



TO: The Honorable Mayor and the City Council

FROM: Ty Livingston, Director of Planning & Community Development

DATE: April 9, 2019

SUBJECT: Petition of the City of East Peoria to amend Title 5, Chapter 9, Section 4 and Title 5, Chapter 10, Section 2 of the East Peoria City Code for the purpose of allowing massage establishments as a Special Use in the B-3 Business Service District and M-1 & M-2 Manufacturing Districts.

BACKGROUND:

The proposed change here coincides with a larger code change that was recently approved by the City Council to address massage establishments. For quite some time, these uses have been relegated to the Adult Use section of our code. However, in recent decades these uses have been incorporated into medical offices as well as being corporatized (think Massage Envy locations in strip malls).

Given these changes, the City Code is being changed to reflect this market shift. The proposed change here addresses these uses which are not provided an exemption in the newly approved 3-22-2 code section. It permits these non-exempt uses as a Special Use in B-3, M-1 and M-2 zoning districts with a minimum separation from one another of 1,000 feet. Also, they cannot be co-located in a facility that contains a business which sells or dispenses alcoholic beverages.

The ZBA voted 5-0 at their meeting to recommend approval of this code change.

RECOMMENDATION: Approval of the code change, as presented.

ORDINANCE NO. 4433

AN ORDINANCE AMENDING TITLE 5, CHAPTER 9, SECTION 4 AND TITLE 5, CHAPTER 10, SECTION 2 OF THE EAST PEORIA CITY CODE FOR THE PURPOSE OF ALLOWING MASSAGE ESTABLISHMENTS AS A SPECIAL USE IN THE B-3 BUSINESS SERVICE DISTRICT, AND M-1 AND M-2 MANUFACTURING DISTRICTS

WHEREAS, the City of East Peoria has proposed an amendment to certain zoning regulations found at Title 5, Chapter 9, Section 4 and Title 5, Chapter 10, Section 2; of the East Peoria City Code which proposed amendments are hereinafter set forth; and

WHEREAS, after hearing pursuant to duly published notice, the East Peoria Zoning Board of Appeals has recommended approval of the proposed amendments; and

WHEREAS, the City Council finds that adoption of the proposed amendments would serve the best interests of the City of East Peoria and its citizens;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. Title 5, Chapter 9, Section 4(b) of the East Peoria City Code pertaining to special uses in the B-3, Business Service District is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

(b) *Special uses.* The following uses may be allowed by special use permit in accordance with section 5-11-10 of this title:

(1) *Recreational:*

- a. Drive-in theaters;
- b. Outdoor roller or ice skating rink;
- c. Go-cart or dune buggy or similar racing track.

(2) *Automotive:*

- a. Gasoline filling station;
- b. Auto body repair and painting;
- c. Auto, truck or motorcycle mechanical repair;
- d. New or used car sales and service;

- e. Truck stop but only under the following conditions:
 - (i) Truck stops shall be located within one thousand (1,000) feet of an interchange with an interstate highway or immediately adjacent to any federal or state highway; and
 - (ii) No truck stop shall be located within one thousand (1,000) feet of any property zoned for residential purposes by the East Peoria Zoning Code or the Tazewell County Zoning Code;

(3) *Miscellaneous:*

- a. Outdoor storage lot;
- b. Outdoor sales lot where the majority of the items sold or displayed are outside;
- c. Building and miscellaneous material establishment not entirely contained within a completely enclosed building;
- d. Mobile home or recreational vehicle sales or storage lot;
- e. Parking lots;
- f. Public utility;
- g. Planned unit development in accordance with chapter 12 of this title;
- h. On-premises freestanding signs which are at least forty-nine (49) feet but do not exceed eighty-five (85) feet in height, but only under the following conditions:
 - (i) Except for the height, the signs otherwise comply with the provisions of section 4-7-6 of this Code; ~~and~~
 - (ii) The signs are located on property that is within five hundred (500) feet of an interstate highway interchange, or between the edge of the Illinois River and a federal highway right-of-way; and
 - (iii) A height in excess of forty-nine (49) feet is reasonably necessary to provide visibility to travelers on Interstate 74.

- i. Off-premises signs as defined in title 4, chapter 7;
- j. Towers complying with the provisions of title 4;
- k. Residential facilities having more than twenty-five (25) dwelling units;
- l. Kiosks either staffed or automated, but only under the following conditions:
 - (i) No kiosk may be placed without a building permit. No building permit may be issued unless the owner first submits plans and specifications for the kiosk containing such details as the director deems necessary to confirm compliance with all applicable codes including, without limitation, parking and landscaping requirements for the zoning lot upon which the kiosk is located. All kiosks must have sufficient parking to accommodate staff and patrons.
 - (ii) If the owner of the kiosk is not the owner of the property upon which the kiosk will be placed, the owner of the kiosk must have a written contract with the owner of the property on which the kiosk is placed which contract allows placement of the kiosk on the property and establishes the terms and conditions under which the kiosk may remain at the location identified in the contract.
 - (iii) No outdoor seating shall be located in the vicinity of a kiosk for the purpose of serving customers of the kiosk.
 - (iv) In the event that an authorized kiosk remains in place only on a seasonal basis, the owner of the kiosk shall each year obtain an electrical permit before reconnecting the electrical service to the kiosk.
 - (v) The occupants of a staffed kiosk must at all times have the right under authority of a written contract to utilize restroom facilities in a building used for commercial purposes which restroom facilities are installed and maintained in accordance with plumbing regulations found at title 4, chapter 5 of the East Peoria City Code.

- (vi) Kiosks may be located only on a zoning lot already occupied by a principal building actively used for a purpose allowed in the zoning district in which the principal building is located.
 - (vii) No kiosk may be located within ten (10) feet of any property line.
 - (viii) No separate freestanding sign advertising only the business operating within a kiosk may be placed on the zoning lot occupied by the kiosk.
 - (ix) Any kiosk which serves food or drink prepared within the kiosk or other items ingested by customers such as ice shall be connected to both the water and wastewater systems of the city.
- m. Convention and exposition center, which shall include the following accessory uses on the grounds of the property if the property taken as a whole exceeds fifty (50) acres: outdoor theater and concerts, amphitheater, outdoor activities, exhibition tents, sales area, and portable toilet facilities for events; and campground for exhibitors (which may include recreational vehicle hookups, campfires, tents and portable toilet facilities). In conjunction with events the following shall be permitted:
- (i) Temporary overflow parking shall be permitted on grassy areas provided that the areas contain sufficient grass to promote dust and erosion control and crushed rock pathways to guide traffic to overflow parking shall be permitted.
 - (ii) Campfires shall be permitted in conjunction with camping and select events but only in accordance with International Fire Code rules and regulations or such other fire code as adopted by the city from time to time and safety measures that may be directed by the city fire chief.
 - (iii) Camping by attendees who are not exhibitors shall not be permitted unless a special permit is issued by the city for a specific event pursuant to such regulations and conditions as the city may adopt.

- n. Craft distilleries;
- o. Electric fences constructed in accordance with title 4, chapter 18 of the East Peoria City Code;
- p. Any use allowed as a special use in a B-2 zoning district;
- q. Medical cannabis dispensing organization but only under the following conditions:
 - (i) No such dispensing organization shall be located within one thousand (1,000) feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, public park, public library, residential substance abuse treatment facility, or place of worship.
 - (ii) No dispensing organization shall be located in a house, apartment, condominium or physician's office.
 - (iii) No person shall reside in or permit any person to reside in a dispensing organization.
 - (iv) No person under the age of eighteen (18) shall be allowed to enter a dispensing organization unless accompanied by a parent or guardian.
 - (v) Drive-through services shall be prohibited.
 - (vi) Outdoor seating areas shall be prohibited.
 - (vii) Consumption of medical cannabis on the premises, including the parking area shall be prohibited.
 - (viii) Hours of operation shall be not earlier than 8:00 a.m. and not later than 7:00 p.m.
 - (ix) Any such dispensing organization shall be operated in compliance with applicable federal, state and local laws and regulations.
- r. Massage establishments but only under the following conditions:

- (i) No such massage establishment shall be located within one thousand (1,000) feet of another massage establishment; and
 - (ii) No such massage establishment shall be located in a building or structure which contains a business that sells or dispenses alcoholic beverages in any manner.
- (4) Elimination of restrictions on expansion, enlargement or reconstruction of legal nonconforming uses as defined in chapter 5 of this title.
 - (5) Emergency shelters located within six hundred sixty (660) feet of any existing community residence as measured from lot line to lot line.
 - (6) Halfway houses located within six hundred sixty (660) feet of any existing community residence as measured from lot line to lot line.
 - (7) Hospices located within six hundred sixty (660) feet of any existing community residence as measured from lot line to lot line.
 - (8) Wineries on zoning lots which are contiguous to any parcel zoned or primarily used for residential purposes.

Section 2. Title 5, Chapter 10, Section 2(b) of the East Peoria City Code pertaining to permitted uses within the M-1, Manufacturing District is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

- (b) *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of section 5-11-10 of this title:
 - (1) Any use not listed above which is permitted in B-2 and B-3 districts.
 - (2) Bulk storage, sale and distribution of flammable liquids, fats or oils in tanks.
 - (3) Bus or truck garage, storage yard and terminal.
 - (4) Open-air storage, sale and distribution of solid fuels or contractors' equipment; provided that all outdoor storage areas are fully enclosed by solid fencing or walls not less than nine (9) feet in height and not nearer than fifty (50) feet to any public street or highway right-of-way.

- (5) Airports and heliports.
- (6) Planned industrial developments as defined in chapter 12 of this title.
- (7) Junkyards or automobile wrecking yards; provided that all outdoor storage areas are fully enclosed by solid fencing or walls not less than nine (9) feet in height and not nearer than fifty (50) feet to any public street or right-of-way.
- (8) Storage of any materials which are not noxious, toxic, corrosive, explosive, or which constitute refuse as defined in chapter 9-6.
- (9) Off-premises signs as defined in title 4, chapter 7.
- (10) Towers complying with the provisions of title 4.
- (11) The outdoor storage or display of materials, goods or products outside of the boundary of a scenic area.
- (12) The outdoor storage or display of materials, goods or products within the boundary of a scenic area.
- (13) Certain construction activities within a steep slope zone in accordance with the provisions of chapter 17 of this title.
- (14) The siting and construction of a small wind energy conversion system which complies with the Wind Energy Code.
- (15) On-premises automatic changeable copy signs, provided that all of the following conditions are met:
 - a. The sign is a freestanding sign located on a parcel having an area of thirty (30) acres or more.
 - b. Any property line of the parcel is located within two hundred (200) feet of the right-of-way line of Interstate Route 74.
 - c. The copy area of the sign does not exceed six hundred seventy-two (672) square feet.
 - d. Such other limitations as are necessary to minimize the adverse impact of the sign on either the public health, safety and welfare or on the quiet enjoyment of nearby property.

- e. The sign must comply with any and all standards imposed by the Sign Code of the City of East Peoria which are not inconsistent with the conditions imposed in this subsection which authorizes automatic changeable copy signs.

(16) Craft distilleries.

(17) Electric fences constructed in accordance with title 4, chapter 18 of the East Peoria City Code.

(18) Medical cannabis cultivation center but only under the following conditions:

- a. No such cultivation center shall be located within two thousand five hundred (2,500) feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, public park, public library, residential substance abuse treatment facility, place of worship, or an area zoned for residential use.
- b. No person shall reside in or permit any person to reside in a cultivation center.
- c. No person under the age of eighteen (18) shall be allowed to enter a cultivation center unless accompanied by a parent or guardian.
- d. Drive-through services shall be prohibited.
- e. Outdoor seating areas shall be prohibited.
- f. Consumption of medical cannabis on the premises, including the parking area shall be prohibited.
- g. Hours of operation shall be not earlier than 8:00 a.m. and not later than 7:00 p.m.
- h. Any such cultivation center shall be operated in compliance with applicable federal, state and local laws and regulations.

(19) Medical cannabis dispensing organization but only under the following conditions:

- a. No such dispensing organization shall be located within one thousand (1,000) feet of the property line of a pre-existing

public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, public library, residential substance abuse treatment facility or place of worship.

- b. No dispensing organization shall be located in a house, apartment, condominium or physician's office.
- c. No person shall reside in or permit any person to reside in a dispensing organization.
- d. No person under the age of eighteen (18) shall be allowed to enter a dispensing organization unless accompanied by a parent or guardian.
- e. Drive-through services shall be prohibited.
- f. Outdoor seating areas shall be prohibited.
- g. Consumption of medical cannabis on the premises, including the parking area shall be prohibited.
- h. Hours of operation shall be not earlier than 8:00 a.m. and not later than 7:00 p.m.
- i. Any such dispensing organization shall be operated in compliance with applicable federal, state and local laws and regulations.

(20) The siting and construction of solar energy systems which under the Solar Energy Code require a special use under the provisions of title 4, chapter 19.

(21) Massage establishments but only under the following conditions:

- a. No such massage establishment shall be located within one thousand (1,000) feet of another massage establishment; and
- b. No such massage establishment shall be located in a building or structure which contains a business that sells or dispenses alcoholic beverages in any manner.

Section 3. This Ordinance is hereby ordered to be published in pamphlet form by the East Peoria City Clerk and said Clerk is ordered to keep at least three (3) copies

hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 4. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS _____ DAY OF _____, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel