



DEKALB PLANNING AND ZONING COMMISSION AGENDA

April 19, 2021

6:00 P.M.

DeKalb Public Library
Yusunas Meeting Room
309 Oak Street
DeKalb, Illinois 60115

PLANNING AND ZONING COMMISSION MEETING

COVID-19 Notice: This meeting will be conducted in-person with a physically present quorum and open to the public. The corporate authorities of the City of DeKalb intend to conduct this meeting in compliance with all applicable social distancing and public health requirements. All persons attending this meeting in-person shall be required to wear protective face masks/coverings. Furthermore, the corporate authorities of the City of DeKalb intend to conduct this meeting pursuant to Illinois Governor JB Pritzker's Executive Order 2021-4 dated February 5, 2021 (the "Executive Order"), which prohibits meetings of more than 50 people for Phase 4 mitigations, unless the City of DeKalb determines that it is necessary to invoke the Governmental Functions exemption "to ensure the operation of government agencies or to provide for or support the health, safety and welfare of the public."

As a convenience to the public, the City of DeKalb may also provide video, audio, telephonic or internet access for the public to monitor this meeting. The provision of any such remote means of access is not intended to provide for attendance by a means other than physical presence due to the COVID-19 public health emergency, nor is it intended to provide an opportunity for the public to address public officials, make public comment or otherwise participate in the meeting.

Persons wishing to provide public comment or otherwise address public officials in person during this meeting must comply with all applicable rules governing the conduct of this meeting including, but not limited to, the aforementioned social distancing and face covering requirements.

The City of DeKalb is providing the following conveniences for the public to monitor and participate in this meeting:

- Persons wishing to view the meeting from home or elsewhere can tune in to Channel 14 or by following the link provided [here](#).
- Persons wishing to provide public comment but are unable to attend the meeting in person or remotely may forward their comments by clicking on the link provided [here](#). Note that all submissions must be received no later than 12:00 p.m. on the day of the meeting in order to ensure dissemination to the Planning and Zoning Commission before the meeting convenes.
- Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/86753041327?pwd=Y2NXT3NicGtTUkNQTWVTUTlWQUlSZz09>

Meeting ID: 867 5304 1327

Passcode: 297768

One tap mobile

+13126266799,,86753041327#,,,,*297768# US (Chicago)

Dial by your location

+1 312 626 6799 US (Chicago)

Meeting ID: 867 5304 1327

Passcode: 297768

- For those participating via Zoom and wishing to comment during the public hearing portion of the meeting, please click on the link provided [here](#) and add in the Comment Section that you wish to address the Commission verbally. Note that all submissions must be received no later than 12:00 p.m. on the day of the meeting in order to ensure your name is added to the list of remote speakers.

A. ROLL CALL

B. APPROVAL OF AGENDA (Additions or Deletions)

C. APPROVAL OF MINUTES

1. April 5, 2021

D. PUBLIC PARTICIPATION (Open Floor to Anyone Wishing to Speak on Record)

E. NEW BUSINESS

1. **Public Hearing** – A petition by the City of DeKalb on text amendments to Article 7.06.08 of the Unified Development Ordinance to remove the requirement that barbed wire fencing be angled towards the interior of a property, to allow barbed wire fencing in the General Commercial and Planned Development - Commercial Districts, and to allow barbed wire fencing in the front yard of commercial and industrial districts in conjunction with certain uses.

F. REPORTS

G. ADJOURNMENT

MINUTES
CITY OF DEKALB
PLANNING AND ZONING COMMISSION
April 5, 2021

The Planning and Zoning Commission held a meeting on April 5, 2021, at the DeKalb Public Library in the Yusunas Meeting Room located at 309 Oak Street, DeKalb, Illinois. Vice Chair Bill McMahon called the meeting to order at 6:00 PM.

A. ROLL CALL

Principal Planner Dan Olson called the roll. Planning and Zoning Commission members present were: Trixy O'Flaherty, Jerry Wright, Steve Becker, Maria Pena-Graham, and Vice Chair Bill McMahon. Chair Max Maxwell was absent. Principal Planner Dan Olson was present representing the City of DeKalb.

B. APPROVAL OF THE AGENDA (Additions/Deletions)

Vice Chair McMahon requested a motion to approve the April 5, 2021 agenda as presented. Ms. O'Flaherty motioned to approve the agenda as presented. Mr. Wright seconded the motion, and the motion was approved by unanimous voice vote.

C. APPROVAL OF MINUTES

1. March 1, 2021 – Vice Chair McMahon requested a motion to approve the March 1, 2021 minutes as presented. Mr. Becker motioned to approve the minutes as presented. Mr. Wright seconded the motion, and the motion was approved by unanimous voice vote.

D. PUBLIC PARTICIPATION (Open Floor to Anyone Wishing to Speak on Record)

None

E. NEW BUSINESS

1. **Public Hearing** – A petition by NuMed Partners LLC for approval of an amendment to Ordinance 2020-029 to extend the time limit to July 1, 2022 to obtain a State issued cannabis dispensary license for the property located at 818 W. Lincoln Highway.

Jim Hughes, representing NuMed Partners LLC, advised they are looking for an extension to their special use permit. He stated they are still waiting on the

State of Illinois to issue their cannabis dispensary license. He added they are working with the landlord and are very excited in the DeKalb location.

Principal Planner Dan Olson went through the staff report dated April 1, 2021. He advised on April 27, 2020, the City approved an ordinance which granted a special use permit for an adult use and medical cannabis dispensary at 818 W. Lincoln Highway. He stated one of the conditions to the ordinance was for the applicant to obtain a state issued license within 1-year after approval, which they were unable to do. He added this petition, if approved, would extend the time to obtain state approval to July 1, 2022.

Mr. Olson noted NuMed Partners LLC operates other dispensaries including locations in Chicago, East Peoria, and Urbana. He mentioned the applicant has been paying rent for the subject site since their initial interest in the location. He said it will be located in the old Book World location, which is approximately 6,600 sq. ft. Mr. Olson added the proposed operation will meet all State requirements for security and safety.

Mr. Olson clarified this petition is solely for the extension to obtain a state issued cannabis dispensary license. He stated the conditions required for the initial approval have not changed, and include completing the build-out and tenant improvements within 6 months of issuance of the state license, complying with Article 7.18 of the Unified Development Ordinance for "Cannabis Business Establishments, and having an approved security plan with the Police Department prior to a final certificate of occupancy.

Vice Chair McMahan gave the public an opportunity to speak. There was none.

Vice Chair McMahan gave Commission members an opportunity to speak.

Mr. Wright questioned when the State might issue their license. Mr. Robert Fitzsimmons (participating via Zoom), representing NuMed Partners LLC, advised a bill is currently being reviewed by the State Legislature, which will release up to 150 cannabis dispensary licenses. He believes it will be approved by Memorial Day.

Mr. McMahan questioned if they are unable to get a license for DeKalb, where would they relocate? Mr. Hughes advised they have prospective locations in Aurora, but DeKalb is where they want to be.

Mr. Becker inquired if the State license is issued based on location. Mr. Hughes advised they must propose a location to the State, in which case they will conduct an inspection to ensure the location is compliance with their regulations. Mr. Becker stated he was very impressed with NuMed's

presentation last year. He said he was unsure whether he was going to support the proposal at that time, but their presentation was very thorough and convinced him otherwise.

Ms. O'Flaherty clarified NuMed Partners has been unable to open, due to no fault of their own. She stated it appears they have completed and satisfied everything on their end and are only waiting on the State to issue their license.

Vice Chair McMahon advised he has seen an empty store front for the last year that has not produced jobs or revenue and is unsure if DeKalb is the right place for their proposal. Mr. Hughes advised they are adamant about opening their business at this location and have been working with the property owner, as well as paying rent for the space. He advised their intentions is to get this location opened as soon as possible and they are doing everything in their power to do so.

Ms. O'Flaherty moved the Planning and Zoning Commission forward its findings of fact and recommend to the City Council approval of an amendment to Ordinance 2020-029 to extend the time limit to July 1, 2022 to obtain a State issued cannabis dispensary license for the property located at 818 W. Lincoln Highway in the tenant space as shown on Exhibit A and subject to the conditions listed in Exhibit B.

Mr. Becker seconded the motion.

A roll call vote was taken. Ms. O'Flaherty – Yes, Mr. Becker – Yes, Mr. Wright - Yes, Ms. Pena-Graham – Yes, Vice Chair McMahon – No. Chair Maxwell was absent. Motion Passed 4-1-1.

F. REPORTS

Mr. Olson advised the Commission meeting on April 19 has one scheduled hearing, with the City of DeKalb as the petitioner. He stated the petition is an amendment to the UDO regarding barbed fire fencing. He added the City is proposing to allow certain uses to have barbed wire fencing in the front yard. He stated there is also an amendment allowing barbed wire fencing to be angled inwards or outwards from the property.

Mr. Olson stated he anticipates a new Commission member will be appointed within the next few meetings. He advised Mayor Smith has a candidate in mind but due to the upcoming election, he wanted to the new Mayor to review the person and provide input.

G. ADJOURNMENT

Mr. Wright motioned to adjourn, Ms. Pena-Graham seconded the motion, and the motion was approved by unanimous voice vote. The Planning and Zoning Commission Meeting adjourned at 6:15 PM.

DRAFT

**COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**
April 15, 2021

TO: DeKalb Planning and Zoning Commission

FROM: Dan Olson, Principal Planner

RE: Text Amendments to Chapter 23 of the Municipal Code - Unified Development Ordinance – Barbed Wire Fences

BACKGROUND AND ANALYSIS

The City is proposing text amendments to Article 7.06(8), Chapter 23 of the Municipal Code (Unified Development Ordinance) regarding barbed wire fencing. The amendments will remove the requirement that barbed wire fencing be angled towards the interior of a property, allow barbed wire fencing in the General Commercial and Planned Development - Commercial Districts, and to allow barbed wire fencing in the front yard of commercial and industrial districts in conjunction with certain uses. Please note the current regulations only allow barbed wire on top of a six (6) foot high fence.

The specific amendments to Article 7.06(8) are as follows:

Removing the requirement that barbed wire fencing be angled towards the interior of a property.

The current language only allows barbed wire fencing to be angled toward the interior of the property. Typically, barbed wire is angled outward, so it has the most effectiveness. There is barbed wire fencing around the City that is angled both to the interior and exterior of the property and is split about 50/50. It's assumed that barbed wire that is angled outward either pre-dates the UDO or was put up without a permit.

It is not clear on the reasoning for the interior angled requirement. It may have to do with barbed wire fencing that is angled toward the exterior of the property encroaching over a right-of-way or property line. That assumes the fence itself was placed on the property line. To address this concern, language is included in the amendment that would require fences using barbed wire that is angled towards the exterior of the property be setback a minimum of two (2) feet from a property line.

Allowing barbed wire fencing in the front yard in conjunction with certain uses.

Currently, the UDO only allows barbed wire fencing on top of a six (6) foot high chain link fence in the side or rear yard in the “ORI” Office, Research, Light Industrial District, “LI” Light Industrial District, “HI” Heavy Industrial District or “PD-I” Planned Development – Industrial District. In the “GC” General Commercial District it is allowed in the side or rear yard with City Council approval after a report from the Community Development Director.

Certain uses tend to have a need for barbed wire fencing not only in the side and rear yard but also in the front yard for security purposes and to make sure the perimeter is enclosed. Such uses may include electrical power substations, transformer stations, communications facilities, publicly owned property or a use requiring a secured entrance. There is a contractor for Facebook that is located along Dietz Ave. that requires a secured vehicle entrance to the site with barbed wire fencing around the perimeter. Language is proposed that would allow barbed wire fences in the front yard in the “GC”, “ORI”, “LI”, “HI”, “PD-C” or “PD-I” Districts when associated with an electrical power substation, transformer station, communications facility, publicly owned property or a use requiring a secured entrance as determined by the City Manager. Around the City, there are properties where barbed wire fencing exists in the front yard and its assumed they either pre-date the UDO or were constructed without a permit. Language was also added that prohibits razor wire fencing.

Allow barbed wire fencing in the “GC” General Commercial District and “PD-C” Planned Development – Commercial District

The UDO currently allows barbed wire fencing in the GC District (rear yard and side yard) if approved by the City Council with a report from the Community Development Director. Records showing City Council review of a barbed wire fence in the “GC” District could not be located so an amendment is proposed that would allow these fences in the “GC” District if all the requirements are met. Some uses such as cell tower sites may be in the “GC” District and they typically need a secured entrance with barbed wire. It is anticipated, however, that many of the uses in the “GC” District would not have the need for barbed wire fencing. The “PD-C” District was added for the barbed wire allowance since it covers many of the commercial areas of the City.

RECOMMENDATION

Sample Variation Motion:

Based on the submitted petition and testimony presented, I move the Planning and Zoning Commission recommend to the City Council approval of Text Amendments to the Unified Development Ordinance regarding barbed wire fencing as indicated in Exhibit A of this report.



EXHIBIT A

2. Residential developments, when approved as part of a Planned Development, subdivision, rezoning, special use permit, or any other zoning or subdivision action, shall provide the same landscaping and screening as in Paragraph 1, above, when located adjacent to an existing commercial or industrial zoned property, whether developed or vacant. This provision shall not apply to lots platted prior to this Amendatory Act of 2004, when a building permit is all that is necessary to construct a development on that lot.
3. Rooftop mechanical equipment shall be enclosed by an opaque architectural screen or louver that substantially conforms to the color and building materials of the principal structure, and of a height not less than the height of such equipment.
4. Outdoor storage areas must be screened with an opaque architectural screen or fence that substantially conforms to the color and building materials of the principal structure, and of a height not less than the height of the materials stored.
5. Outdoor storage areas shall be paved or hard surfaced in accordance with the Construction Requirements set forth in Article 12.03, Paragraph 1.

7.06 Fences

1. For the purposes of this section, there shall be the following types of fences:
 - a. *Open Fence:* A fence in which the openings in the materials of which the fence is constructed represent more than fifty (50) percent of the area of the fence and which do not interfere with visibility, or the free passage of air, through the fence;
 - b. *Privacy Fence:* All fences other than Open Fences.
2. In residential districts, open fences six (6) feet or less in height are permitted in the rear yard, and in the side yard behind the front of the principal structure. Except as provided for elsewhere in this Ordinance, open fences in non-residential districts shall not exceed four feet in height in the front yard, but may be erected to any height anywhere else on a lot.
3. In residential districts, privacy fences six (6) feet or less in height are permitted in the rear yard and in the side yard behind the nearest front of the principal building on the lot, provided that said fence is located at least five (5) feet from any principal building on adjacent property. In commercial or industrial districts, privacy fences are also allowed in the front yard, but not closer to the street than the required building setback line, when providing screening required elsewhere in this Ordinance.
4. Through lots and corner lots with frontage on more than one street (2009-050):
 - a. *Through lots:* On residential lots that are through lots (lots with frontage on one street and the rear yard having frontage on another street) the front and side fence placement shall comply with Article 7.06.2 or Article 7.06.3. The location of the rear yard fence may abut the property line unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code Enforcement Division for review and approval.
 - b. *Corner lots with frontage on more than one street:* On residential corner lots that have frontage on two or more streets, no privacy fences greater than thirty-six (36) inches in height or open fence greater than forty-eight (48) inches in height shall be permitted in the frontage yards (yards that front on the streets). The location of the side and rear yard fence shall comply with Article 7.06.02 or Article 7.06.3 unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code Enforcement Division for review and approval."

5. The maximum height of an open fence in front of the front building line established by the principal structure shall be forty-eight (48) inches.
6. The maximum height of a privacy fence in front of the front building line established by the principal structure shall be thirty-six (36) inches, unless allowed elsewhere in this Article.
7. Fences may exceed the above stated maximum heights in a Planned Development, Commercial (PD-C) or any Industrial zoning district when approved as part of a landscaping plan, or as part of a buffering or screening requirement as may be provided for elsewhere in this Ordinance. Also, fences (or walls), used as a decorative feature and/or as a backdrop to an identification sign at subdivision, apartment, condominium or planned development entrances, may exceed the above stated maximum heights, if approved by the Community Development Director.
- ~~7.8. Barbed wire may be used as part of a fence in the "GC" General Commercial District, "ORI" Office, Research, Light Industrial District, "LI" Light Industrial District, "HI" Heavy Industrial District, "PD-C" Planned Development-Commercial District or the "PD-I" Planned Development – Industrial District when located in the side or rear yard, and is attached to the fence above six (6) feet and is at a 45 degree angle. Barbed wire may be used as part of a fence in the "GC", "ORI", "LI", "HI", "PD-C" or "PD-I" Districts in the front yard when used in association with an electric power substation, transformer station, communications facility, publicly owned property or a use requiring a secured entrance as determined by the City Manager. Fences using barbed wire that is angled towards the exterior of the property shall be setback a minimum of two (2) feet from the property line. Razor wire fencing is prohibited.~~
- ~~8. Barbed wire shall not be used to constitute any part of a fence in any zoning district except that part of a fence in a side or rear yard, which is at least six (6) feet above the grade, with the barbed wire attached to the fence above six (6) feet and at a 45 degree angle towards the interior of the property, and either:

 - a. is used to protect an electric power substation or transformer station;
 - b. is located in an "ORI" Office Research and Light Industrial, "LI" Light Industrial District, "HI" Heavy Industrial District, or in a "PD-I" Planned Development – Industrial District;
 - c. is located in a "GC" General Commercial District; except that the use of barbed wire in a "GC" General Commercial District, must be approved by the City Council after a report from the Community Development Director.~~
9. Fences may be placed at the property line, except no fence shall be erected along, parallel to or substantially parallel to and within five (5) feet of an adjoining property line unless the finished side of the fence faces the adjoining property. If a fence is erected with posts and supports, the side on which the posts and supports are most visible shall be considered the unfinished side. No fence shall be constructed in such a manner or location as to block any natural or planned stormwater conveyance system, nor shall any fence be constructed over or within a stormwater drainage easement.
10. All fences shall conform to the requirements of Section 7.10, "Sight Distance Triangle," of this Article.
11. Prohibited Fences: Electrically charged, chicken wire, permanent snow or any other fence constructed of materials from used or discarded materials including but not limited to corrugated metal, plywood or other type of sheet metal. An underground electrical pet fence is exempt from this prohibition. (2019-025)



TEXT AMENDMENT PETITION

TO: City Council, City Clerk, and Mayor of the City of DeKalb, Illinois

FROM: Petitioner Name(s): City of DeKalb Telephone: 815-748-2361
 Petitioner's Representative: Dan Olson Cell: N/A
 Mailing Address: 164 E. Lincoln Highway Email: Dan.Olson@CityofDeKalb.com
DeKalb, IL 60115

1. The petitioner hereby petitions the City of DeKalb to amend the Unified Development Ordinance as follows – attach additional page(s) if necessary:

A. What is the text amendment regarding?

Removing the requirement that barbed wire fence be angled towards the interior of the property; Allowing barbed wire on top of a six foot high chain-link fence in the front yard in conjunction with specific types of developments; Allowing barbed wire fencing in the General Commercial and Planned Development - Commercial Districts.

B. What Article(s) and Section(s) of the Unified Development Ordinance are proposed for amendment?
Article 7 "Supplemental District Regulations", Section 7.06.08 "Fences"

C. What is the proposed revised text?
See Attached.

D. Describe the reason for this text amendment request, and what the intended effect will be.
To clarify the restrictions on the use of barbed wire on top of fencing, to allow the use of barbed wire in a wider range of commercial and industrial districts and within the front yard for certain uses. The amendments will allow more flexibility for the use of barbed wire in locations that are in need of secured access.

2. The petitioner hereby submits the Petition Fee (\$250.00).

3. The petitioner hereby states that a pre-application conference *was was not held with City staff prior to the submittal of this petition.

*Date of pre-application conference: N/A
Those in attendance: N/A

***(Note to Petitioner: A pre-application conference with staff is highly encouraged to avoid delays and help in the timely processing of this petition.)**

LEGAL NOTICE

NOTICE is hereby given that a public hearing will be held before the DeKalb Planning and Zoning Commission at its regular meeting on Monday, April 19, 2021 at 6:00 p.m. in the Yusunas Meeting Room at the DeKalb Public Library, 309 Oak St., DeKalb, IL, on the petition by the City of DeKalb for text amendments to Chapter 23 “Unified Development Ordinance (UDO)” of the Municipal Code, Article 7.06.08 as follows: 1) removing the requirement that barbed wire fencing be angled towards the interior of a property; 2) allowing barbed wire fencing on top of a six (6) foot high chain link fence in the front yard in the “GC” General Commercial District , “ORI” Office, Research, Light Industrial District, “LI” Light Industrial District, “HI” Heavy Industrial District, “PD-C” Planned Development-Commercial District or the “PD-I” Planned Development – Industrial District if associated with an electric power substation, transformer station, communications facility, publicly owned property or a use requiring a secured entrance as determined by the City Manager; and 3) allowing barbed wire fencing in the “GC” General Commercial District and “PD-C” Planned Development – Commercial District.

All interested persons are invited to appear and be heard at the time and place listed above. Interested persons are also encouraged to submit written comments on the proposal to the City of DeKalb, Community Development Department, 164 E. Lincoln Highway, DeKalb, Illinois, 60115 by 12:00 p.m. on Monday, April 19, 2021, by e-mail to dan.olson@cityofdekalb.com or the Online Public Comment Submission Form at <https://www.cityofdekalb.com/FormCenter>. Further information regarding the petition is available from the Community Development Department at (815) 748-2070 or on the City of DeKalb’s web page at <https://www.cityofdekalb.com/1103/Public-Hearings>.

Max Maxwell, Chair

DeKalb Planning and Zoning Commission







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