



DEKALB CITY COUNCIL AGENDA SEPTEMBER 9, 2019

DeKalb Municipal Building
City Council Chambers
Second Floor
200 S. Fourth Street
DeKalb, Illinois 60115

COMMITTEE OF THE WHOLE 5:00 P.M.

A. CALL TO ORDER AND ROLL CALL

B. APPROVAL OF THE AGENDA

C. PUBLIC PARTICIPATION

D. CONSIDERATIONS

1. Further Consideration of the Framework for Cannabis Dispensaries in the City of DeKalb.

City Manager Summary: At the Committee of the Whole Meeting on August 12, the Council reviewed the current state of the law concerning the private consumption and possession of cannabis for Illinois residents over 21 years of age. As a result of this discussion, the Council indicated its willingness to revise its current regulations for medical cannabis sales to encourage such legal facilities, and to prepare a local zoning and regulatory framework for the sale of recreational cannabis.

Guidelines for Dispensaries

In 2015, the City Council amended the City's Unified Development Ordinance (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.

Assistive services available upon request.

Hearing assistance devices are available in the Information & Technology Office, which is located to the right, just before entering Council Chambers.

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

To focus further discussion, the following parameters are suggested for the Council’s consideration:

- a) Make dispensaries (medical or recreational) a permitted use in any “LC-Light Commercial District” or “GC-General Commercial District.”
- b) Prohibit dispensaries within 250 feet of any public or private pre-school or school, licensed day-care, or any property zoned for residential use. The [attached graphic](#) shows the gross land area available for dispensaries under this possible provision, and within the “LC” and “GC” zoning districts.
- c) Allow dispensaries in multi-tenant spaces.
- d) Require that parking areas be well-lit and under camera surveillance.
- e) Allow signage as for any commercial use.

- f) Allow hours as for any commercial establishment in an “LC” or “GC” zoning district.
- g) No drive-through is permitted.
- h) No smoking within a dispensary is permitted.
- i) Deliveries of product may occur as with any commercial establishment.

Other Types of Cannabis Establishments

Additional Council consideration is requested regarding the types of allowable cannabis establishments. Six types are regulated by the Cannabis Regulation and Tax Act of June 2019:

- **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.

What types of establishments should be permitted in DeKalb? Initially, **the Council may wish to allow for medical and recreational cannabis dispensaries only**, until further experience is gained from communities pursuing other types of establishments within their corporate limits.

City Council direction is requested.



2. Further Consideration of the Duties of the City Clerk and Deputy Clerk.

City Manager Summary: Since the August 26 Council meeting, Council member Carolyn Morris and Mayor Jerry Smith have met with Clerk Lynn Fazekas, Executive Assistant Ruth Scott, City Manager Bill Nicklas and others to find common ground in the following areas of concern:

- a) Job duties;
- b) Use of the City Seal;
- c) Reasonable office hours for the Clerk functions; and
- d) The statutory parameters for the Clerk's office.

Council member Morris will report on her findings.

By way of reference, City Attorneys Matt Rose and John Donahue have reviewed the relevant state statutory guidelines. Section 3.1-35-90 of **the Illinois Municipal Code sets forth the Clerk's duties as follows:**

(65 ILCS 5/3.1-35-90) (from Ch. 24, par. 3.1-35-90)
Sec.3.1-35-90. Clerk; duties.

(a) The municipal clerk shall keep the corporate seal, to be provided by the corporate authorities, and all papers belonging to the municipality the custody and control of which are not given to other officers. The clerk shall attend all meetings of the corporate authorities including executive sessions and keep a full record of their proceedings in the journal, except if the clerk is the subject matter of the meeting and his or her presence creates a conflict of interest. The record of those proceedings shall be made available for public inspection within 7 days after being approved or accepted by the corporate authorities as the official minutes of their proceedings.

(b) The municipal clerk shall have other duties prescribed by the corporate authorities.

(c) Copies of all papers duly filed in the clerk's office and transcripts from the journals and other records and files of the clerk's office, certified by the clerk under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced.

(Source: P.A. 96-294, eff. 8-11-09)

The state statutes establish minimum duties. The municipal authorities may add to the Clerk's duties but may not "subtract" from them.

The state statute also does not provide that the Clerk's statutory duties are exclusively held by the Clerk. The City's corporate authorities (Mayor, Council members) can provide that another officer may keep the corporate seal, affix

the seal, attest documents, record and file documents for safe keeping, etc. This other officer or employee does not have to be a Deputy Clerk, which is to say that it could be the Executive Assistant.

The Illinois Municipal Code sets forth the Deputy Clerk's duties as follows:

(65 ILCS 5/3.1-35-95) (from Ch. 24, par. 3.1-35-95)
Sec. 3.1-35-95. Deputy clerks.

(a) A deputy clerk may execute all documents required by law to be executed by the municipal clerk and may affix the seal of the clerk wherever required. In signing any document, a deputy clerk shall sign the name of the clerk followed with the word "By" and the deputy clerk's own name and the words "Deputy Clerk".

(b) Except in municipalities with a population of 500,000 or more, the powers and duties of a deputy clerk shall be exercised only in the absence of the clerk from the place where the clerk's office is maintained, and only when either written direction has been given by the clerk to that deputy to exercise a power or the corporate authorities have determined by resolution that the municipal clerk is temporarily or permanently incapacitated to perform that function. In municipalities with a population of 500,000 or more, the powers and duties of a deputy clerk shall be exercised upon the direction of the clerk, or when the corporate authorities have determined by resolution that the clerk is temporarily or permanently incapacitated to perform those functions and duties. When a deputy's signature is duly authorized as provided in this Section and is affixed by a deputy in the manner prescribed in this Section on any document (including but not limited to contracts, bonds, or other obligations of the municipality), the document shall have the same effect as if the document had been signed by the municipal clerk in person.

(Source: P.A. 87-1119.)

City Council direction is requested.

[\(Click here for a memo from Clerk Fazekas\)](#)

E. EXECUTIVE SESSION

F. ADJOURNMENT

[FULL AGENDA PACKET](#)

