ORDINANCE 2019-069  PASSED: NOVEMBER 12, 2019

AMENDING CHAPTER 23 “UNIFIED DEVELOPMENT ORDINANCE”, ARTICLE 5 “ZONING DISTRICT REGULATIONS”, AND ARTICLE 7 “SUPPLEMENTARY DISTRICT REGULATIONS” OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE AS IT PERTAINS TO ADULT USE CANNABIS.

WHEREAS, the City of DeKalb (the “City”) is a home rule municipality with the authority to exercise any powers pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and general welfare, except as may be limited by the Illinois Constitution and State law, under the Illinois Constitution of 1970; and

WHEREAS, the State of Illinois recently enacted the Cannabis Regulation and Tax Act (the “Act”), 410 ILCS 705/1, et seq., which regulates the lawful possession, use, cultivation, transportation, and dispensing of adult-use cannabis under State law;

WHEREAS, Section 55-25 of the Act provides that the City may enact reasonable zoning ordinances, not in conflict with the Act, which regulate the time, place, manner, and number of cannabis business establishments within the City’s corporate limits; and

WHEREAS, the City has adopted a Unified Development Ordinance (UDO) that sets forth the City’s zoning and subdivision standards and procedures; and

WHEREAS, the City wishes to amend portions of the UDO as follows: Articles 5.07 and 5.08 shall be amended to add “Cannabis Business Establishment” as a special use in the “LC” Light Commercial District and the “GC” General Commercial District; Article 5.11 shall be amended to remove “Medical Cannabis Cultivations Centers” and “Medical Cannabis Dispensary” as a special use in the “LI” Light Industrial District and to add “Cannabis Business Establishment” as a special use in the “LI” District; Article 5.12 shall be amended to remove “Medical Cannabis Cultivation Centers” and “Medical Cannabis Dispensary” as special uses in the “HI” Heavy Industrial District; and Article 7.18 shall be amended to rename the Article from “Medical Cannabis” to “Cannabis Business Establishment”, to amend the regulations for cannabis business establishments relating to the definitions, permitted zoning districts, setback/separation requirements, exterior display, signage, advertising, hours of operation, age requirements, public health and safety standards, maximum number of cannabis business establishments, and prohibiting the establishment of craft growers, cultivation centers, infuser organizations, processing organizations, and transporting organizations within the City’s corporate limits; and

WHEREAS, on October 9, 2019, the City’s Planning and Zoning Commission held a public hearing with due notice regarding the proposed text amendments and recommended approval of the proposed text amendments; and
WHEREAS, the City's Corporate Authorities find that approval of this Ordinance is in the best interest of the public health, safety, morals and general welfare; and,

THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

SECTION 1: The recitals to this Ordinance are true, accurate, adopted and incorporated herein as if fully set forth as this Section 1.

SECTION 2: Chapter 23 "Unified Development Ordinance," Article 5 "Zoning District Regulations," and Article 7 "Supplementary District Regulations" shall be amended as indicated in Exhibit A.

SECTION 3: All ordinances or portions thereof in conflict with this Ordinance, including the prior versions of the ordinances included above, are hereby repealed.

SECTION 4: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

SECTION 5: This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: November 13, 2019. Effective date: November 22, 2019.

ADOPTED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 12th day of November 2019 and approved by me as Mayor on the same day. First Reading passed on October 28, 2019 by a 7-0 roll call vote. Aye: Morris, Finucane, Smith, McAdams, Verbic, Faivre, Mayor Smith. Nay: None. Second Reading passed on November 12, 2019 by an 8-0 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None.

ATTEST:

[Signatures]
5.07 “LC” Light Commercial District

5.07.01 Purpose and Intent

This section contains the district regulations for the “LC” Light Commercial District. These regulations are supplemented and qualified by additional general regulations elsewhere in this Ordinance which are incorporated as a part of this section by reference. The “LC” Light Commercial District is intended to be located in areas adjacent to collector streets and some arterial streets and is designed to accommodate the retail and limited service needs of a larger consumer population than is typically served by the Neighborhood Commercial District.

5.07.02 Permitted Land Uses and Developments in the “LC” Light Commercial District

The following land uses and developments are permitted in this district:

- Any use permitted in the “NC” Neighborhood Commercial District, except those uses that may be modified in this list of permitted uses;
- Accessory Uses;
- Automobile parts and accessory stores;
- Banks and other financial institutions, not including drive-through facilities;
- Bicycle stores; sales, rental, and repair;
- Catering establishments, including pizza delivery;
- Clothing and shoe stores; sales and repair;
- Clubs, lodges, meetings halls;
- Department, discount and variety stores;
- Drug stores;
- Greenhouses, nurseries, garden supply and seedstores;
- Food stores and grocery stores; convenience stores (excluding motor fuel on the premises); meat markets and bakeries;
- Funeral homes, mortuaries;
- Furniture stores with repair and re-upholstery only as an accessory use;
- Hardware stores;
- Household appliance stores, sales, service, and rental;
- Interior decorating stores, including carpet, paint, and wallpaper stores;
- Medical and dental offices;
- Musical instrument stores, sales and repair;
- Museums and art galleries;
Nursing and convalescent homes and retirement centers;

Office supply stores;

Optical sales, examinations;

Pet stores and animal grooming shops;

Public buildings used by any departments of the City, School District, Township, Park District, County, State, or Federal governments, except for vehicle maintenance, raw material storage and other similar type facilities;

Radio, television and recording studios;

Radio and television stores, sales and service;

Recreation centers, health clubs, athletic clubs, and fitness centers;

Restaurants, with or without alcohol (2008-064);

Restaurants (fast-food), but not including drive-through facilities;

Schools for business, professional or technical training;

Service facilities including barber shops and beauty shops; copying and duplicating services; artists’ studios; photographers; locksmith; shoe repair; tailors; music and dance instruction studios; typing and stenography services; suntan parlors; travel agencies and ticketing offices; and other similar type uses.

Specialty shops including antique shops; art and school supplies; bookstores; camera shops, including film developing; card and stationery shops; candy shops; florists; newspaper and magazine stores; gift and novelty shops, jewelry stores; pet shops; record shops; hobby shops and other similar type uses.

Sporting goods stores;

Theaters, indoor and auditoriums;

Toy stores;

NOTE: Any of the above permitted land uses and developments which include drive-through facilities are considered “Special Land Uses and Developments” (See Subsection 5.07.03).

5.07.03 Special Land Uses and Developments in the “LC” Light Commercial District (2017-009)

The following land uses and developments may be permitted under conditions and requirements specified in Article 14, “Permits.”

All permitted or special uses and developments which include drive-through facilities;

Amusement establishments, but limited to bowling alleys, indoor skating rinks, swimming pools, video arcades, pinball and other similar non-gambling machine or table games (but specifically excluding activities involving the discharge of firearms, which are separately addressed herein as firing ranges);

Animal boarding facilities;

Animal hospitals and veterinary clinics;
Banquet halls;
Bars, taverns, and package liquor stores;
Cannabis Business Establishment (See Article 7.18 regulations);
Car washes;
Dwelling units when located above the ground floor, with an allowed commercial use on the ground floor;
Gasoline stations and any other establishments selling motor fuel on the premises, but not including vehicle repair;
Group homes;
Hospitals and clinics;
Hotels and motels;
Laboratories, medical, dental, research, and technical;
Lodging house;
Outdoor seating, service, dining and/or recreation areas accessory to any restaurant, bar, tavern, club, lodge or meeting hall (2008-064);
Parking lots, as a principal use;
Public or private schools, within buildings existing prior to the effective date of this Ordinance (1995-116);
Public utility facilities. Any installation, other than poles and equipment attached to the poles, shall be:
   adequately screened with landscaping, fencing or walls, or any combination thereof, or
   placed underground, or
   enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.
   All plans for screening these facilities shall be submitted as a part of the special use permit application;
Retail Tobacco Stores (see Article 7.17);
Self-service storage facility, interior unit access (see Article 7.21) (2018-008); and
Video Gaming Establishments.

5.07.04 Density and Dimensional Regulations in the “LC” Light Commercial District

1. Minimum Lot Area: Except as required for residential dwellings, no minimum lot area is established for permitted and special land uses in the LC District, however, lot dimensions shall be sufficient to meet other requirements of this Section and Article 12, “Off-Street Parking and Loading Requirements.”

2. Building Setback Requirements: Except as provided for in Article 7, “Supplementary District
Regulations,” the following setback requirements apply to buildings and structures in the LC District.

a. **Front Yard:** No principal building shall be allowed within forty (40) feet of any front lot line or a street right-of-way line.

b. **Side Yard:** No principal building setback is required from a side lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within thirty (30) feet of the side lot line. See Article 7, “Supplementary District Regulations” for screening requirements.

c. **Rear Yard:** No principal building setback is required from a rear lot line, except for a lot that abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within thirty (30) feet of the rear lot line. See Article 7, “Supplementary District Regulations” for screening requirements.

3. **Maximum Site Coverage:** Site coverage shall not exceed seventy (70) percent, except as may be approved under the provisions of a “Planned Development” district (see Section 5.13 of this Article) (2008-064).

4. **Building Height Limitations:** No building shall exceed three (3) stories or forty-five (45) feet in height, except as provided in Article 7, “Supplementary District Regulations,” and as provided in paragraph 5 below.

5. **Building Height Exceptions:** By Special Use Permit (see Article 14, “Permits”), or as part of a “Planned Development,” buildings may exceed building height limitations, subject to the following building setback requirements:

a. **Front Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from a front lot line need ever exceed 150 feet.

b. **Side Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no side yard setback need ever exceed fifty (50) feet.

c. **Rear Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from the rear lot line need ever exceed fifty (50) feet.

5.07.05 Other Development Regulations for the “LC” Light Commercial District

The following references the appropriate Articles of this Ordinance which specify the other regulations governing development in this district.

1. “Overlay District Regulations”: Article 6
2. “Supplementary District Regulations”: Article 7
3. “Streets, Sidewalks and Subdivision Design”: Article 9
4. “Utilities”: Article 10
5. “Floodways, Floodplains, Storm Drainage and Erosion”: Article 11
6. “Off-Street Parking and Loading Requirements”: Article 12
7. “Signs”: Article 13
5.07.06 Conditions of Use in the “LC” Light Commercial District

1. Not more than one (1) principal building shall be located on a zoning lot. The only exception to this is for developments approved under the provisions of a “Planned Development” district (see Section 5.13 of this Article) (2008-064).

2. A principal building, in which one or more uses may locate, shall not exceed twenty-five thousand (25,000) square feet in gross floor area (2008-064).

3. All business, servicing, processing and storage, except for off-street parking and loading and drive-through facilities, shall be conducted within completely enclosed buildings.
5.08 "GC" General Commercial District

5.08.01 Purpose and Intent

This section contains the district regulations for the "GC" General Commercial District. These regulations are supplemented and qualified by additional regulations elsewhere in this Ordinance which are incorporated as a part of this section by reference. The "GC" General Commercial District is intended to be located in areas adjacent to arterial streets and designed to accommodate a wide range of retail and service needs for the consumer populations of the City of DeKalb and its surrounding areas.

5.08.02 Permitted Land Uses and Developments in the "GC" General Commercial District

The following land uses and developments are permitted in this district:

- Any use permitted in the "LC" Light Commercial District, except those uses that may be modified in this list of permitted uses;
- Accessory uses;
- Animal boarding facilities;
- Animal hospitals and veterinary clinics;
- Automobile, truck and recreational vehicle sales and rental, except for automobile sales on property greater than three (3) acres that derives a majority of annual sales from new vehicles (see Section 5.08.03.4);
- Banquet halls;
- Bars, taverns, and package liquor stores;
- Boat and marine sales and service;
- Body Art Establishments
- Community residences (small or large), when located above the ground floor;
- Farm equipment sales and service;
- Group homes, when located above the ground floor;
- Hospitals and clinics;
- Hotels and motels;
- Laboratories, medical, dental, research, and technical;
- Micro-Distillery;
- Newspaper offices;
- Parking lots and parking structures, as a principal use;
- Building supply, electrical, plumbing and heating service and equipment stores (2008-064);
- Printing and publishing establishments;
Tire stores, sales and service;

Union halls, hiring halls, and trade association offices/meeting rooms;

Warehouses associated with showrooms or retail outlets where the warehouse portion does not exceed fifty (50) percent of the total gross from the area.

NOTE: Any of the above permitted land uses and developments which include drive-through facilities are considered “Special Land Uses and Developments” (See Subsection 5.08.03).

5.08.03 Special Land Uses and Developments in the "GC" General Commercial District (2017-009)

The following land uses and developments may be permitted under conditions and requirements specified in Article 14, “Permits.”

All permitted or special land uses and developments which include drive-through facilities;

Amusement establishments, indoor or outdoor, including miniature golf, water recreation and other similar type recreation facilities (2008-064) (but specifically excluding activities involving the discharge of firearms, which are separately addressed herein as firing ranges);

Automobile impound yards, but not including storage of wrecked vehicles;

Automobile sales on property greater than three (3) acres that derives a majority of annual sales from new vehicles;

Building material sales and storage (retail) as a principal use;

Bus and train stations/terminals;

Cannabis Business Establishment (See Article 7.18 regulations);

Cartage and express facilities;

Car washes;

Convention, exhibition, and civic centers, arenas and stadiums;

Distillery;

Dwelling units when located above the ground floor, with an allowed commercial use on the ground floor;

Firearm Retailers with a size of 50,000 square feet in area or more;

Gasoline stations;

Lodging house;

Parking lots and parking structures, as a principal use (2008-064);

Pawn shops;

Public or private schools, within buildings existing prior to the effective date of this Ordinance (1995-116);

Public utility facilities. Any installation, other than poles and equipment attached to the poles, shall be:
adequately screened with landscaping, fencing or walls, or any combination thereof, or placed underground, or enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted as part of the special use permit application.

Restaurants (fast food) which include drive-through facilities;

Retail Tobacco Stores (see Article 7.17 regulations);

Self-service storage facility, interior unit access (see Article 7.21) (2018-008);

Social Club;

Theaters, outdoor and drive-in;

Vehicle service facilities;

Vehicle repair facilities;

Video Gaming Establishments;

Wholesale establishments.

5.08.04 Density and Dimensional Regulations in the “GC” General Commercial District

1. Minimum Lot Area: Except as required for residential dwellings, no minimum lot area is established for permitted and special land uses in the GC District, however, lot dimensions shall be sufficient to meet other requirements of this Section and Article 12, “Off-Street Parking and Loading Requirements.”

2. Building Setback Requirements: Except as provided for in Article 7, “Supplementary District Regulations,” the following setback requirements apply to buildings in the GC District.

a. Front Yard: No principal building shall be allowed within forty (40) feet of any front lot line or street right-of-way line.

b. Side Yard: No principal building setback is required from a side lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within fifty (50) feet of the side lot line. See Article 7, “Supplementary District Regulations” for screening requirements.

c. Rear Yard: No principal building setback is required from a rear lot line, except for a lot that abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within fifty (50) feet of the rear lot line. See Article 7, “Supplementary District Regulations,” for screening requirements.

3. Maximum Site Coverage: Site coverage shall not exceed seventy (70) percent, except as may be approved under the provisions of a “Planned Development” district (see Section 5.13 of this Article) (2008-064).

4. Building Height Limitations: No building shall exceed three (3) stories or forty-five (45) feet in height, except as provided in Article 7, “Supplementary District Regulations,” and as provided in paragraph 5 below.
5. *Building Height Exceptions*: By Special Use Permit (see Article 14, "Permits"), or as part of a "Planned Development," buildings may exceed building height limitations, subject to the following building setback requirement:

   a. *Front Yard*: The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from a front lot line need ever exceed 150 feet.

   b. *Side Yard*: The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no side yard setback need ever exceed fifty (50) feet.

   c. *Rear Yard*: The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from the rear lot line need ever exceed fifty (50) feet.

5.08.05 Other Development Regulations for the "GC" General Commercial District

The following references the appropriate Articles of this Ordinance which specify the other regulations governing development in this district.

1. "Overlay District Regulations": Article 6

2. "Supplementary District Regulations": Article 7

3. "Streets, Sidewalks and Subdivision Design": Article 9

4. "Utilities": Article 10

5. "Floodways, Floodplains, Storm drainage and Erosion": Article 11

6. "Off-Street Parking and Loading Requirements": Article 12

7. "Signs": Article 13

5.08.06 Conditions of Use in the "GC" General Commercial District

1. A principal building or combination of buildings on a zoning lot in which one or more uses may locate shall not exceed fifty-thousand (50,000) square feet in gross floor area. The only exception to this is for developments approved under the provisions of a "Planned Development" district (see Section 5.13 of this Article).

2. Outdoor display of items intended for direct sale to the public shall be permitted as an accessory use only. Outdoor storage of items not intended for direct sale to the public shall also be permitted as an accessory use as long as the storage area is completely screened from the public view and located behind the front building line of the principal building, except that automobiles, recreational vehicles, boats, etc. that have been serviced, or are awaiting service, may be temporarily stored in front of the building line of the principal building until such time as they are picked up by their owners.
5.11 "LI" Light Industrial District

5.11.01 Purpose and Intent

This section contains the district regulations of the “LI” Light Industrial District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Ordinance which are incorporated in this section by reference. The “LI” Light Industrial District's uses are intended to be conducted in a manner not detrimental to the rest of the community by reason of noise, vibration, smoke, dust, toxic or noxious materials, odor, fire, explosive hazards, glare or heat.

5.11.02 Permitted Land Uses and Developments of the "LI" Light Industrial District (2017-044)

The following land uses and developments are permitted in this district:

Accessory uses;

Any use whose primary purpose includes the light manufacturing, fabricating, assembly, disassembly, processing or treatment of goods and products, including but not limited to:

- appliances, small motors;
- books, printed materials;
- clothing and textiles;
- drugs;
- electrical components;
- glass and ceramics;
- paper and paper products;
- plastic and fiberglass;
- sheet metal;
- tools;
- wood assembly and finishing;

Airports, landing strips and heliports;

Animal boarding facilities and animal shelters, subject to the provisions of 5.11.06, subparagraph 3 (below) (2003-139);

Automobile, truck and recreational vehicle sales and rental;

Boat and marine sales and service;

Body Art Establishment

Building-contractors office and materials storage;

Building material sales and storage;
Bus and train stations and terminals;

Business, professional, and technical training schools;

Cartage and express facilities;

Dwelling unit (one only) only when used by the caretakers and their families, who own or are employed in the allowable commercial or industrial use of the premises, and which may be located on the ground floor;

Farm equipment sales and service;

Fruit, Vegetable and grain processing, packaging, and storage;

Gasoline Stations;

Golf courses and other open space recreational uses;

Ice processing, sales and storage;

Lumberyards;

Machinery sales, service and storage;

Machine shops;

Motor and rail freight terminals;

Newspaper offices;

Offices;

Outdoor storage, as a principal use, except junkyards, salvage yards, and wrecked vehicle storage yards;

Parking lots, as a principal use;

Plating establishments;

Plumbing and heating service and equipment stores;

Printing and publishing establishments, duplicating services;

Public buildings used by any department of the City, School District (except school buildings), Township, Park District, County, State, and Federal governments;

Public utility facilities;

Research laboratories and facilities; and

Self-service storage facility, interior unit access. (2018-008)

Sewage treatment plants;

Showrooms and retail outlets associated with warehouse or manufacturing facilities where the showroom or retail portion does not exceed thirty (30) percent of the total floor area;
Sign shops;
Tire stores, sales and service;
Tool and dye shops;
Union halls, hiring halls, and trade association offices/meeting rooms;
Upholstery stores;
Vehicle repair facilities;
Vehicle service facilities;
Warehouse and wholesale establishments, distribution centers;
Welding.

5.11.03 Special Land Uses and Developments of the "LI" Light Industrial District (2017-044)

The following land uses and developments may be permitted under conditions and requirements specified in Article 14, "Permits."

- **Cannabis Business Establishment (See Article 7.18 regulations):**
- Day Care Centers;
- Distillery;
- Firearm Retailers / Firearm Dealers regardless of size (See Article 7.19 regulations);
- Indoor firing range (See Article 7.19.05 regulations);
- Junkyards, salvage yards, and vehicle wrecking yards conducted within an enclosed building or surrounded by a solid sight-proof fence not less than ten (10) feet in height, or the height of the materials being screened, whichever is greater, and where no materials shall be piled or stacked to a height in excess of fifteen (15) feet above the ground level;
- **Medical cannabis cultivation centers (See Article 7.18 regulations):**
- **Medical cannabis dispensary (See Article 7.18 regulations):**
- Penal, correctional, and other institutions necessitating restraint of inhabitants;
- Railroad switching yards;
- Recycling centers;
- Retail Tobacco Stores (See Article 7.17 regulations); and
- Sanitary landfills, solid waste transfer stations, composting, energy reclamation facilities, recycling plants, incinerators, and similar solid-waste management facilities, but excluding hazardous or radioactive waste disposal; and
- Self-service storage facility, exterior unit access (see Article 7.21) (2018-08).
5.11.04 Density and Dimensional Regulations of the "LI" Light Industrial District

1. **Minimum Lot Area:** Except as required for residential dwellings, no minimum lot area is established for permitted and special land uses in the LI District, however, lot dimensions shall be sufficient to meet other requirements of this Section and Article 12, "Off-Street Parking and Loading Requirements."

2. **Building Setback Requirements:** Except as provided for in Article 7, "Supplementary District Regulations," the following setback requirements apply to buildings in the LI District.
   a. **Front Yard:** No principal building shall be allowed within forty (40) feet of any front lot line or a street right-of-way line.
   b. **Side Yard:** No building setback is required from a side lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within seventy-five (75) feet of the side lot line. (See Article 7, "Supplementary District Regulations" for screening buffer requirements.)
   c. **Rear Yard:** No building setback is required from a rear lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within seventy-five (75) feet of the rear lot line. (See Article 7, "Supplementary District Regulations" for screening requirements.)

3. **Maximum Site Coverage:** On lots two (2) acres in size or greater, site coverage shall not exceed seventy (70) percent, except as may be approved under the provisions of a "Planned Development" district (see Section of this Article). There is no limitation on site coverage on lots less than two (2) acres in size.

4. **Building Height Limitations:** No building shall exceed six (6) stories or seventy-five (75) feet in height, except as provided in Article 7, "Supplementary District Regulations," and as provided in paragraph 5 below.

5. **Building Height Exceptions:** By Special Use Permit (see Article 14, "Permits"), or as part of a "Planned Development," buildings may exceed building height limitations, subject to the following building setback requirement:
   a. **Front Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from a front lot line need ever exceed 150 feet.
   b. **Side Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no side yard setback need ever exceed fifty (50) feet.
   c. **Rear Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from the rear lot line need ever exceed fifty (50) feet.

5.11.05 Other Development Regulations for the "LI" Light Industrial District

The following references the appropriate Articles of this Ordinance which specify the other regulations governing development in this district.

1. "Overlay District Regulations": Article 6
2. "Supplementary District Regulations": Article 7
3. "Streets, Sidewalks and Subdivision Design": Article 9
4. "Utilities": Article 10
5. "Floodways, Floodplains, Storm Drainage and Erosion": Article 11
6. "Off-Street Parking and Loading Requirements": Article 12
7. "Signs": Article 13

5.11.06 Conditions of Use of the "LI" Light Industrial District.

1. Depending on sewage collection and treatment requirements, a developer or business shall verify the adequacy of said system with the Kishwaukee Water Reclamation District prior to applying for a building or occupancy permit.

2. All outdoor storage areas, whether they are the principal or accessory use of the property, shall be screened from this public view by placing a solid, sight-proof fence not less than six (6) feet in height around the storage area. Junkyards, salvage yards, and vehicle wrecking yards shall meet the screening requirements set forth in Subsection 5.11.03.
5.12 "HI" Heavy Industrial District

5.12.01 Purpose and Intent

This section contains the district regulations of the "HI" Heavy Industrial District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Ordinance which are incorporated as a part of this section by reference. The "HI" Heavy Industrial District is intended to be located in selected areas so that its permitted and special uses’ noise, vibration, smoke, dust, toxic or noxious materials odors, fire, explosive, glare, heat, and other hazardous characteristics are not detrimental to the rest of the community.

5.12.02 Permitted Land Uses and Developments of the "HI" Heavy Industrial District

The following land uses are permitted in this district:

- Any use permitted in the "LI" Light Industrial District;
- Accessory uses;
- Any use whose primary purpose includes the heavy manufacturing, fabrication, assembly (does not include disassembly), processing or treatment of goods and services, including but not limited to:
  - boats,
  - construction equipment,
  - containers and storage units,
  - motor vehicles and engines,
  - paints, inks,
  - stoneware, earthware;
- Railroad switching yards; and
- Self-service storage facility, interior unit access. (2018-008)

5.12.03 Special Land Uses and Developments of the "HI" Heavy Industrial District

The following land uses and developments may be permitted under conditions and requirements specified in Article 14, "Permits."

- Animal slaughtering, meat packing, or rendering facilities;
- Any use whose primary purpose includes the heavy manufacturing, fabrication, assembly, disassembly, processing or treatment of goods and services, including but not limited to:
  - concrete, asphalt, cement,
  - motor vehicles and engines,
- Bulk fuel distribution or storage;
- Distillery;
Extraction of raw materials from the earth and processing thereof;

Firearm Retailers / Firearm Dealers - regardless of size (See Article 7.19 regulations);

Firing Range, both indoor or outdoor (See Article 7.19 regulations);

Junkyards, salvage yards, vehicle wrecking yards conducted within an enclosed building or surrounded by a solid sight-proof fence not less than ten (10) feet in height, or the height of the materials being screened, whichever is greater, and where no materials shall be piled or stacked to a height in excess of fifteen (15) feet above the ground level.

Medical cannabis cultivation centers (See Article 7.18 regulations);

Medical cannabis dispensary (See Article 7.18 regulations);

Manufacturing and processing of flammable liquids, gases, explosives, chemicals, acids, fertilizers;

Penal, correctional, and other institutions necessitating restraint of inhabitants;

Petroleum refining or storage;

Recycling centers;

Retail Tobacco Stores (see Article 7.17);

Sanitary landfills, solid waste transfer stations, composting, energy reclamation facilities, recycling plants, incinerators, and similar solid waste management facilities, but excluding hazardous or radioactive waste disposal;

Self-service storage facility, exterior unit access (see Article 7.21) (2018-008);

Steel mills, foundries, forges, and smelters;

Storage of hazardous substances as the principal use of the property; and

Sulfur and rubber reclamation plants.

5.12.04 Density and Dimensional Regulations of the "HI" Heavy Industrial District

1. **Minimum Lot Area:** Except as required for residential dwellings, no minimum lot area is established for permitted and special land uses in the HI District, however, lot dimensions shall be sufficient to meet other requirements of this Section and Article 12, "Off-Street Parking and Loading Requirements."

2. **Building Setback Requirements:** Except as provided for in Article 7, "Supplementary District Regulations," the following setback requirements apply to buildings in the HI District.
   a. **Front Yard:** No principal building shall be allowed within forty (40) feet of any front lot line or a street right-of-way line.
   b. **Side Yard:** No building setback is required from a side lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within one hundred (100) feet of the side lot line. See Article 7, "Supplementary District Regulations" for screening requirements.
   c. **Rear Yard:** No building setback is required from a rear lot line, except for a lot which abuts a
residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within one hundred (100) feet of the rear lot line. See Article 7, "Supplementary District Regulations" for screening requirements.

3. **Maximum Site Coverage:** There is no limitation on site coverage in the HI District.

4. **Building Height Limitations:** No building shall exceed six (6) stories or seventy-five (75) feet in height, except as provided in Article 7, "Supplementary District Regulations," and as provided in paragraph 5 below.

5. **Building Height Exceptions:** By Special Use Permit (see Article 14, "Permits"), or as part of a "Planned Development," buildings may exceed building height limitations, subject to the following building setback requirements:

   a. **Front Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from a front lot right-of-way line need ever exceed 150 feet.

   b. **Side Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no side yard setback need ever exceed fifty (50) feet.

   c. **Rear Yard:** The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from the rear lot line need ever exceed fifty (50) feet.

**5.12.05 Other Development Regulations for the "HI" Heavy Industrial District**

The following list references the appropriate Articles of this Ordinance which specify the other regulations governing development in this district.

1. "Overlay District Regulations": Article 6

2. "Supplementary District Regulations": Article 7

3. "Streets, Sidewalks and Subdivision Design": Article 9

4. "Utilities": Article 10

5. "Floodways, Floodplains, Storm Drainage and Erosion": Article 11

6. "Off-Street Parking and Loading Requirements": Article 12

7. "Signs": Article 13

**5.12.03 Conditions of Use**

Depending on sewage collection and treatment requirements, a developer or business shall verify the adequacy of said system with the Kishwaukee Water Reclamation District prior to applying for a building or occupancy permit.
7.18 Medical Cannabis Business Establishment

7.18.01 Purpose and Intent

1. This Ordinance is intended to protect the public health, safety and welfare by establishing regulations to restrict the location of and/or create a setback between establishments which primarily engage in the businesses relating to medical and adult-use cannabis, and incompatible uses.

2. The zoning contemplated herein shall only apply to a cannabis business establishment duly licensed and operating under State law, businesses conducted in strict accordance with the then-current version of a state law authorizing the cultivation, distribution or use of medical cannabis for compassionate purposes.

3. The following definitions shall apply:

"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 Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., 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, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., 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, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., as it may be amended from time-to-time, and regulations promulgated thereunder.

"Adult-use Cannabis Infuser Organization" or "Infuser" 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, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., as it may be amended from time-to-time, and regulations promulgated thereunder.

"Adult-use Cannabis Processing Organization" or "Processor" 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, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., as it may be amended from time-to-time, and regulations promulgated thereunder.

"Adult-use Cannabis Transporting Organization" or "Transporter" 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, per the Cannabis Regulation and Tax Act,
410 ILCS 705/1, et seq., as it may be amended from time-to-time, and regulations promulgated thereunder.

"Cannabis Business Establishment" means an adult-use cannabis dispensing organization and a medical cannabis dispensing organization.

"Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

"Medical cannabis cultivation center" or "Cultivation center" means facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

"Medical cannabis dispensing Organization," or "dispensing organization," or "dispensary" means a facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients, individuals with a provisional registration for qualifying patient cardholder status, or an Opioid Alternative Pilot Program participant, per the Compassionate Use of Medical Cannabis Act, 410 ILCS 130/1, et seq., as it may be amended from time-to-time, and regulations promulgated thereunder.

"Medical Cannabis Cultivation Center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

"Medical cannabis facility" means medical cannabis cultivation center or medical cannabis dispensary.

"Cardholder" means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card by the Department of Public Health.

"Development Review Team" means a team of professionals that are experts in specific areas of development. The team consists of the City Manager, Community Development Director, Chief of Police, Fire Chief, City Attorney, Economic Development Planner, Principal Planner, and City Engineer.

"Designated caregiver" means a person who: (1) is at least 21 years of age; (2) has agreed to assist with a patient’s medical use of cannabis; (3) has not been convicted of an excluded offense; and (4) assists no more than one registered qualifying patient with his or her medical use of cannabis.

"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 of a licensed cannabis business establishment and acting pursuant to State law.
room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cultivation center's agents or a dispensing organization's agent working for the registered cultivation center or the registered dispensing organization to cultivate, store, and distribute cannabis for registered qualifying patients.

"Medical cannabis container" means a sealed, traceable, food-compliant, tamper-resistant, tamper evident container, or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization.

"Medical cannabis-infused product" means food, oils, ointments, or other products containing usable cannabis that are not smoked.

"State law governing statute" means the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., and the Compassionate Use of Medical Cannabis Act, 410 ILCS 130/1, et seq., as they may be amended from time-to-time, and regulations promulgated thereunder. Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122), or any successor legislation.

7.18.02 Compliance with Applicable Laws

Any facility or cannabis business establishment authorized hereunder shall be required to comply with all applicable laws, ordinances, regulations, statutes or other regulatory authority applicable thereto, including but not limited to, State law and the City of DeKalb Municipal Code. Violation of any applicable law, or regulation, or ordinance shall constitute a public nuisance and violation of any zoning authority or special use permit granted hereunder.

7.18.03 Submittal Requirements

After a pre-application meeting with the Development Review TeamCity, an applicant for any special use or other zoning approval required herein for a cannabis business establishment for a special use shall be required to submit plans and documents as deemed necessary by the City, including, but not limited to, a Plat of Survey, a Site Plan, Engineering Plan, Architectural Plans and Elevations, Building Material Samples, Lighting Plan, Signage Plan, Business and Operational Plan, Compliance with State law, Anticipated Parking and Traffic Plan, Impact on Surrounding Areas, and Security Plan. Given the unique challenges and public safety threats posed by this use, the applicant shall also be required to file such additional documentation and provide such additional information as may be required by the Development Review Team members.

7.18.04 Permitted Zoning Districts and Setback Requirements

1. A cannabis business establishment shall be permitted only as a Medical cannabis cultivation centers and medical cannabis dispensary organizations shall not be a special permitted use in the following zoning districts: LC, and GC, and LI, any zoning district.

2. Medical cannabis cultivation centers and medical cannabis dispensary organizations shall be a special use in the following zoning districts: LI, HI.

3. A dispensary-cannabis business establishment may not be located within 1,000 feet of the property line of a preexisting property zoned or used for residential purposes that contains a residential dwelling units, public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, and an academic building or residence hall of a State university, public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility. A dispensary may not be located in a house, apartment, condominium, or any zoning district area that permits any form of residential-use as a permitted or special use and may not be located within 1,000 feet of any
property-zoned-for-residential-use.

4. An adult-use cannabis dispensary organization may not be located within 1,500 feet of the property line of a pre-existing adult-use cannabis dispensary organization. A cultivation center may not be located within 2,500 feet of the property line of a public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part-day child care facility, or any property zoned for residential use.

4. A cannabis business establishment shall comply with the setback requirements and standards of the underlying zoning district, except as may be otherwise provided by this Section and the UDO.

5. A medical cannabis facility may not be located within 2,500 feet of the property line of any another medical cannabis facility.

6. A medical cannabis facility shall be the sole use of a single lot, parcel, and/or property and be the single occupant of a building. A medical cannabis facility shall not be permitted in a multi-tenant building, or on a lot shared by multiple establishments.

7.18.05 Parking Requirements

1. A medical cannabis business establishment facility shall be required to comply with the parking requirements applicable to the facility under the provisions of this UDO (e.g. a dispensary shall comply with the parking requirements applicable to a Commercial Service Facility and Retail Sales and a cultivation center shall comply with the requirements applicable to a Wholesaling operation).

2. Parking shall be located in an area which is visible from a public road.

3. Parking areas shall be well lit and monitored by video surveillance equipment with live images that can be viewed by agents of the cannabis business establishment cultivation or dispensary staff and continually recorded in a tamper proof format.

7.18.06 Exterior Display, Signage and Advertising

1. No medical cannabis business establishment facility shall be maintained or operated in a manner that causes, creates or allows the public viewing of medical cannabis, medical cannabis infused products or 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-cannabis business establishment is located. No portion of the exterior of the cannabis business establishment dispensary shall utilize or contain any flashing lights, search lights, or spot lights, or any similar lighting system.

2. Signage shall comply with the standards of the underlying zoning district.

2. or the following standards, whichever is more restrictive:

a. Building-mounted signs shall only be permitted on the side of the building that fronts on a public right of way. In the case of a building with multiple frontages (e.g., a corner lot), only one side of the building shall be permitted to have a building-mounted sign.

b. Building-mounted signs shall not exceed 50 square feet in overall size.

c. Monument signs shall not exceed 50 square feet in overall sign size (or 50 square feet per side for a double-sided sign), and shall be required to adhere to all standards in this UDO applicable to such monument signs regarding height, design and location.

d. A medical cannabis facility shall not be authorized to maintain both a monument sign and a building-mounted sign.
3. Message boards (electronic or manual changing copy), moving signs and temporary signs (whether or not electric) are prohibited. Handheld signs are also prohibited.

4. Signage shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth, or language referencing marijuana or cannabis other than "marijuana" or "cannabis." Any reference to slang or colloquial terms (e.g., "pot," "weed," "ganja") shall be expressly prohibited. Any reference to "marijuana" or "cannabis" must be preceded by the term "medical," in the same font/size/color as the reference to marijuana or cannabis.

3. No cannabis business establishment shall have signage or engage in advertising that is not in compliance with State law, including but not limited to, 410 ILCS 705/55-20, which is adopted and incorporated herein by reference as if fully set forth herein.

4. A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Only cardholders, designated caregivers, and staff may enter these premises. Persons under the age of 21 are prohibited from entering." The required text shall be no smaller than 1 inch in height nor greater than 12 inches in height.

7.18.07 Other Development Restrictions

1. No more than five (5) special use permits for an adult-use cannabis dispensing organizations shall be permitted within the City’s corporate limits.

2. No Adult-Use Cannabis Craft Grower, Adult-Use Cannabis Cultivation Center, Adult-Use Cannabis Infuser Organization, Adult-Use Cannabis Processing Organization, Adult-Use Cannabis Transporting Organization, or Medical Cannabis Cultivation Center shall be permitted within the City’s corporate limits.

3. No It shall be unlawful for any medical cannabis business establishment facility to shall allow any person who is not at least twenty-one eighteen (21) years of age on the premises. No cannabis business establishment Dispensaries shall not employ anyone under the age of twenty-oneeighteen (218). Access shall be limited exclusively to facility staff, cardholders, designated caregivers, local and state officials, and those specifically authorized under the State governing statute.

2. A cannabis business establishment may operate dispensary shall operate only between the hours of 96:00 a.m. to 10:00 p.m.

3. No A medical cannabis facilitycannabis business establishment shall not have a drive-through service, drive-thru window, or any form of outdoor sales. A medical cannabis dispensary shall require any sales to be conducted indoors, with customers exiting their parked vehicles and entering the store/licensed premises.

6. A cannabis business establishment shall maintain compliance with State law and local building, fire, and zoning requirements or regulations.

7. No adult-use cannabis dispensing organization shall operate in violation of the operational requirements and prohibitions set forth in 410 ILCS 705/15-70, which are adopted and incorporated herein by reference as if fully set forth herein.

8. No medical cannabis dispensing organization shall operate in violation of the requirements and prohibitions set forth in 410 ILCS 130/130, which are adopted and incorporated herein by reference as if fully set forth herein.

4. Facilities A cannabis business establishment shall provide to the City a security plan that includes,
but is not limited to, the following: at a minimum provides that:

a. The medical-cannabis-facilitycannabis business establishment 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;

b. The parking area, client entrance, sales area, back room, storage areas and delivery bay and entrance shall be monitored by video surveillance equipment whose live images that can be viewed by agents of the cannabis business establishment|dispensary staff, continually recorded in a tamper proof format;

c. A sign shall be posted in a prominent location which includes the following language "This area is under live/recorded video surveillance to aid in the prosecution of any crimes committed against this facility or its patrons";

d-e. Reporting of criminal activity on the licensed premises to local law enforcement officials; and

d-e. The Chief of Police or their designee shall review and approve the adequacy of lighting, security and video surveillance installations prior to the issuance of a Conditional/Special Use Permit, the adequacy of lighting, security and video surveillance installations;

e. A medical-cannabis-facility shall report all criminal activities to local law enforcement officials immediately upon discovery; and;

f. Deliveries shall occur during normal business hours within a secure enclosed delivery bay, no delivery shall be visible from the exterior of the building.

5.10. Loitering is prohibited on the property or licensed premises of a cannabis business establishment or medical-cannabis-facility property.

6. No cannabis business establishment shall allow any person to smoke, inhale or consume cannabis products in or anywhere on the property and licensed premises occupied by the cannabis business establishment|medical-cannabis-facility beyond what is allowed under the State-governing statute. A sign, at least 8.5 by 11 inches, shall be posted inside the medical cannabis business establishment building|facility building in a conspicuous place and visible to employees and clients and shall include the following language: "Smoking, eating, drinking or other forms of consumption of cannabis products is prohibited on the dispensary property is prohibited."
City of DeKalb
Planning and Zoning Commission
Staff Report

DATE: October 4, 2019

TO: Planning and Zoning Commission Members

FROM: Dan Olson, Principal Planner

SUBJECT: Text Amendments to the Unified Development Ordinance - Adult Use Cannabis

GENERAL INFORMATION:

On June 25, 2019 Governor Pritzker signed Public Act 101-0027, the Cannabis Regulation and Tax Act (Act), which legalized the private consumption and possession of cannabis for Illinois residents over 21 years of age. The law takes effect on January 1, 2020. On August 12th and September 9th, the City Council discussed the adult use of cannabis in DeKalb in light of the recent legislation. From the discussion, the Council was in favor of allowing recreational cannabis dispensaries in the City and modifying the current regulations for medical cannabis to encourage such facilities. The focus of the discussions involved the regulatory framework for the sale of recreational cannabis including what zoning districts would they be allowed in, the maximum number of dispensaries, setbacks to schools and residential areas and public health and safety factors. The proposed changes discussed require amendments to the Unified Development Ordinance (UDO), which currently has regulations for medical cannabis dispensaries and cultivation centers. Based upon the requirements in the Act and direction from the City Council, staff prepared text amendments to the UDO and published a public hearing notice for the Planning and Zoning Commission’s October 9th meeting.

REVIEW AND ANALYSIS:

The Act preserves local zoning authority and directly authorizes municipalities to prohibit (opt out) or significantly limit the location of cannabis businesses by Ordinance. Municipalities have the authority to enact reasonable zoning regulations that are not in conflict with the Act. The Act allows for some local control, but also imposes certain restrictions. For example, no cannabis business may advertise within 1,000 feet of school grounds, playgrounds, recreation centers, child-care centers, public parks and libraries, or game arcades where minors (under 21) are allowed.
A municipality may not ban a pre-existing medical cannabis dispensary from obtaining a recreational cannabis license. However, a municipality may prohibit or significantly limit the location of cannabis businesses. In addition, it may allow certain cannabis establishments (e.g. dispensaries) and prohibit others (e.g. cultivators, infusers). Cannabis businesses would be subject to the zoning regulations of a particular district (e.g. setbacks, off-street parking, etc.).

The licensing of cannabis businesses is the exclusive domain of the State of Illinois (Department of Agriculture and the Department of Financial and Professional Regulation). The state Act authorizes up to 500 dispensary licenses across the state and allows them to operate from 6:00 a.m. to 10:00 p.m. Municipalities may regulate or ban consumption on the premises of a recreational cannabis establishment.

Six types of cannabis businesses are regulated by the Act:

- **Craft Grower.** Such facilities cultivate, dry, cure and package cannabis for sale at a dispensary. The grower is typically restricted to 5,000 square feet of enclosed space, but a maximum of 14,000 square feet is permissible if authorized by the Department of Agriculture. A craft grower may share premises with a processor or dispensary.

- **Cultivation Center.** Such facilities cultivate, process and transport cannabis and cannabis-infused products to dispensaries.

- **Dispensary.** A facility that sells cannabis and cannabis-infused products, cannabis seeds, and paraphernalia to the general public and qualified medical cannabis patients.

- **Infuser.** A facility that directly incorporates cannabis or cannabis concentrate into a product (e.g. edibles and tinctures).

- **Processor.** A facility that extracts constituent chemicals or compounds to produce cannabis concentrate or incorporates cannabis or cannabis concentrate into a product.

- **Transporter.** Transports cannabis on behalf of a legal cannabis business establishment.

At this time, the City Council has decided to only address medical and recreational dispensaries and would consider the other types of cannabis businesses in the future. This will allow the City to gather experiences from other communities pursuing these types of establishments within their corporate limits.

Some communities are permitting dispensaries in general commercial zones and not neighborhood commercial zones, and establishing distances from residential
zoning, schools, and day-care centers that mirror the same restrictions the City has on medical dispensaries. The current UDO setback regulations for medical cannabis dispensaries is 1,000 feet, which eliminates the majority of commercial areas in the City. Attached are City maps showing the potential impact of “clear zones” of 100 feet, 250 feet, 500 feet and 1,000 feet for the Commission’s review. After discussions at the Council level, it was recommended that a setback of 250 feet be established to schools, day care centers, pre-schools and residential zoned areas that contain dwelling units. It is also suggested that the 250-foot setback be established to any academic building or residence hall at NIU. A reduction in the setback from 1,000 feet to 250 feet will open up most of the existing "LC" and "GC" zoned properties along the City’s commercial corridors including Sycamore Road, W. Lincoln Highway and E. Lincoln Highway. Cannabis establishments will not be allowed in the “CBD” Central Business District. Currently the UDO allows medical cannabis dispensaries and cultivation centers as a special use in the “LI” Light Industrial and “HI” Heavy Industrial Districts. The proposal is to have medical and recreational cannabis dispensaries as a special use in the “LC”, “GC” and “LI” Districts.

In 2015, the City Council amended the City’s UDO to permit the sale of medical cannabis under very restrictive guidelines. These provisions were included in Section 7.18 of the UDO. The key points in the current DeKalb regulations for a medical cannabis dispensary are listed below:

1. Applicants are required to have a pre-application meeting with City staff, and then submit a plat of survey, site plan, engineering plan, architectural floor plans and elevations, building material samples, a lighting plan, signage plan, business and operational plan, and a security plan.

2. Dispensaries are not a permitted use in any zoning district; they are a special use in light industrial and heavy industrial zoning districts only.

3. Dispensaries cannot be within 1,000 feet of any public or private pre-school or school; day care, or any property zoned for residential use. If applied, the only locations that would be legal would be (a) at the southernmost edge of the City, near Park 88 or the Chicago West Business Park; or (b) along portions of Harvestore Drive.

4. Dispensaries cannot be within 2,500 feet of any other cannabis dispensary.

5. Dispensaries must be the sole use on a lot or the single occupant of a building. They are not permitted in multi-tenant spaces or strip centers.

6. Parking areas must be well-lit and under camera surveillance.

7. Other than the words “cannabis” or “marijuana,” there are severe sign restrictions as to imagery.
8. Hours of operation are limited to 9:00 a.m. to 9:00 p.m.

9. No drive-through is permitted.

10. The security plan must be approved by the Chief of Police.

11. Deliveries of product must occur within a secure, enclosed delivery bay with no delivery visible from the outside.

Based upon discussions with the Council in August and September, the following is a summary of the proposed amendments:

1. The term “Cannabis Business Establishment” is created and covers both medical and recreational cannabis dispensaries.

2. Cannabis Business Establishments are proposed to be a special use in the “LC” Light Commercial, “GC” General Commercial and “LI” Light Industrial Zoning Districts. It was initially discussed with the Council that dispensaries would be a permitted use in the “LC” and “GC” Districts, however the State legislation only allows time/place/manner restrictions for cannabis uses so long as they are special uses.

3. Establishes a 250-foot setback to schools, day care centers, nursery schools, pre-schools and academic buildings or residence halls at NIU. It also establishes a 250-foot setback to residential zoned property that contains dwelling units. A minimum separation of 1,500 feet between cannabis dispensaries is established, per the Act.

4. Removes the requirement that dispensaries must be in stand-alone buildings and will now allow in multi-tenant commercial buildings.

5. Allows signage as for any commercial use.

6. Maintains the current language that no drive-through dispensaries are allowed.

7. Smoking within a dispensary will not be allowed.

8. Deliveries of product may occur as with any commercial establishment.

9. A limit of five dispensaries is proposed. The State law has an overall limit of 500 dispensaries statewide so it is unlikely the City would be able to have more than five. The Illinois Dept. of Financial and Professional Regulations announced on October 1, 2019 that applications for adult use cannabis dispensing organizations will be accepted starting December 10, 2019 through January 2, 2020. A total of 75 licenses dispensing organizations will be issued statewide by May 1, 2020. The area where DeKalb County is
located (10 counties in North Central and Northwest Illinois) will get 3 licenses (see attached map).

10. The State Act has an operation limitation of 6:00 AM to 10:00 PM for dispensaries and the City cannot be less restrictive.

11. The State Act regulates the placement of cannabis related advertising within 1,000 feet of several sensitive uses (e.g. schools, parks), so language was added to cover that item.

12. Public health and safety standards including camera surveillance were maintained from the current regulations for medical cannabis and extended to cover recreational cannabis dispensaries.

13. Adult-Use Cannabis Craft Gower, Cultivation Center, Infuser, Processor, Transporter and Medical Cannabis Cultivation Centers will be prohibited.

RECOMMENDATION:

Sample Motion:

Based on the submitted petition and testimony presented, I move that the Planning and Zoning Commission recommend to the City Council approval of text amendments to Chapter 23 “Unified Development Ordinance” of the Municipal Code in relation to the adult-use of cannabis as shown on the attached Exhibit A.
Dispensary License distribution by BLS Region for licenses issued May 1, 2020

West Central Nonmetropolitan Area
East Central Nonmetropolitan Area
FACT SHEET

Adult-Use Cannabis

Public Act 101-0027 creates the Cannabis Regulation and Tax Act and was signed into law by Governor JB Pritzker on June 25, 2019. Effective January 1, 2020, the Act legalizes the possession and private use of cannabis for Illinois residents over 21 years of age.

LOCAL REGULATION OF CONSUMPTION

Municipalities may not restrict the private consumption of cannabis that is authorized by the Act. However, the Act prohibits the use of cannabis in public places, schools and child care facilities among other locations. Municipalities may adopt and enforce local ordinances to regulate possession and public consumption of cannabis so long as the regulations and penalties are consistent with the Act.

HOME GROW LIMITED TO MEDICAL PROGRAM PARTICIPANTS

Home grow cannabis will be authorized only for medical cannabis program participants, and is limited to five plants in their residence and subject to specified restrictions. Home grow of recreational cannabis by non-medical participants is prohibited. More information about the medical cannabis program is available via this link.

ZONING

The Act preserves local zoning authority and directly authorizes municipalities to prohibit (opt out) or significantly limit the location of cannabis businesses by ordinance. Municipalities will have the authority to enact reasonable zoning regulations that are not in conflict with the act. This would include the authority to opt out of either commercial production or distribution (dispensaries) of adult-use cannabis within their jurisdiction. Municipalities also may enact zoning ordinances and regulations designating the time, place, manner and number of cannabis business operations, including minimum distances between locations through conditional use permits.

BUSINESS REGULATION

In addition to zoning authority, municipalities will have the authority to allow for on-premise use of cannabis at locations to be determined locally. The Act anticipates that local authorities will engage in inspections of cannabis-related businesses. Municipalities may establish and impose civil penalties for violations of the local ordinances and regulations.
LOCAL REVENUE

Municipalities, by ordinance, may impose a Municipal Cannabis Retailers’ Occupation Tax on adult-use cannabis products of up to 3% of the purchase price, in .25% increments. Counties may impose up to 3.75% in unincorporated areas, in .25% increments. The taxes imposed under this Act shall be in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any unit of local government, such as sales tax.

SMOKE FREE ILLINOIS ACT

The Act applies the restrictions of the Smoke Free Illinois Act on smoking cannabis, and provides that property owners may prohibit the use of cannabis by any guest, lessee, customer or visitor. In addition, lessors may prohibit cultivation of cannabis by their lessees.

EMPLOYER PROVISIONS

The Act provides employer protections including that nothing in the enactment prohibits employers from adopting reasonable zero-tolerance or drug-free workplace employment policies concerning drug testing, smoking, consumption, storage or use of cannabis in the workplace or while on-call. These policies must be applied in a nondiscriminatory manner. Employers may prohibit the use of cannabis by employees in the workplace, and engage in discipline, including termination, for violations of those policies and workplace rules.

STATE LICENSING

The Act authorizes the production and distribution of cannabis and cannabis products through state-licensed cultivators, craft growers, infusers, transporters and dispensaries. Cannabis transporters will be separately licensed by the Act, as well. A market study due in March 2021 will inform future licensing. The state will issue licenses according to a graduated scale. By the end of the first year, there will be up to 295 dispensing organizations. The Act will allow up to 500 dispensing organizations by January 1, 2022. Cultivators will be capped at 50, and 100 craft growers will be allowed. By that same date, 100 infusers will also be authorized to be licensed.

GRANTS AND INVESTMENT

The Act establishes the Restore, Reinvest and Renew (R3) Program to invest in communities historically impacted by economic disinvestment and violence. The Illinois Criminal Justice Information Authority (ICJIA) will identify R3 areas that qualify for funding, and grants will be awarded by the R3 Board. A 22-member R3 Board will award grants throughout the state, subject to an application process and the Government Accountability and Transparency Act (GATA); the R3 Board shall be chaired by the Lt. Governor.

SOCIAL EQUITY

The Act provides for a social equity program to establish a legal cannabis industry that is accessible to those most adversely impacted by the enforcement of drug-related laws in this state, including cannabis-related laws. Qualifying social equity applicants may be awarded financial assistance and incentives if they are interested in establishing cannabis related businesses.

DECRIMINALIZATION AND EXPUNGEMENTS

A significant portion of the Act addresses the decriminalization of cannabis through mandatory and discretionary expungements of criminal convictions relating to non-violent cannabis offenses.