, discussions with the Planning Commission, and conformance to the City’s Master Plan and Zoning Ordinance. In reaching a decision on the application, the Planning Commission should consider our comments along with those from other staff and consultants, relevant input from the public, additional information provided by the applicant, and your own findings based on ordinance standards as part of your deliberation and recommendation to City Council.

DISCUSSION

The planning commission and city council shall consider the following criteria to determine the appropriateness of amending the text, standards and regulations of the zoning ordinance:

1. Documentation has been provided from city staff, or the zoning board of appeals indicating problems and conflicts in implementation of specific sections of the ordinance.

Finding – There is currently no issues, problems or conflicts with implementation of existing ordinances, however the city has been permitting curb-side delivery of marihuana during the Covid-19 Pandemic.

2. Reference materials, planning and zoning publication, information gained at seminars or experiences of other communities that demonstrate improved techniques to deal with certain zoning issues, or that the city's standards are outdated.

Finding – As noted above, the state has changed rules to allow for the use of drive-thru services. Those rules can be seen below.

Rule 7a.

- (1) A marihuana sales location may designate an area for contactless or limited contact transactions unless prohibited by an ordinance adopted by the municipality where the marihuana sales location is located.
 - (2) Contactless or limited contact transaction include, but are not limited to the following:
 - (a) Curbside service.
 - (b) Drive through window service.
 - (3) A marihuana sales location may accept online or telephonic orders for marihuana product and payment for the order that will be picked up at the marihuana sales location.
 - (4) (4) The designated area for contactless or limited contact transactions must be identified in the marihuana business location plan.
 - (5) A marihuana sales location operating a contactless or limited contact transaction must have a written standard operating procedure in place and be made available to the agency upon request.
 - (6) Contactless or limited contact transactions must be completed during normal business hours.
 - (7) A marihuana sales location using a designated area for contactless or limited contact transactions must have in place an anti-theft policy, procedure, or automatic capability.
 - (8) The designated area for contactless or limited contact transactions must comply with R 420.209.
 - (9) The contactless and limited contact transaction must comply with R 420.505 and R 420.506.
 - (10) Marihuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.
3. The city attorney recommends an amendment to respond to significant case law.

Finding – The city attorney is not opposed to the proposed amendments but is not recommending approval as a result of significant case law.

4. The amendment would promote implementation of the goals and objectives of the city's master plan.

Finding – The amendment would not promote the goals and objectives in the downtown where auto-oriented uses are intended for other commercial areas of the city.

5. Other factors deemed appropriate by the planning commission and city council.

Finding – This application has not been previously before the City.

RECOMMENDATION

Based upon the above comments, **the Planning Commission will need to consider a number of factors to determine if this amendment is most appropriate for the city and its residents and businesses as follows;**

1. That the request is not in overwhelming conflict with the Master Plan or the Zoning Ordinance;
2. The rules have changed at the state which now allow for these services;
3. That a change in the ordinance will not lead to public safety issues or a nuisance to the city and its residents and businesses.

We look forward to discussing this with you at your November Planning Commission meeting. If you have any further questions, please contact us at 810-734-0000.

Sincerely,

CIB Planning



Justin Sprague
Vice President