



AMENDED
City of Fairview Heights

CITY COUNCIL MEETING AGENDA
10025 BUNKUM ROAD
FAIRVIEW HEIGHTS, IL 62208
JANUARY 21, 2020
7:00 P.M.

- A. Call to Order
- B. Pledge of Allegiance
- C. Invocation
- D. Roll Call
- E. Public Participation
- F. Consent Agenda:
City Council Minutes – January 7, 2020
Finance Director’s Report
Presentation of Bills: \$2,652,985.26
- G. Committee Reports
- H. Communications from Mayor
- I. Communications from Elected Officials

J. UNFINISHED BUSINESS

None

K. NEW BUSINESS

Proposed Ordinance No. 1-'20, an Ordinance amending Ordinance No. 190, “The Revised Code,” Chapter 24, Motor Vehicle Code, Schedule B, Four Way Intersections. (Administration Committee)

Proposed Ordinance No. 2-'20, an Ordinance amending Chapter 36 (Taxation), Article IV (Food and Beverage Sales Tax) by amending Ordinance No. 1022-2000 as amended by Ordinance Nos. 1030-2000, 1043-2001 and 1539-2011 of the Revised Code of Ordinances of the City of Fairview Heights, Illinois. (Administration Committee)

Proposed Ordinance No. 3-'20, an Ordinance adopting Chapter 8 (Business Regulations), Article XVII (Adult-Use Cannabis), Sections 8-17-1 through 8-17-16. (Administration Committee)

Proposed Resolution No. 1-'20, a Resolution of support for submission of a Surface Transportation Program 2020 Grant Application for improvements to Longacre Drive. (Administration Committee)

Proposed Resolution No. 2-'20, a Resolution authorizing the Mayor to enter into an agreement with Fowler Technology Services for the purchase of Six (6) LPR (License Plate Reader) Cameras. (Administration Committee)

Proposed Resolution No. 3-'20, a Resolution authorizing the Mayor to enter into an agreement with J. F. Electric for installation of LPR (License Plate Reader) cameras and related equipment. (Administration Committee)

L. ADJOURNMENT

PROPOSED ORDINANCE NO. 2-'20

AN ORDINANCE AMENDING CHAPTER 36 (TAXATION),
ARTICLE IV (FOOD AND BEVERAGE SALES TAX)
BY AMENDING ORDINANCE NO. 1022-2000 AS AMENDED BY
ORDINANCE NOS. 1030-2000, 1043-2001 AND 1539-2011
OF THE REVISED CODE OF ORDINANCES OF
THE CITY OF FAIRVIEW HEIGHTS, ILLINOIS

THE CITY OF FAIRVIEW HEIGHTS, ST. CLAIR COUNTY, ILLINOIS (THE "CITY"), IS A DULY ORGANIZED AND EXISTING MUNICIPALITY CREATED UNDER THE PROVISIONS OF THE LAWS OF THE STATE OF ILLINOIS.

THE CITY IS NOW OPERATING UNDER THE PROVISIONS OF THE ILLINOIS MUNICIPAL CODE, AS SUPPLEMENTED AND AMENDED AND AS A HOME RULE MUNICIPALITY PURSUANT TO ARTICLE VII OF THE ILLINOIS CONSTITUTION OF 1970; AND IN THE EXERCISE OF ITS HOME RULE POWERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRVIEW HEIGHTS, ILLINOIS:

Section 1. Chapter 36 (Taxation), Article IV (Food and Beverage Sales Tax) of the City's Revised Code of Ordinances (as instituted by Ordinance No. 1022-2000 as amended by Ordinance Nos. 1030-2000, 1043-2001 and 1539-2011), is hereby amended to provide as follows:

ARTICLE IV
FOOD AND BEVERAGE SALES TAX

36-4-1 DEFINITIONS. As used in this Article, unless the context otherwise requires, the following words shall have the meaning hereinafter ascribed to them:

(A) **Person** means any individual, firm, unincorporated association, partnership, joint venture, limited partnership, corporation, representative, or other entity.

(B) **Farm Produce Stand** means those temporary and sometimes semi-permanent stands utilized by farmers and other produce growers to sell primarily their own products in season.

~~(C) **Business** shall refer to any commercial establishment who holds a F1 or F 4 (F 4a through F 4f) St. Clair County Food Service Sanitation Permit.~~

(DC) Food and Beverages Prepared for Immediate Consumption shall mean any food and/or beverages prepared at any commercial-licensed food service establishment in the City of Fairview Heights who holds a St. Clair County Food Service Sanitation Permit, including but not limited to items that require any form of cooling, heating, combining, cutting, mixing, or the like, prior to sale, as follows:

F-1. Taverns, and bars and video gaming establishments selling liquor and other beverages, prepackaged food and food prepared on premise only, prepackaged food and/or non-potentially hazardous foods*. (Taverns and bars with kitchens, see F-4)
*Potentially hazardous foods includes milk or milk products, eggs, meat, poultry, fish, etc., in a form capable of supporting rapid growth of micro-organisms.

F-2. Establishments selling specialty items, including but not limited to vendors selling specialty drinks, fountain drinks, coffee, flavored drinks and juices, ice cream parlors which sell ice cream, sherbert, and like products only, self contained push carts and food trucks.

F-3. Restaurants and Carry-out establishments, including but not limited to restaurants, fast food, delis, bakeries, kiosks, catering, drive-in window service, mobile or similar operations with or without seating.

F-4. Convenience stores and gasoline service stations selling fountain drinks, coffee, deli items, food items prepared on premise and food items requiring preparation prior to consumption (eg. pizza, nachos, hot dogs, and the like). Food-service establishments with seating capacity:

~~F-4a 1-9 F-4d 31-60
F-4b 10-20 F-4e 61-100
F-4c 21-30 F-4f 101 or more~~

5. Grocery stores selling prepared deli food items, including but not limited to sandwiches, salads/salad bars, hot food and baked goods.

(D) "Food and beverages prepared for immediate consumption" shall exclude items sold at:

(1.) places of business where the percentage of food and beverages prepared for immediate consumption is less than ten percent (10%) of the total sales of the business on an annual basis

~~or~~ total sales of food and beverages are less than Five Thousand Dollars (\$5,000.00) per year.

~~(2.)~~ places of business that are commonly referred to as "farm produce stands".

~~(3.)~~ ~~Those~~ organizations that are exempt from Sales Tax by the Illinois Department of Revenue shall be exempt from the City's Food and Beverage Tax. A copy of the Sales Tax Exemption letter issued by the Illinois Department of Revenue may be required as proof of status.

36-4-2 TAX. A tax is hereby imposed upon all retail sales of food and beverages that have been prepared for immediate consumption within the City at the rate of two percent (2%) of the selling price of such food and/or beverages. This tax is imposed in addition to any other tax imposed by the City or any other governmental entity with respect to such food and beverages. The purchaser of such food and beverages shall be liable for the payment of the tax imposed, but the person engaged in the business of selling such food and beverages at retail assumes the responsibility of collecting and paying said tax to the City. This tax increase will go into effect October 1, 2011.

36-4-3 SALES TAX RETURNS TO FAIRVIEW HEIGHTS. Every person engaged in the retail business of selling food and beverages for immediate consumption within the City shall file with the City Collector, on or before the last day of each month following the period to which they apply a report in the form required by the City Collector and the report shall be accompanied by a check or other form of payment in the amount of the tax due and payable upon such taxable sales made during the preceding month.

36-4-4 SALES TAX RETURNS TO ILLINOIS. Every report filed under the preceding section shall be accompanied by a photocopy or other copy of the sales tax return filed by the person engaged in the business of selling such food and beverages at retail with the Illinois Department of Revenue pursuant to Section 120/3 of Chapter 35 of the Illinois Compiled Statutes, as amended, (commonly known as the sales tax return) showing the total retail sales made by such person for the preceding calendar month.

36-4-5 BOOKS AND RECORDS. Every person engaged in the business of selling food and beverages prepared for immediate consumption at retail shall keep complete and accurate books and records of all such retail sales according to standards adopted by the Illinois Department of Revenue for retail sales generally. The City Treasurer or authorized representative may enter the premises of every such person at

reasonable times and upon reasonable advance notice to inspect the books and records of such person in order to effectuate the proper administration of the tax imposed by this Article, and to insure compliance with this Article. It shall be unlawful and a violation of this Article for any person to hinder, interfere with or prevent the City Treasurer or authorized representative from performing his duties hereunder.

36-4-6 PENALTY. If for any reason tax is not paid when due, a penalty at the rate of ten percent (10%) of the amount of tax owed shall be applied, plus interest at the rate of one and one-quarter percent (1 ¼%) per month from the date of delinquency shall be added and collected.

36-4-7 VIOLATIONS. Any person found guilty of violating any provision of this Article, including the late filing of a return or the late payment of the tax, shall be fined an amount not to exceed Five Hundred Dollars (\$500.00) for each offense. A separate offense is committed upon each day that a violation exists.

36-4-8 ADDITIONAL REMEDIES FOR COLLECTION. In addition to the penalties imposed for late filing, late payment and violation of this Article, the City may elect to file civil proceedings for collection of the tax, plus penalties which in the event of such civil proceedings shall include the City's reasonable counsel fees, or the City may elect to file a lien upon the real estate upon which the violator's business is conducted and may foreclose such lien pursuant to the applicable statute. The City may pursue any and all of such remedies contemporaneously or concurrently.

36-4-9 USE OF PROCEEDS. Proceeds resulting from the imposition of the tax imposed by this Article, including interest and penalties collected in association therewith, ~~may be paid to retire a certain Eight Million Dollar (\$8,000,000.00) Bond issue for police station, sewers and storm sewers, and fund both a Finance Director position and a Planning & Development Coordinator position~~ shall be used for the payment of bonds related to the Recreation Center (REC), and thereafter, as the Council directs thereby avoiding and abating any real estate tax.

Section 2. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

PASSED by the City Council of the City of Fairview Heights, Illinois, on this _____ day of _____, 20____ on the following roll call vote:

READ FIRST TIME:

READ SECOND TIME:

PASSED:

APPROVED:

PUBLISHED:

MARK T. KUPSKY - MAYOR
CITY OF FAIRVIEW HEIGHTS

ATTEST:

KAREN J. KAUFHOLD - CITY CLERK

PROPOSED ORDINANCE NO. 3-'20

**AN ORDINANCE ADOPTING CHAPTER 8
(BUSINESS REGULATIONS), ARTICLE XVII
(ADULT-USE CANNABIS), SECTIONS 8-17-1
THROUGH 8-17-16**

THE CITY OF FAIRVIEW HEIGHTS, ST. CLAIR COUNTY, ILLINOIS (THE "CITY"), IS A DULY ORGANIZED AND EXISTING MUNICIPALITY CREATED UNDER THE PROVISIONS OF THE LAWS OF THE STATE OF ILLINOIS.

THE CITY OF FAIRVIEW HEIGHTS IS NOW OPERATING UNDER THE PROVISIONS OF THE MUNICIPAL CODE, AS SUPPLEMENTED AND AMENDED AND AS A HOME RULE MUNICIPALITY PURSUANT TO ARTICLE VII OF THE ILLINOIS CONSTITUTION OF 1970; AND IN THE EXERCISE OF ITS HOME RULE POWERS.

WHEREAS, the City of Fairview Heights, Illinois, has enacted a Revised Code of Ordinances for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act (Act), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use cannabis, which became effective June 25, 2019; and

WHEREAS, pursuant to the Section 55-25 of the Act (410 ILCS 705/55-25), the City may enact reasonable zoning ordinances or other ordinances not in conflict with the Act, regulating cannabis business establishments, including rules adopted governing the time, place, manner and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations the City deems sensitive.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRVIEW HEIGHTS, ILLINOIS, AS FOLLOWS:

Section 1. That Chapter 8 (Business Regulations) is hereby amended by adding the following Article XVII (Adult-Use Cannabis), Sections 8-17-1 through 8-17-16:

ARTICLE XVII: ADULT-USE CANNABIS

§ 8-17-1 PURPOSE AND FINDINGS.

The City of Fairview Heights City Council finds:

A. The operation of cannabis-related businesses in the City requires special regulations, limitations, restrictions and supervision in order protect the health, safety, and welfare of the patrons of such businesses, as well as the health, safety, and welfare of the City's residents. Further, protecting order and morality, preventing deterioration of the City's neighborhoods promoting retain trade, maintaining property values and ensuring sanitary and safe public places are desirable objectives of the community and the City's leaders. This Chapter bears a substantial relation to public health, safety and welfare, and promotes the long-term interests of the City of Fairview Heights community.

B. The City Council finds that protection of the public is best served by limiting Adult-Use Cannabis Dispensing Organizations to a permittable special use restricted to one within the City, and otherwise prohibiting Adult-Use Cannabis Establishments in the City.

C. A reasonable time, place, and manner regulation of cannabis-related businesses will provide for the protection of the community and its property values, and protect the residents of the community from the adverse effects of such cannabis-related businesses, while providing those who desire to patronize said establishments such an opportunity in areas within the City which are appropriate locations of cannabis-related businesses and land uses.

D. Regulations set forth in this Chapter are necessary to prevent the exploitation of minors, to effectively deploy the City's limited law enforcement resources, and in order to effectively protect the health, safety, morals, and general welfare of the City and its citizens.

E. The fees required in this Chapter are necessary as reasonable fees imposed to help defray the costs of processing the license applications and the substantial expenses incurred by the City in regulating Adult-Use Cannabis Business Establishments.

F. It is the intent and purpose of this Chapter to provide regulations regarding the dispensing of adult-use cannabis within the corporate limits of the City. Such facilities shall comply with all regulations provided in the Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply.

§ 8-17-2 DEFINITIONS.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the

context clearly indicates a different meaning:

ACT means the Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/). **ADULT-USE CANNABIS BUSINESS ESTABLISHMENT** means an Adult- Use Cannabis Cultivation Center, Adult-Use Cannabis Craft Grower, Adult- Use Cannabis Processing Organization, Adult-Use Cannabis Infuser Organization, Adult-Use Cannabis Dispensing Organization or Adult-Use Cannabis Transporting Organization.

ADULT-USE CANNABIS CRAFT GROWER means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION means a facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis

product, Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS705/), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION means an organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/), as it may be amended from time-to-time, and regulations promulgated thereunder.

CANNABIS has the meaning given that term in the Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/).

ENCLOSED, LOCKED FACILITY means a room, greenhouse, building or other enclosed area equipped with locks or other security devices that permit access only by agents/employees of an Adult-Use Cannabis Business Establishment to cultivate, store and distribute cannabis per the Illinois Cannabis Regulation and Tax Act (P.A. 101-0027; 410 ILCS 705/) and any implementation regulations of same.

PRE-EXISTING means existing as of the date of submission of a zoning petition under Section 8-17-3 of this Article.

§ 8-17-3 LICENSE/REGISTRATION/PERMIT REQUIRED. It shall be unlawful for an Adult-Use Cannabis Business Establishment to operate in the City without a valid State license under the Act, and City registration and special use permit under this Chapter.

§ 8-17-4 SPECIAL USE PERMIT/PETITION.

An Adult-Use Cannabis Dispensing Organization facility, as defined herein, requiring approval of a special use permit in the respective district(s) in which they are requested shall be processed in accordance with Chapter 14 (Development Code), Section 14-10-8 (Plan Commission Procedures, Special-Use Permit and Amendment), and as provided herein.

A. *State fees.* Evidence demonstrating that all state required fees have been or can be paid.

B. *Limitation of liability.* At the time of submission of a zoning petition under this Section, Petitioner shall submit a written acknowledgement that Petitioner agrees to and accepts the limitations of liability and the requirement to indemnify, hold harmless and defend the City of Fairview Heights and the City's employees and agents, including that: the City of Fairview Heights shall not be liable to Petitioner and its agents/employees, for any damage, injury, accident, loss, compensation or claim, based on,

arising out of, or resulting from the property for which the zoning is requested being used pursuant to the Act, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to federal or state laws, any fire, robbery, theft, mysterious disappearance or any other casualty; or the actions of any other registrants or persons. This limitation of liability provision shall survive expiration or the early termination of the registration if the registration is granted, or dissolution of use or any subsequent change in zoning.

C. *Provision of notice.* At the time of submission of a zoning petition under this Section, Petitioner shall submit a signed statement certifying that Petitioner has actual notice that, notwithstanding state law and any action by the City of Fairview Heights, that:

1. cannabis is a prohibited Schedule I controlled substance under federal law;
2. participation under the Act is permitted only to the extent provided by the strict requirements of the Act and subsequent implementing regulations;
3. any activity not sanctioned by the Act and subsequent implementing regulations may be a violation of state law and may result in the revocation of zoning;
4. growing, distribution or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;
5. use of cannabis may affect an individual's ability to receive federal or state licensure in other areas;
6. use of cannabis, in tandem with other conduct, may be a violation of state or federal law;
7. participation under the Act, or approval of zoning by the City of Fairview Heights does not authorize any person to violate federal or state law and, other than as set out in the Act, and does not provide any immunity from or affirmative defense to arrest or prosecution under federal or state law; and
8. Petitioner for the zoning of an Adult-Use Cannabis Dispensing Organization by the City of Fairview Heights shall indemnify, hold harmless, and defend the City for any and all civil or criminal penalties resulting from participation under the Act.

D. *Affidavit of Compliance.* Petitioner shall file an affidavit with the City affirming compliance with the Act and this Chapter.

§ 8-17-5 ADULT-USE CANNABIS FACILITY COMPONENTS.

In determining compliance with Section 8-17-4 (Special Use Permit/Petition) of this Chapter, information contained in 14-10-8 and those sections of Chapter 14 Article III deemed pertinent to the nature of the business and zoning district within which the site is located will be reviewed.

§ 8-17-6 ADULT-USE CANNABIS CRAFT GROWER.

Pursuant to Section 55-25(5) of the Act (410 ILCS 705/55-25(5)), no Adult-Use Cannabis Craft Grower shall be allowed to locate and operate within the City, and same is hereby prohibited in the City. It shall be unlawful for any person to locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of an Adult-Use Cannabis Craft Grower within the City.

§ 8-17-7 ADULT-USE CANNABIS CULTIVATION CENTER.

Pursuant to Section 55-25(5) of the Act (410 ILCS 705/55-25(5)), no Adult-Use Cannabis Cultivation Center shall be allowed to locate and operate within the City, and same is hereby prohibited in the City. It shall be unlawful for any person to locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of an Adult-Use Cannabis Cultivation Center within the City.

§ 8-17-8 ADULT-USE CANNABIS DISPENSING ORGANIZATION.

Subject to the requirements of this Chapter and Chapter 14 (Development Code), an Adult-Use Cannabis Dispensing Organization otherwise validly licensed by the State under the Act must also register annually with the City Clerk and pay an annual registration fee of Fifteen Thousand Dollars (\$15,000.00) on or before May 1st of each year; provided, however, that only one (1) Adult-Use Cannabis Dispensing Organization shall be allowed to locate and operate within the City in accordance with Section 55-25(5) of the Act (410 ILCS 705/55-25(5)). In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located and operate, the proposed facility must comply with the information contained in Chapter 14, Development Code.

A. *Sales/Distribution.* Facility shall not conduct any sales or distribution of cannabis other than as authorized by the Act.

B. *Space.* Facility must be a free-standing structure without any other uses. At least 75% of the floor area of any tenant space occupied by an Adult-Use Cannabis Dispensing Organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in Section 8-17-7(N) below in the same tenant space.

C. *Alcohol.* Facility shall not sell, distribute or otherwise allow the use of alcohol on the premises.

D. *Exterior display.* Facility shall not be maintained or operated in a manner that causes, creates or allows the public viewing of cannabis, cannabis infused products, cannabis paraphernalia or similar products from any sidewalk, public or private^[AR1] right-of-way, or any property other than the lot on which the dispensary is located. No portion of the exterior of the dispensary shall utilize or contain any flashing lights, search lights, spot lights, or any similar lighting system.

E. *Drug paraphernalia.* Facility shall only display or sell drug paraphernalia in compliance with the Act.

F. *Hours of operation.* Facility shall operate only between the hours of 6:00 a.m. and 10:00 p.m.

G. *Age and access limitations.* Facility shall not allow any person who is not at least 21 years of age on the premises, nor employ anyone under the age of 21 years.

H. *Residential co-location.* No person shall reside in or permit any person to reside in Facility or on the property of same.

I. *Drive-through services.* Drive through services shall be prohibited.

J. *Outdoor seating.* Outdoor seating shall be prohibited.

K. *Loitering.* Loitering shall be prohibited at the Facility or on the property of same. A sign at least 8.5 inches by 11 inches shall be at the building entrance.

L. *Smoking and use of cannabis products.* It shall be unlawful to smoke, inhale, or ingest cannabis products in the waiting room, limited access area, or restricted access area of the Facility. A sign, at least 8.5 inches by 11 inches, shall be posted inside the public waiting room, limited access area,

and the restricted access area of the dispensary in a conspicuous place and visible to a client and shall include the following language: "Smoking, eating, drinking, or other forms of consumption of cannabis products is prohibited within this dispensary area."

§ 8-17-9 ADULT-USE CANNABIS INFUSER ORGANIZATION.

Pursuant to Section 55-25(5) of the Act (410 ILCS 705/55-25(5)), no Adult-Use Cannabis Infuser Organization shall be allowed to locate and operate within the City, and same is hereby prohibited in the City. It shall be unlawful for any person to locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of an Adult-Use Cannabis Infuser Organization within the City.

§ 8-17-10 ADULT-USE CANNABIS PROCESSING ORGANIZATION.

Pursuant to Section 55-25(5) of the Act (410 ILCS 705/55-25(5)), no Adult-Use Cannabis Processing Organization shall be allowed to locate and operate within the City, and same is hereby prohibited in the City. It shall be unlawful for any person to locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of an Adult-Use Cannabis Processing Organization within the City.

§ 8-17-11 ADULT-USE CANNABIS TRANSPORTING ORGANIZATION

Pursuant to Section 55-25(5) of the Act (410 ILCS 705/55-25(5)), no Adult-Use Cannabis Transporting Organization shall be allowed to locate and operate within the City, and same is hereby prohibited in the City, except to the extent necessary to deliver product to an Adult-Use Cannabis Dispensing Organization lawfully located and operating within the City. Subject to the foregoing exception, it shall be unlawful for any person to locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of an Adult-Use Cannabis Transporting Organization within the City.

§ 8-17-12 ADULT-USE CANNABIS ADDITIONAL REQUIREMENTS.

A. *Facility Enhancements.* An Adult-Use Cannabis Dispensing Organization shall install and maintain building enhancements, such as security cameras, lighting or other improvements, as set forth in the special use permit, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Dispensing Organization and the site on which it is located, consistent with the requirements of the Act, but shall minimally include the following:

1. Security and video surveillance.

(a) The Adult-Use Cannabis Dispensing Organization shall be an enclosed, locked facility and shall provide and maintain adequate security on the premises, including lighting, video surveillance and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft. The facility shall be enclosed by a minimum eight feet (8') high solid security fence. The fence must be adequately secure to prevent unauthorized entry and include gates tied to an access control system.

(b) The Adult-Use Cannabis Dispensing Organization parking area, storage areas, fully enclosed dumpster, loading area/shipping bays and the entire exterior of Facility shall be monitored by video surveillance equipment whose live images can be viewed by Facility staff, City of Fairview Heights Police Department Staff and those entities that dispatch for the Fairview Heights Police Department, and continually recorded in a tamper proof format.

(c) A sign shall be posted in a prominent location at each entrance to the facility which reads: "These premises are under constant video surveillance."

(d) A sign shall be posted in a conspicuous location at each entrance to the facility that reads: "Persons under 21 years of age not permitted on these premises."

(e) The zoning administrator shall review the adequacy of lighting, security and video surveillance installations with assistance from the Fairview Heights Police Chief.

(f) The loading of product shall occur within secure enclosed shipping bays and shall not be visible from the exterior of the building.

(g) An Adult-Use Cannabis Dispensing Organization shall report all criminal activities to all appropriate law enforcement agencies immediately upon discovery.

2. Exterior signage. Other than the signs as specified in this Section, all exterior signage shall comply with the provisions of Chapter 14, further subject to the following:

(a) Electronic message boards and temporary signs are prohibited.

(b) Signs shall not include any realistic or stylized graphical representation of cannabis plant or its parts, smoke, drug paraphernalia, or cartoonish imagery oriented toward youth.

(c) Temporary signs or promotional banners are not permitted.

B. *Age and access limitations.* It shall be unlawful for an Adult-Use Cannabis Dispensing Organization to allow any person who is not at least 21 years of age on the premises. An Adult-Use Business Establishment shall not employ anyone under the age of 21 years. Access shall be limited exclusively to Facility staff and local and state officials and those specifically authorized under the Act and any subsequent implementing regulations.

C. *Noxious odors.* An Adult-Use Cannabis Dispensing Organization shall operate in a manner that prevents odor impacts on neighboring properties and, if necessary, the facility shall be ventilated with a system for odor control approved by the St. Clair County Department of Public Health.

§ 8-17-13 DISSOLUTION OF USE AND REVOCATION OF ZONING

A. *Failure to obtain State License.* Should an Adult-Use Cannabis Dispensing Organization fail to provide evidence to the zoning administrator that facility has achieved its approval of licensure from the State of Illinois within 180 days of the approval of its zoning by the City Council, its special use permit shall become null and void. Within 90 working days of the date upon which such special use permit was approved, an Adult-Use Cannabis Dispensing Organization may request of the City Council through the zoning administrator an extension of the aforementioned 180 days for an additional 90 days, upon the provision of evidence providing the cause of the delay and the need for an extension. Such additional extensions may be allowed only at the discretion of the City Council.

B. *Failure to comply with State and City regulations.* Should an Adult-Use Cannabis Dispensing Organization fail to conform to and meet all laws, rules and regulations established by the State of Illinois and the City Council pursuant to the production and distribution of cannabis and other associated products as allowed under the Act and subsequent implementing regulations, this may be considered a dissolution of use, allowing for the revocation of the Special Use Permit by the City Council. Should the Special Use Permit be revoked, an entirely new process must be initiated and be considered independent of the previously approved Special Use Permit.

C *Termination of use.* Should an Adult-Use Cannabis Dispensing Organization fail to use the property for the purpose under which the special use permit was provided for a period of 180 days, this may be considered dissolution of use, allowing for the revocation of Special Use Permit by the City Council.

§ 8-17-14 LIMITATIONS ON USE AND POSSESSION OF ADULT-USE CANNABIS

A. In accordance with Section 10-35 of the Act (410 ILCS 705/10-35), it shall be unlawful for any person to engage in the following conduct within the City:

1. undertaking any task under the influence of cannabis when doing so would constitute negligence, professional malpractice, or professional misconduct;

2. possessing cannabis:

(a) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;

(b) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;

(c) in any correctional facility;

(d) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or

(e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

3. using cannabis:

(a) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;

(b) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or

caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;

(c) in any correctional facility;

(d) in any motor vehicle;

(e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(f) in any public place; or

(g) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act;

4. smoking cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act;

5. operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code;

6. facilitating the use of cannabis by any person who is not allowed to use cannabis under this Act or the Compassionate Use of Medical Cannabis Pilot Program Act;

7. transferring cannabis to any person contrary to this Act or the Compassionate Use of Medical Cannabis Pilot Program Act;

8. the use of cannabis by a law enforcement officer, corrections officer, probation officer, or firefighter while on duty; or

9. the use of cannabis by a person who has a school bus permit or a Commercial Driver's License while on duty.

As used in this Chapter, "public place" means any place where a person could reasonably be expected to be observed by others. "Public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

Nothing in this Chapter shall be construed to prevent the arrest or prosecution of a person for reckless driving or driving under the influence of cannabis if probable cause exists. Furthermore, nothing in this Chapter shall prevent a private business from restricting or prohibiting the use of cannabis on its property, including areas where motor vehicles are parked. Finally, nothing in this Chapter shall require an individual or business entity to violate the provisions of federal law, including colleges or universities that must abide by the Drug-Free Schools and Communities Act Amendments of 1989, that require campuses to be drug free.

B. In accordance with Section 11-502.15 of the Illinois Vehicle Code (625 ILCS 5/11-502.15), possession of adult use cannabis in a motor vehicle is legally restricted as follows:

1. No driver may use cannabis within the passenger area of any motor vehicle upon a highway in this State.
2. No driver may possess cannabis within any area of any motor vehicle upon a highway in this State except in a sealed, odor-proof, child-resistant cannabis container.
3. No passenger may possess cannabis within any passenger area of any motor vehicle upon a highway in this State except in a sealed, odor-proof, child-resistant cannabis container.

C. Covered employees of the City remain subject to Section 25B of the City Personnel Code.

§ 8-17-15 PENALTIES

A. Any Adult-Use Cannabis Dispensing Organization employee, or other entity and/or person, who violates any of the provisions of this Chapter shall be subject to a fine of \$100.00 to \$500.00 for each such violation.

B. Each violation of this Chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

C. In addition to any fines or penalties imposed in this Section, this Chapter may be enforced by injunctive procedure in a court of competent jurisdiction. The City may further recover from any violator any and all costs and fees, including reasonable attorney's fees, expended by the City in enforcing the provisions of this Chapter.

D. This Chapter shall not preclude any additional enforcement action taken by appropriate City, State or Federal official conducted pursuant to any applicable ordinance, regulation or law of the City or State or the United States of America.

E. All remedies and penalties provided for in this Section shall be cumulative and independently available to the City, and the City shall be authorized to pursue any and all remedies set forth in this Section to the fullest extent allowed by law.

§ 8-17-16 SEVERABILITY

If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 2. That conflicting Ordinances or pertinent portions thereof in force the time this takes effect are hereby repealed.

Section 3. Any person violating this Ordinance shall be subject to the penalties of Chapter 8 (Business Regulations), Article XVII (Adult-Use Cannabis), Section 8-17-15.

Section 4. Pursuant to Section 1-2-4 of the Municipal Code (65 ILCS 5/1-2-4), this Ordinance shall take effect immediately upon its passage and approval, due to the urgency of the necessity to regulate adult-use cannabis business establishments within the City, and same shall further be published in pamphlet form for at least ten (10) days as notice of same, all as provided by law.

PASSED by the City Council of the City of Fairview Heights, Illinois, on this _____ day of _____, 20____ on the following roll call vote:

READ FIRST TIME:

READ SECOND TIME:

PASSED:

APPROVED:

PUBLISHED:

ATTEST:

MARK T. KUPSKY - MAYOR
CITY OF FAIRVIEW HEIGHTS

KAREN J. KAUFHOLD - CITY CLERK