



CITY OF FAIRVIEW HEIGHTS

10025 Bunkum Road ♦ Fairview Heights, Illinois 62208 ♦ Phone: (618) 489-2000 ♦ www.cofh.org

AGENDA PLANNING COMMISSION FEBRUARY 11, 2020 7:00 P.M. City Council Chambers

1. **CALL TO ORDER AND ROLL CALL**
2. **CITIZENS COMMENTS-** *This is an opportunity for the public to address the Plan Commission on non-agenda related items. Comments made during this section of the agenda that require a response will be referred to the appropriate City staff member or official for follow-up at a later date.*
3. **MINUTES:**
 - a. Regular Meeting of January 14, 2020
 - b. Study Session of January 28, 2020
4. **PC CASES/PUBLIC HEARINGS**
 - a. PC 01-20 Public Hearing and Planning Commission consideration of a Zoning Text Amendments relating to Adult-Use Cannabis establishments – *VOTE REQUESTED*
5. **OLD BUSINESS** - None
6. **NEW BUSINESS** - None
7. **ANNOUNCEMENTS**
 - a. Chair/Plan Commission Member Comments
 - b. Director's Report
8. **ADJOURNMENT**

*The next regularly scheduled meeting is March 10, 2020.
The meeting may be canceled if there is no business to conduct. Please contact Department of Land
Use and Development staff at (618) 489-2060 for an update.*

**CITY OF FAIRVIEW HEIGHTS, ILLINOIS
PLANNING COMMISSION
MEETING MINUTES
January 14, 2020**

CALL TO ORDER

The meeting was called to order at approximately 7:00 p.m. by Chairman Jim Bramstedt with (7 members) in attendance: Greg Moats, Gregory Coleman, Larry Mensing, Don Barkley, Linda Hoppe, Pat Herrington, Kelly Smith, and Pat Wesemann. Also, in attendance were Andrew Hoerner (Attorney), and Kendra Tucker (Secretary).

1. CITIZENS COMMENTS

Roger Lowery of 445 Salem Place, Fairview Heights spoke. Mr. Lowery stated that he was concerned the professional office park on Salem Place might become a location for a cannabis dispensary. Mr. Lowery's concerns were regarding the increased traffic and the limited parking available in that area.

2. APPROVAL OF MINUTES

The minutes of November 10, 2019 approved as written.

3. NEW BUSINESS – Work Session of proposed text amendments relations to Adult-Use Cannabis establishments – DISCUSSION ONLY

Chairman Bramstedt states that the commission has the choice to have a discussion regarding text amendments or postpone the meeting to a future time. The commission agreed that it would prefer a time when Director Riganti would be present to lead discussion.

Mr. Coleman made a motion to present the dates of January 23rd or January 28th to Ms. Riganti as proposed meeting dates. Mr. Barkley seconded the motion. All present voted aye.

4. OLD BUSINESS

None.

5. NEW BUSINESS

None.

6. ANNOUNCEMENTS

None.

- 7. ADJOURNMENT** – There being no further business, the meeting adjourned at 7:15 p.m.

Respectfully,

Andrea Riganti
Director of Land Use and Development
AR/kt

The next regularly scheduled meeting of the Fairview Heights Planning Commission will be February 11, 2020 at 7:00 p.m. in the Council Chambers of the Fairview Heights Municipal Complex, 10025 Bunkum Road, Fairview Heights, Illinois.

**CITY OF FAIRVIEW HEIGHTS, ILLINOIS
PLANNING COMMISSION
MEETING MINUTES
January 28, 2020**

CALL TO ORDER

The meeting was called to order at approximately 7:00 p.m. by Chairman Jim Bramstedt with (7 members) in attendance: Greg Moats, Don Barkley, Linda Hoppe, Pat Herrington, and Pat Wesemann. Also, in attendance were Andrea Riganti (Land Use Director), Andrew Hoerner (Attorney), and Kendra Tucker (Secretary).

1. CITIZENS COMMENTS

None.

2. WORK SESSION-

Ms. Riganti stated that this is a work session meeting for discussion and there would not be a vote.

Ms. Riganti updated the commission on the resolution that was passed by city council allowing for the sales of recreational use cannabis in the city. Ms. Riganti then further explained that the commission would now form a recommendation to the city council on which zone(s) would be eligible to place a recreational marijuana business.

The commission discussed possible zones that could allow for a recreational marijuana sales business, taking in consideration neighboring zoning districts.

3. ADJOURNMENT – There being no further business, the meeting adjourned at 8:20 p.m.

Respectfully,

Andrea Riganti
Director of Land Use and Development
AR/kt

The next regularly scheduled meeting of the Fairview Heights Planning Commission will be February 11, 2020 at 7:00 p.m. in the Council Chambers of the Fairview Heights Municipal Complex, 10025 Bunkum Road, Fairview Heights, Illinois.



DEPARTMENT OF LAND USE AND DEVELOPMENT

10025 Bunkum Road ♦ Fairview Heights, Illinois 62208 ♦ Phone: (618) 489-2000 ♦ www.cofh.org

MEMORANDUM

TO: PLANNING COMMISSION
FROM: ANDREA RIGANTI, DIRECTOR OF LAND USE AND DEVELOPMENT
DATE: FEBRUARY 7, 2020
SUBJECT: DRAFT ZONING ORDINANCE - RECREATIONAL CANNABIS
CC: ANDREW HOERNER, CITY ATTORNEY

BACKGROUND

The Illinois Public Act (Public Act 101-0027) for the legalization of recreational cannabis was signed into law on June 25, 2019. The sale, possession and consumption of same became effective January 1, 2020. Under the Act, municipalities can choose to ban cannabis uses OR allow cannabis uses and regulate the time, place, manner and number of establishments. The decision to **(1) allow cannabis business(es) and (2) set the number** is solely ascribed to City Council. City Council voted to allow cannabis establishments on December 17, 2019 and adopted an ordinance limiting the number of cannabis dispensaries to one (1) on February 4, 2020.

These two legislative City Council actions were precursors to zoning ordinance revisions. Planning Commission, in carrying out its function as advisory to City Council on land use matters, will consider regulations for place and manner of cannabis establishments. Specifically, Planning Commission shall recommend the zoning districts within which a cannabis dispensary may be located and under what land use conditions. Planning Commission may not propose regulations that are in conflict with the Act or be more strict than the Act permits. The City Attorney and I will provide guidance in that regard.

Attached is Chapter 8, Article XVII – Adult-Use Cannabis, the ordinance adopted by City Council. Also attached is a draft zoning ordinance comprehensive of all proposed changes to Chapter 14 Development Code as related to cannabis dispensaries. It is necessary to incorporate some adopted regulations from Chapter 8 into Chapter 14, as pertinent to the Special Use Permit process. Those regulations are highlighted in blue.

The draft zoning ordinance ordinance borrows heavily from the Illinois Municipal League’s model ordinance and the City’s existing regulations for Adult Uses.

PROCESS AND TENTATIVE TIMELINE

1. **January 14, 2020.** Planning Commission work session/discussion only of draft ordinance (completed).
2. **February 11, 2020.** Planning Commission conducts public hearing; considers and makes a recommendation to City Council on text amendments.
3. **February 19, 2020.** Community Committee considers Planning Commission’s recommendation.
4. **March 3, 2020.** City Council first reading of draft ordinance.
5. **March 17, 2020.** City Council second reading/adoption of text amendments.

I. Section 14-1-11 (Rules and Definitions)

The following definitions are proposed to be added to Section 14-1-11 (Rules and Definitions). These uses are licensed under the Acts. The definitions are consistent with the Acts and Chapter 8 of the City code.

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:

An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER:

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

ADULT-USE CANNABIS CULTIVATION CENTER:

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, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION:

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, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER:

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, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR:

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, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:

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, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Staff Comments: It is necessary to define all of the cannabis uses described in the Acts. If not defined, certain cannabis uses could be ambiguous and subject to interpretation.

II. Section 14-2 (General Zoning District Regulations) It is proposed to add recreational dispensing organizations to the list of *special uses* in four zoning districts. In zoning terminology, *permitted uses* are allowed “by right”; and proposed businesses are not required to go through a public hearing in order to open. *Special uses* require a public hearing process and review and approval of Planning Commission and City Council.

1. “B-3” Community Business District

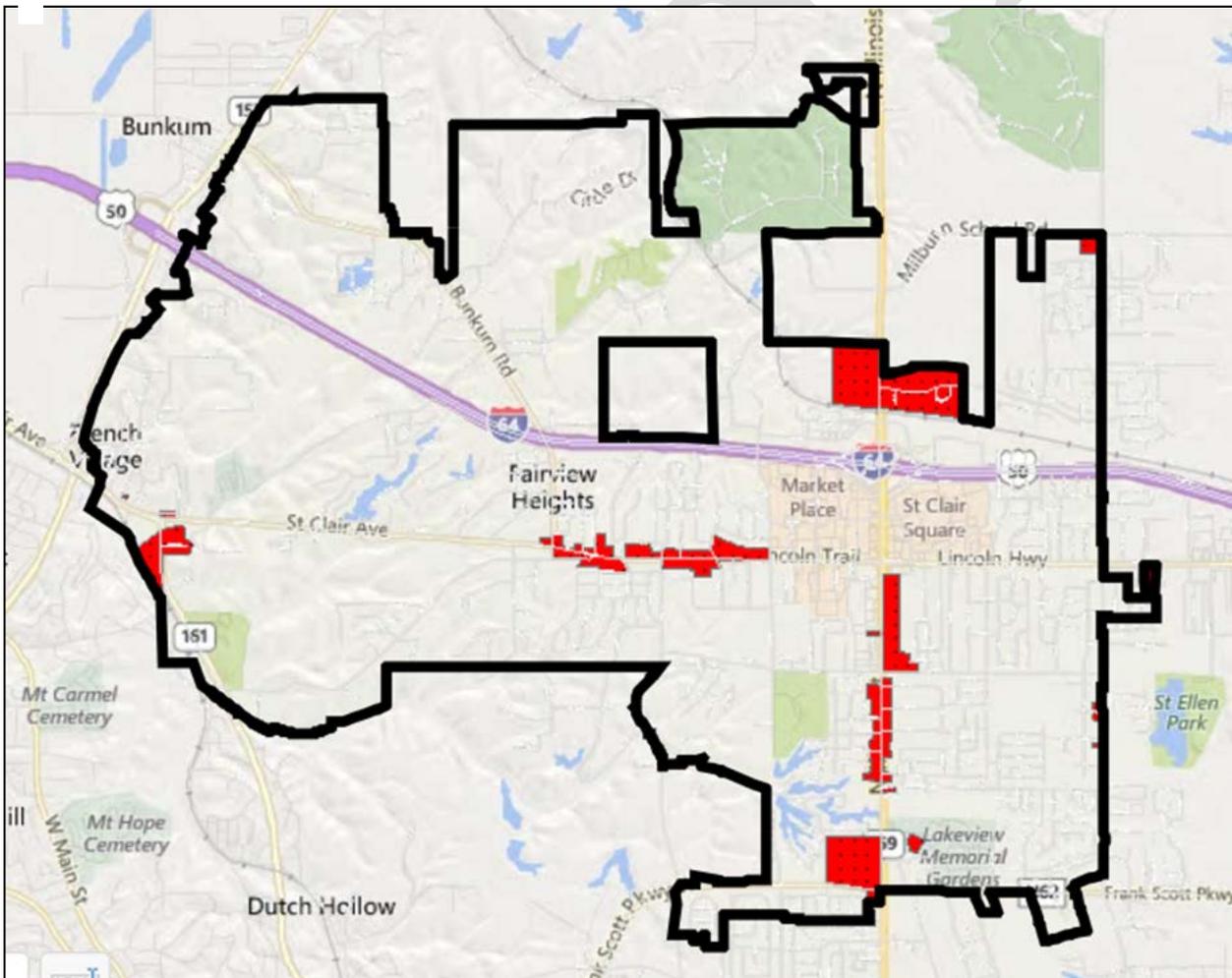
Context. The “B-3” Community Business District of the City is intended to provide for the establishment of a variety of retail oriented commercial activities and to prohibit inappropriate and incompatible commercial activities. Such areas must be carefully located so as not to construct, impede or reduce the normal flow of traffic and to provide for safe access and egress.

Parcels in the B-3 zoning district are located along the major corridors of Lincoln Trail and N. Illinois Street and off of Fountains Parkway.

Some Permitted Uses in B-3 include: animal hospitals, mobile home sales, package liquor stores, beauty shops, funeral chapels, dance studio, pet shop, movie theaters, office buildings, parking lots, recreational facilities, restaurants, retail sales, and transit facilities.

Some Special Uses in B-3 include: assisted living facilities, automotive repair shops, car wash, drive thru restaurant, massage establishment, self-storage, taverns/bars/nightclubs.

B-3 Zoned Parcels:



2. **“B-4” General Business District**

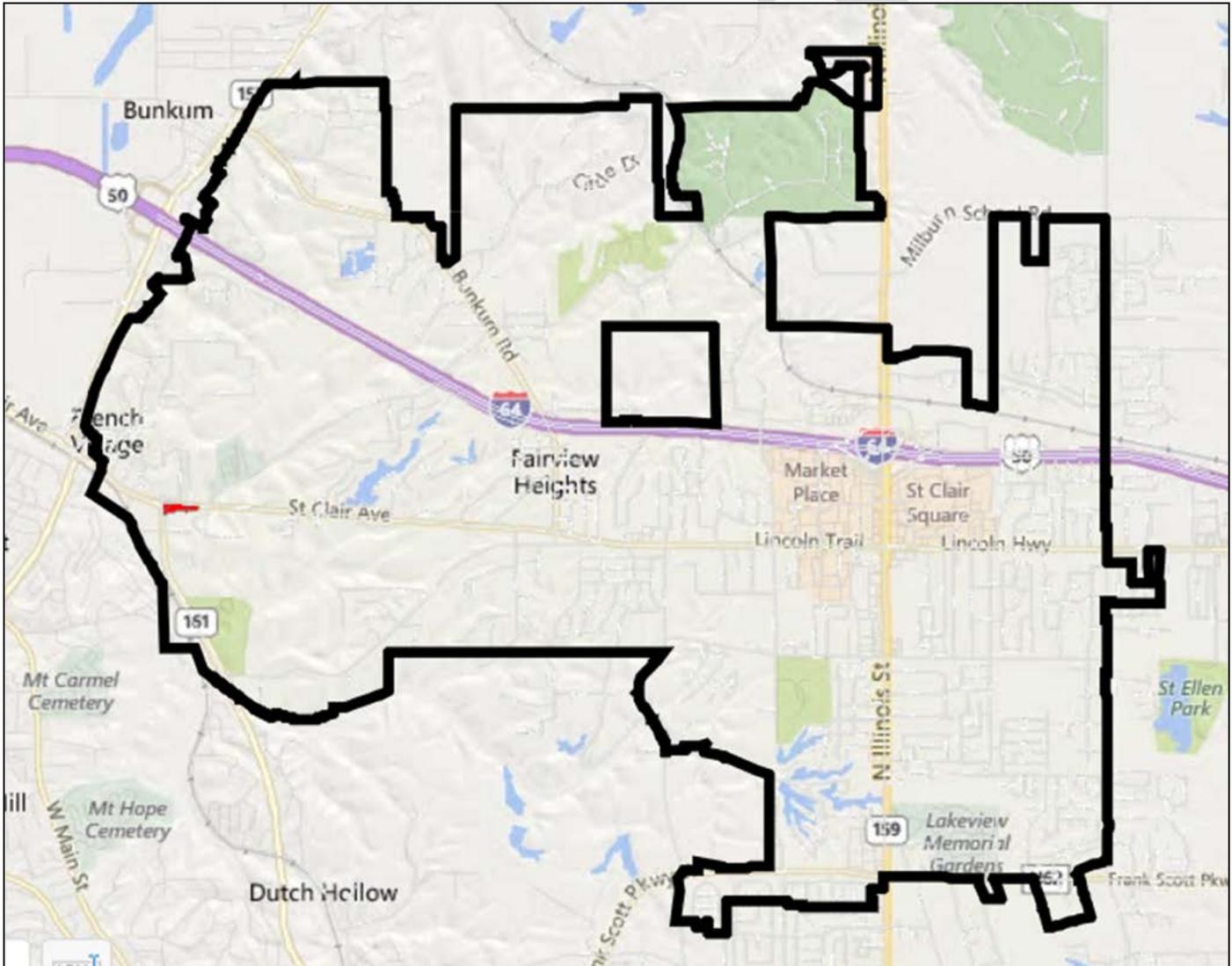
Context. The “B-4” General Business District is created to encourage the development, location and growth of some commercial, commercial-related and other business uses that may not be compatible with other commercial uses.

There are few parcels in the B-4 zoning district, all of which are located off of St. Clair Avenue at W. State Route 161.

Some Permitted Uses in B-4 include: animal hospitals, automobile sales and service, construction contractor storage yard, lumber yards, machine and equipment rental, machine shops, outside storage, parking lots, recreational facilities, recycling center, warehousing and storage.

Some Special Uses in B-4 include: churches and other places of worship, consumer installment loan businesses, storage yards, gas stations.

B-4 Zoned Parcels:



3. **“PB” Planned Business District**

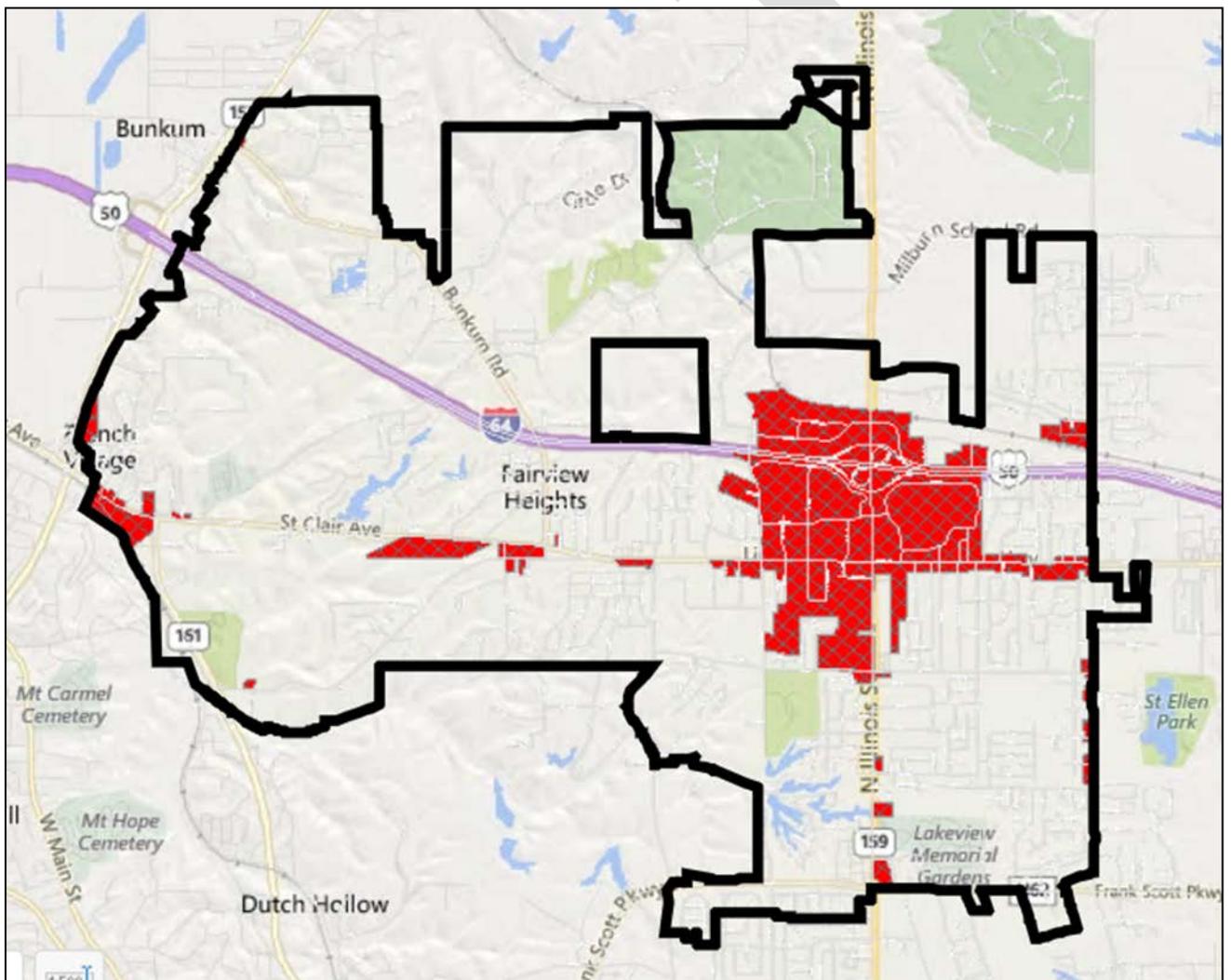
Context. The “PB” Planned Business District includes areas where a variety of commercial developments and uses may be permitted. It is the purpose of these regulations to facilitate the establishment of commercial developments and uses in locations appropriate under approved site development plans and conditions. Such approved plans and conditions shall be consistent with good planning practice and compatible with permitted developments and uses in adjoining districts and properties, so as to protect the general welfare.

PB zoned properties include major retail centers located on or near major transportation corridors of North Illinois, Lincoln Highway and the interstate.

Some Permitted Uses and Developments in PB include: amusement parks, apartment dwellings, arenas and stadiums, auditoriums, bookstores, colleges, hospitals, offices, parking areas, pawn shops, recreational facilities, restaurants, vehicle sales, schools, retail stores.

The Special Use in PB includes: massage establishment.

PB Zoned Parcels:



4. **"I" Industrial District**

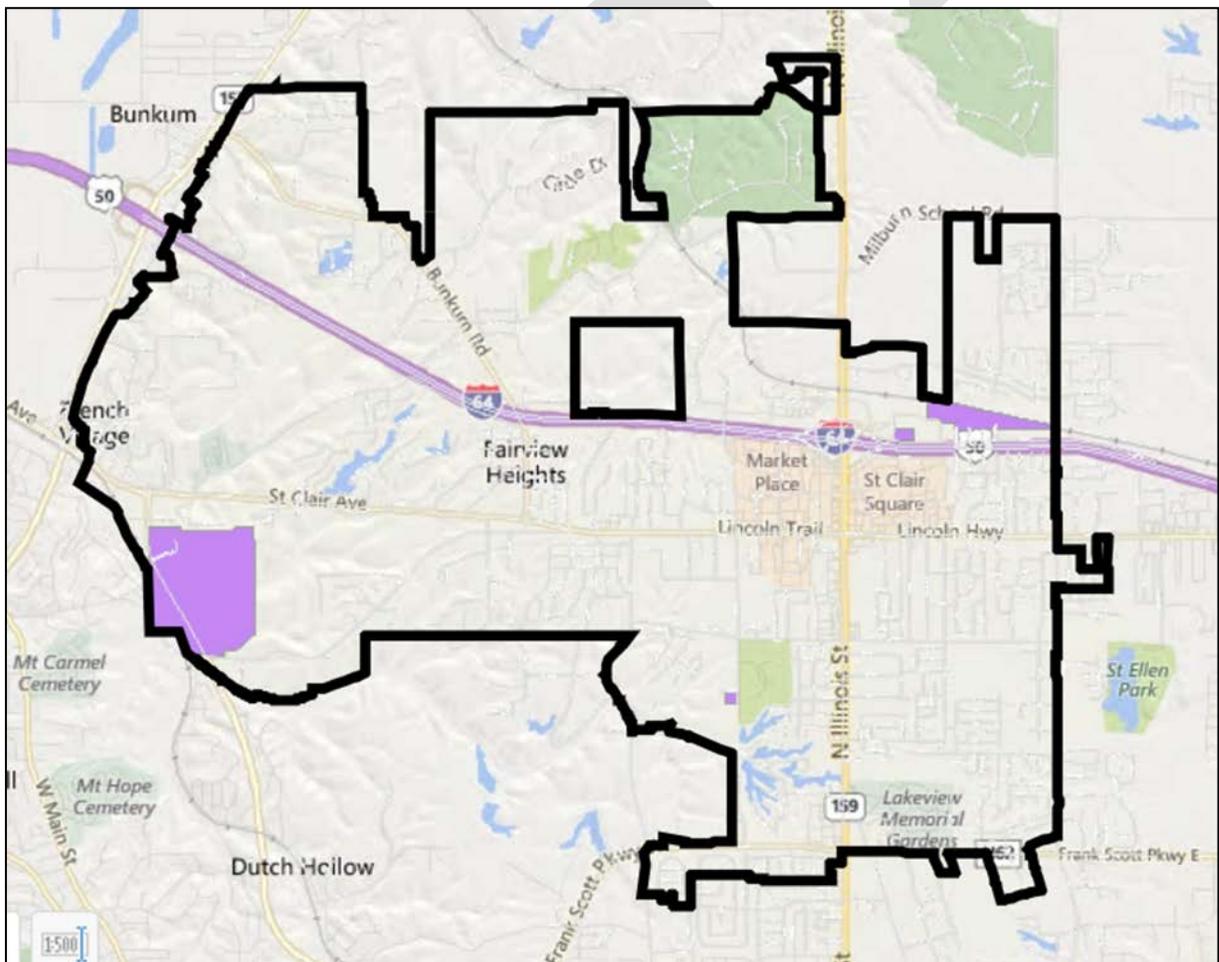
Context. The "I" Industrial delineates areas where a satisfactory correlation of factors such as adequate transportation facilities, accessibility for employees, efficient land assembly, adequate topographical conditions and adequate provisions of public utilities required by industry may be achieved. It is intended that this particular district will generally provide for light industry of an assembly nature from finished goods, warehousing and wholesaling activities. Supportive services for light industry are generally of a non-retail or personal services character and should be encouraged to locate in this district, and open storage of equipment and supplies should be encouraged to locate in this district.

I zoned properties are located on the west and east part of the community and include an industrial park and light industrial uses.

Some Permitted Uses in I include: automobile repair shops, business and professional service offices, carpenter shops, dry cleaning plants, cold storage, dairies, laboratories, machine shops, office buildings, pharmaceutical products, warehouse.

Some Special Uses permitted in I include: churches, governmental uses, manufacturing of flammable materials, sanitary landfills, and electrical substations.

I Zoned Parcels:



Staff Comments: It is necessary to establish the zoning districts within which Adult-Use Cannabis Dispensing Organizations may be allowed as a special use.

The codified purpose statement of each business district and the industrial district was reviewed to determine if an adult-use cannabis dispensing organization met the district's intent. It was determined that cannabis business establishments may be compatible with other uses listed in the four proposed districts. Requiring a Special use Permit for this use will allow the City to review and regulate the operation of each individual business.

III. Section 14-4-26 (Article IV Supplementary Land Use and Area-Bulk Regulations) A new section is being proposed to describe criteria and regulations specific to Adult-Use Cannabis Dispensaries.

14-4-26: ADULT-USE CANNABIS:

1. Purpose and Applicability: It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the corporate limits of the City of Fairview Heights. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027) (Act), 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.

2. Special Use Permit: Adult-Use Cannabis Business Establishment facilities, as defined herein, requiring approval of a special use permit in the respective districts in which they are requested shall be processed in accordance with Section 14-10-8 of this Chapter as provided herein and Chapter 8, Article XVII (Business Regulations).

A. Relevant parties. The name(s), physical address(es), and phone number(s) of the owner(s), operator(s) and agent(s) dispensary.

B. Site plan. A site plan of the dispensary, drawn to scale, showing:

1. boundaries of the facility site and parcel on which the facility will be located;
2. nature of the structure to be used for the purpose of cannabis distribution;
3. demonstration that the facility meets the conditions for an enclosed, locked facility;
4. distance from all facilities and uses requiring setbacks as described in this Article;
5. all locally required perimeter setback lines;
6. public access roads and the location of access drives into the site with respect to their creating traffic or security barriers;
7. location of all existing structures on the site with their uses identified;
8. current uses, zoning, public roads and structures adjacent to the site;
9. location of proposed video surveillance equipment;
10. proposed lighting of the premises;
11. location, height and nature of any fences or any other barriers meant to provide security for the site;
12. landscaping and buffer plan, including identification of trees to be removed;
13. parking configuration, including a circulation diagram;
14. exterior elevations, including architectural renderings with materials identified;
15. grading/erosion control measures; drainage/stormwater management plans;
16. nature and adequacy of supervision and security at the site.

C. Setbacks. Evidence demonstrating that the facility would meet all requirements of state law regarding setbacks required by the Act and other regulations of same.

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

E. Narrative statement. A narrative statement shall accompany the application and site plan. At a minimum, it shall contain the following:

1. Development schedule providing sequence for the completion of the proposed project.
2. Anticipated impact to the community and surrounding area as per 14-10-8 (A).
3. A description of the business operation, including hours of operation, number of jobs created, anticipated number of customers.
4. Other information that may be deemed appropriate by the zoning administrator.

3. Adult-Use Cannabis Special Use Permit Evaluation Components: In determining compliance with Section 14-10-8 (Special Uses) of this Title, as well as Chapter 8, Article XVII (Business Regulations) and any other pertinent code sections, the following components of the Adult-Use Cannabis establishment shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

1. Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
2. Proposed structure in which the facility will be located, total square footage, security installations/security plan and building code compliance.
3. Hours of operation and anticipated number of customers/employees.
4. Anticipated parking demand and available private parking supply.
5. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
6. Site design, including access points and internal site circulation.
7. Proposed signage plan.
8. Compliance with all requirements provided in Chapter 8, Article XVII (Business Regulations).

4. Adult-Use Cannabis Dispensing Organization: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following (the highlighted is contained in Chapter 8):

1. Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located in a dwelling unit or within 500 feet of the property line of a pre-existing property zoned for residential purposes.
3. At least 75% of the floor area of any tenant space occupied by a 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.
4. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
5. 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.

6. Exterior signage. Other than the signs as specified in this Section, all exterior signage shall comply with the provisions of Chapter 14, Article VII (Sign Regulations), 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.

7. 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.

Staff Comments: The proposed Special Use Permit criteria meets or exceeds the Cannabis Regulation Tax Act. The highlighted sections are extracted from Chapter 8. This section borrows heavily from the IML model ordinance. The distance from residentially zoned parcels is modeled after the City's Adult-Use regulations as per 14-4-25.

SUMMARY

As described in previous sections, the proposed amendments to the Development Code are:

- To add cannabis use categories to the ordinance and define them.
To permit cannabis dispensing organizations as a Special Use in the B-3, B-4, PB and I zoning districts.
- To establish separation requirements from specific uses and zoning districts.
- To establish application process and evaluation criteria specific to cannabis dispensing organizations.
- To incorporate Chapter 8, Business Regulations, Article XVII (Adult-Use Cannabis) for consistency and ease of reference.

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.

NOW, THEREFORE, 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 ILCS 705/), 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 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, odor proof, child resistant cannabis 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.

SECTION 5. PASSAGE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

READ FIRST TIME: JANUARY 21, 2020

READ SECOND TIME:

PASSED:

APPROVED:

PUBLISHED:

MARK T. KUPSKY - MAYOR
CITY OF FAIRVIEW HEIGHTS

ATTEST:

KAREN J. KAUFHOLD - CITY CLERK