PLANNING AND ZONING COMMISSION
MEETING NOTICE

DATE: Wednesday, September 18, 2019
TIME: 7:30 p.m.
PLACE: McHenry Municipal Center (Council Chambers)
        333 South Green Street, McHenry, IL 60050

AGENDA

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Public Input – (five minutes total on non-agenda items only)

5. Consideration of Approval of Meeting Minutes:

   August 21, 2019 Regular Meeting

6. (THIS HEARING WILL BE HEARD AT A FUTURE DATE DUE TO PUBLICATION ERROR)

   Z-954 Public Hearing – Conditional Use Permit to allow a Medical Cannabis Dispensing
   Organization at 408 S. IL Route 31

   Applicant: Effingham Medical Farms LLC dba Justice Grown, 311 N. Aberdeen St.,
   Chicago, IL 60607

   Requested Action: Conditional Use Permit to allow a Medical Cannabis Dispensing
   Organization

   Location of Subject Property: The Subject property is located at 408 S. IL Route 31 in a
   strip mall, east of IL Route 31 and north of Charles Miller Rd.

7. Z-955 Public Hearing – Text amendments to the City of McHenry Zoning Ordinance:
   Article III. General District Regulations, Article V. Commercial Districts and Article XIX.

The City of McHenry is dedicated to providing the citizens, businesses and visitors of McHenry with the highest
quality of programs and services in a customer-oriented, efficient and fiscally responsible manner.
Definitions to add regulations, location requirements and definitions of vape stores, vaping products, vaping, electronic cigarettes and e-cigarettes

**Applicant:** City of McHenry, 333 S. Green St., McHenry, IL 60050

**Requested Action:** Text amendments to the City of McHenry Zoning Ordinance: Article III. General District Regulations, Article V. Commercial Districts and Article XIX. Definitions to add regulations, location requirements and definitions of vape stores, vaping products, vaping, electronic cigarettes and e-cigarettes and any other amendments and/or regulations required

8. **Staff Report:** Next Special Meeting Date: September 24, 2019 at 7:30 p.m.; Next Regular Meeting Date: October 16, 2019 at 7:30 p.m.

9. **Adjourn**
City of McHenry
Planning and Zoning Commission Minutes
August 21, 2019

Chairman Strach called the August 21, 2019 regularly scheduled meeting of the City of McHenry Planning and Zoning Commission to order at 7:30 p.m. In attendance were the following: Gurda, Lehman, Strach, Sobotta, Thacker and Walsh. Absent: Doherty. Also in attendance were Director of Economic Development Martin and Economic Development Coordinator Wolf.

Chairman Strach opened the public portion of the meeting at 7:30 p.m. There was nobody in attendance who wished to address the Commission with public comment.

Approval of Minutes

Motion by Thacker seconded by Lehman to approve the July 17, 2019 Regular Meeting minutes of the Planning and Zoning Commission as presented:

Voting Aye: Lehman, Strach, Sobotta, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: Gurda.
Absent: Doherty.
Motion carried 5-0.

Public Hearing: Harms Farm
File No. Z-953
4727 W. Crystal Lake Road

Zoning Map Amendment to A-1 Agriculture upon annexation and a Conditional Use Permit to allow a Landscape Business with Outdoor Storage

Chairman Strach called the Public Hearing to order at 7:30 p.m. regarding File No. Z-953 an application for a zoning map amendment from E Estate to A-1 Agriculture upon annexation and a Conditional Use Permit to allow Agritourism and a Landscape Business with Outdoor Storage for the property located at 4727 W. Crystal Lake Rd consisting of approximately 7.5 acres.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on July 26, 2019. Notices were mailed to all abutting property owners of record as required by ordinance. The subject property was posted. A Certificate of Publication and Affidavit of Compliance with notice requirements are on file in the City Clerk’s Office.

In attendance were Dennis and Theresa Harms, 4723 W. Crystal Lake Rd., McHenry, IL and Attorney Steve Cuda, 101 Van Buren St., Woodstock, IL 60098. Attorney Cuda stated he lives in McHenry and has known the Harms family for many years. The Harms are petitioning to be annexed into the City of McHenry and this hearing is addressing items in regard to that annexation. Mr. Dennis Harms verified information given on the land trust that the properties are held in. Attorney Cuda stated the property is currently in McHenry County. Mr. Harms gave
a brief overview of the business considerations and operations beginning in January through an entire year including growing, retail sales, field development, snow plowing and harvest festivals, pumpkin sales and Christmas tree sales. They also gave a brief overview of the items and times that outdoor storage is needed for the landscape business end of the Garden Center. Mr. Harms explained he has been in business since 1962 and is not proposing or expecting to add or change any operations or storage other than what is being done today. Mr. Harms stated he is contiguous to the City of McHenry. Mr. Harms stated it just appears to be a good time to annex and he feels they will get better cooperation and service in permits and other requests from the City of McHenry than the county at this time.

Director of Economic Development gave the Staff report stating the applicants currently operate Harms Farm and Garden Center on county-zoned property and are requesting a Zoning Map Amendment from E Estate to A-1 Agriculture upon annexation, which is a newly created zoning district in the City, and a Conditional Use Permit to allow Agritourism and a Landscape Business with Outdoor Storage. The subject property is zoned A-1 Agriculture currently in the County and operates as a garden center, farm stand, agritourism location and landscape and snowplowing business with outdoor storage.

In regard to the Zoning Map Amendment Director Martin stated the character of the area near the subject property consists of primarily residential land uses to the north, south and east of the subject property. The property to the west is McHenry West High School. The applicant is not proposing to alter their business, which has been in existence for decades. The proposed zoning map amendment is consistent with the development trend and satisfies all the criteria outlined in Table 33. The subject property provides a logical extension to City boundaries and the A-1 zoning is compatible with adjacent zoning and the uses the applicant has on their site. The A-1 zoning permits by right: agriculture; agritourism, limited; dwellings, farm stand; garden center; and greenhouse/nursery business. Staff has no concerns with this request.

In regard to the Conditional Use Permit Director Martin stated the applicant is seeking a conditional use permit to allow agritourism as well as a landscape business with outdoor storage. These are activities that the applicant currently conducts as part of their normal business operations on the subject property. The A-1 zoning district in the City of McHenry requires a conditional use permit for them and Staff believes they are complimentary to the other business activities conducted on-site and does not see any issues with the agritourism, landscape business or the outdoor storage. This does not now and staff does not foresee any adverse impacts to adjacent property owners in the future. Agritourism is a large part of the applicant’s business operation and has been for numerous years.

Director Martin stated zoning map amendments “shall be made in accordance with and consistent with a comprehensive plan.” This zoning map amendment is NOT consistent with the City’s Comprehensive Plan, Crystal Lake Road Sub-Area Plan and Future Land Use Map, however it is reasonable and in the public interest. The A-1 land use category is a newly adopted text amendment to the City’s zoning ordinance. By way of reference the City’s Comprehensive Plan was last amended in 2008 and the Crystal Lake Road Sub-Area Plan was completed in 2006. The A-1 zoning classification makes the most sense in this instance and fits the uses on the subject property and is therefore reasonable and in the public interest. The City’s Municipal
Code has an animal ordinance and any business regarding animals will be worked into the annexation agreement at the City Council level.

Director of Economic Development Martin stated Staff recommends approval of a Zoning Map Amendment from E Estate to A-1 Agriculture upon annexation to the City of McHenry with no conditions placed on the requested zoning map amendment and Staff finds that the requirements in Table 33 (Zoning Map Amendments) of the Zoning Ordinance have been met; and Staff also recommends approval of a Conditional Use Permit to allow AgriTourism and a Landscape Business with Outdoor Storage with the condition the applicant enter into an annexation agreement with the City, and Staff finds the requirements in Table 31 (Conditional Use Permits) of the Zoning Ordinance have been met.

Chairman Strach invited questions and/or comments from the Commission. Commissioner Thacker inquired about the animals brought to the Farm in the fall and the Harms stated they are only brought in for 5 weeks or so, there are no animals on the farm year-round.

Chairman Strach opened the floor to questions and comments from the audience.

Mr. Mike Bartolone, 4809 Crystal Lake Rd., McHenry, IL asked what the impact on his property right next door to Harms Farm will be, since they purchased a lot right next to him, such as a privacy fence or barrier. Attorney Cuda stated the lot in question is the southern-most lot in the petition and has been used by the Harms for the past 26 years even though they did not own it. Attorney Cuda stated there is a 60’ right of way (Kelker Street) and there are no plans for a fence at this time because nothing is changing from the past 26 years. Mr. Bartolone questioned whether there would be any forced impact on them or their property. Chairman Strach stated the property use is contiguous and in the same use since 1980 and nothing is proposed to be changed or forced after the annexation.

Basia Herron, 4719 Crystal Lake Rd., McHenry, IL stated she lives on the north side of the property and asked if sewer and water hookup would be mandated on adjoining properties. Chairman Strach stated the annexation goes through City Council and adjoining properties are not being mandated to hookup to sewer and water or annex.

Chairman Strach closed the public comment portion of the hearing at 8:01 pm. There were no further questions or comments from the Commissioners.

Motion by Thacker seconded by Lehman to recommend to the City Council with regard to File No. Z-953, approval of an application for a Zoning Map Amendment from E Estate to A-1 Agriculture upon annexation to the City of McHenry with no conditions placed on the requested zoning map amendment and Staff finds that the requirements in Table 33 (Zoning Map Amendments) of the Zoning Ordinance have been met.

Voting Aye: Gurda, Lehman, Sobotta, Strach, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: Doherty.
Motion carried 6-0

Motion by Thacker seconded by Gurda to recommend to the City Council with regard to File No. Z-953, approval of an application for a Conditional Use Permit to allow Agritourism and a Landscape Business with Outdoor Storage with the condition the applicant enter into an annexation agreement with the City, and Staff finds the requirements in Table 31 (Conditional Use Permits) of the Zoning Ordinance have been met.

Voting Aye: Gurda, Lehman, Sobotta, Strach, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: Doherty.
Motion carried 6-0

Chairman Strach closed the Public Hearing regarding File No. Z-953 at 7:55 pm.

Staff Report

Director Martin stated that the September 18, 2019 regularly scheduled meeting will be held at 7:30 p.m. and there will be a couple of cases heard.

Adjournment

Motion by Lehman seconded by Sobotta to adjourn the meeting at 7:56 p.m.

Voting Aye: Gurda, Lehman, Strach, Sobotta, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: Doherty.
Motion carried 6-0.

The meeting was adjourned at 7:56 p.m.

Respectfully submitted,

Shawn Strach, Chairman
City of McHenry
Planning & Zoning Commission
PLANNING AND ZONING COMMISSION STAFF REPORT Z-955 TEXT AMENDMENT TO THE CITY OF MCHENRY ZONING ORDINANCE: ARTICLE III. GENERAL RESIDENTIAL DISTRICT REGULATIONS; ARTICLE V. COMMERCIAL DISTRICTS; AND ARTICLE XIX DEFINITIONS REGARDING VAPING ESTABLISHMENTS

September 18, 2019

Applicant
City of McHenry
333 S Green Street
McHenry IL 60050

Requested Actions
Text amendment to the City of McHenry Zoning Ordinance: Article III. General Residential District Regulations; Article V. Commercial Districts; and Article XIX Definitions regarding vaping establishments

Background
Vaping is extremely prevalent in our society, particularly by young people. There has been at least one death and numerous illnesses attributed to vaping throughout the United States. Severe respiratory and other issues are linked to vaping and e-cigarette use (see attached articles).

On February 18, 2019 (see attached minutes) the City Council discussed vape shops and the health risks associated with vaping. They talked about e-cigarettes being readily accessible at vape shops but also at other stores including fueling centers, convenience stores and grocery stores. There are five vape stores in the City of McHenry and numerous stores which sell vaping products as accessory uses.

Staff Analysis
Following the City Council discussion Attorney McArdle recommended a moratorium be placed on vape shops until more research could be conducted. Subsequently, an ordinance adopting a moratorium on vape shops was placed on the March 18, 2019 City Council meeting agenda and approved by the City Council.

Attached is a proposed text amendment to the City of McHenry Zoning Ordinance which regulates vape stores, products, vaping and electronic/e-cigarettes. Vape stores are permitted in the C-5 zoning district. They must obtain a tobacco license; must be 1,000 feet from other vape stores, school, child care or children’s recreation facility. Accessory use vaping products are permitted in all commercial zoning districts so long as the vaping products display and storage utilize less than 2% of the gross floor area of the authorized principal structure or 200 square feet, whichever is less. They must be ancillary to the principal use and a tobacco license is required.

Staff Recommendation Prior to Public Hearing
Approval of the text amendment to the City of McHenry Zoning Ordinance: Article III. General Residential District Regulations; Article V. Commercial Districts and Article XIX Definitions regarding vaping establishments.
Attachments:

“With vaping-related illnesses reported in area, Illinois Attorney General urges people to avoid e-cigs”

“Mystery lung illness linked to vaping. Health officials investigating nearly 100 possible cases.”

“Bethalto police report big vaping problem at Civic Memorial High School, ask for parents’ help”

February 18, 2019 City Council meeting minutes

Proposed Ordinance Amending the Text of Article III General District Regulations, Article V Commercial Districts and Article XIX Definitions of the City of McHenry Zoning Ordinance regarding Vaping Establishments
COPD and Still Can’t Breathe?
Take a Short Severity Quiz

Learn About Options
U07033EN, A February 2019
MyLungsMyLife.com

LOCAL

With vaping-related illnesses reported in area, Illinois Attorney General urges people to avoid e-cigs

By SHAW MEDIA ILLINOIS
© 10:55 am

People around the area have reported severe respiratory and other problems after using e-cigarette and vape products, and Illinois Attorney General Kwame Raoul is warning people to avoid using them.

all, Lake, McHenry and Will

is after e-cigarette or vape use, the health service. The release cites the Illinois Department of Public Health. Cases involve individuals between the ages of 17 and 38 and have resulted in one fatality.

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Casinos Hate When You Do This, But This Is Not Cheating
Weekly Penny

Mini Air Conditioner Takes USA By Storm. The Idea Is Genius
Zen Cooler

The Cost of Stairlifts in McHenry Might Surprise You
Stairlift

Illinois Drivers With No Tickets In 3 Years Should Do This On September
Comparisons.org

7 Symptoms of Cancer You Might Not Have Heard Of
WMNLife
The Bears Preview includes everything you’ll want on the 2019 season: player bios, news, schedule, stats and stories.
LOCAL COMMUNITY CALENDAR

SEP 21  Minefaire  Schaumburg Convent... | Schaumburg, IL

AUG 31  MYSTIC  Lakeside Legacy Ar... | Crystal Lake, IL

AUG 31  Disney's Freaky Friday  Raue Center for th... | Crystal Lake, IL

AUG 31  McHenry East & West Class of '09 Reunion  Holiday Inn | Crystal Lake, IL

AUG 31  Street Dance  Main Street Wauconda... | Wauconda, IL

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LETTERS TO THE EDITOR

Letter: What God wants
Letter: Why bad things happen
Letter: Hypocrisy
Letter: Stuff the Stocking for Zach
Letter: Smiley face
Letter: The reason for townships
Letter: Honesty in politics
Letter: County politics not working
Letter: Despite all my rage
Letter: The Illinois Constitution
Health

Mystery lung illness linked to vaping. Health officials investigating nearly 100 possible cases.

By Lena H. Sun and Lindsey Bever
August 16

State and federal health officials are investigating almost 100 cases of mysterious lung illnesses linked to vaping and e-cigarette use in 14 states, many of them involving teens and young adults. A large number of those stricken ill have been hospitalized, with some in intensive care and on ventilators.

At least 31 cases have been confirmed as of Friday, state officials said, and dozens more are under investigation. Medical authorities say it is unclear whether patients will fully recover.

Officials are warning clinicians and the public to be on alert for what they describe as a severe and potentially dangerous lung injury. Symptoms include difficulty breathing, shortness of breath or chest pain before hospitalization. Health officials said patients have also reported fever, cough, vomiting and diarrhea.

The Centers for Disease Control and Prevention said Friday that officials are working with health departments in at least five states with confirmed cases — California, Illinois, Indiana, Minnesota and Wisconsin — to determine the cause of the condition after “a cluster of pulmonary illnesses linked to e-cigarette use” was reported among adolescents and young adults in recent weeks. In a call Friday with state health authorities, CDC officials said they were probing 94 possible cases in 14 states.

To date, there is no consistent evidence that an infectious disease is the culprit, CDC officials said they themselves, or with specific ingredients or contaminants inhaled through them. Health officials have said patients have described vaping a variety of substances, including nicotine, marijuana-based
injury. When the patients were treated with steroids, among other therapies, they showed improvement.

Clinicians don’t know whether the patients will suffer long-term consequences, she said.

“These cases are extremely complex to diagnose, as symptoms can mimic a common infection yet can lead to severe complications and extended hospitalization,” Chapman said. “Medical attention is essential. Respiratory conditions can continue to decline without proper treatment.”

E-cigarettes are a diverse group of products containing a heating element that produces an aerosol from a liquid that users can inhale via a mouthpiece. Millions of Americans use e-cigarettes, with the greatest use among young adults. In 2018, more than 3.6 million U.S. middle and high school students said they had used e-cigarettes in the past 30 days, according to the CDC.

A National Academies of Sciences, Engineering and Medicine report in January 2018 found that while evidence suggests that e-cigarettes are likely to be less harmful than conventional cigarettes, which produce a raft of toxic substances when burned, they still pose health risks. Among nonsmoking adolescents and young adults, the report said, “their adverse effects clearly warrant concern.” Such effects include “moderate evidence for increased cough and wheeze” and increased incidence of asthma attacks.

But many medical authorities believe there still isn’t sufficient data to know their full effects, especially on young people.

Dylan Nelson, of Burlington, Wis., who has asthma and has been vaping for about a year, was hospitalized with pneumonia last month after he started having trouble breathing. The 26-year-old described feeling as if he were breathing through a straw. He said he was coughing, his heart was racing, and his breathing was hard and fast.
“I think it’s important to understand that vaping is assumed to be safe, and yet we know so little about it,” she said.

Read more:

FDA plans curbs on e-cigarette sales over concerns about surge in teen vaping

More states are targeting teen vaping, but health advocates say it’s not enough to curb use

In the ‘Juul room’: E-cigarettes spawn a form of teen addiction that worries doctors, parents and schools

1.2k Comments

Lena H. Sun
Lena H. Sun is a national reporter for The Washington Post covering health with a special focus on public health and infectious disease. A longtime reporter at The Post, she has covered the Metro transit system, immigration, education and was a Beijing bureau chief. Follow

Lindsey Bever
Lindsey Bever is a general assignment reporter for The Washington Post, covering national news with an emphasis on health. She was previously a reporter at the Dallas Morning News. Follow

https://www.washingtonpost.com/health/2019/08/16/mystery-juul-officials-investigating-nearly-possible-cases/?noredirect=on
BETHALTO — Civic Memorial High School's resource officer Brock Cato on Wednesday night reported that, only 10 days into the new school year, vaping devices containing nicotine on school grounds have been an issue.

He says that nine students have already been found to be in possession of the products, banned on school property. At the request of school administrators he's written those students up on village ordinance violations, requiring them to appear in court before a judge.
within Madison and St. Clair counties, alone.
Mayor Jett also agreed that partnering with the County eliminates any political interference in the process.

Alderman Glab and Alderman Santi were also comfortable with the County’s role as the Ethics Commission.

Attorney McArdle stated he will continue to work with the State Attorney with regards to this matter.

Discussion Only Items:

Video Gaming
Mayor Jett reported that he placed this matter on the agenda to collectively discuss with the Council Members their current vision with respect to video gaming.

Alderman Curry commented on the fact that he struggles with the idea of allowing any additional video gaming establishments. However, he realizes the gaming terminals provides the City with an additional revenue stream. He continued on to report that the City ranks 13th in the State with respect to the amount of video gaming terminals. In comparison, the City’s population ranks only 80th in the State.

Attorney McArdle commented on the method in which the Council Members could resolve this challenging topic. He suggested the Council Members first define what a gaming parlor is. He suggested they could use measurements such as floor space square footage, dining income or the establishment offering a full service kitchen. He continued on to note that the video gaming license is directly tied to the Issuance of a Class A or B liquor license which is only issued at the discretion of the full City Council.

A lengthy discussion ensued with respect to ways in which to restrict video gaming.

Mayor Jett asked if anyone in attendance wished to comment on the matter under discussion. Mr. Joe Dougherty approached the podium. Mr. Dougherty reported that in his opinion video gaming revenues could have a positive impact on the community and be used to fund roadway repairs and improve the City’s infrastructure. In addition, he noted that it is getting harder and harder to get people to patronize brick and mortar establishments. Video gaming does incentive some people to patronize various establishments. Mr. Dougherty thanked the Council Members for their time.

This matter will be discussed again at an upcoming City Council meeting.

Vape Shops
Mayor Jett reported that he placed this matter on the agenda due to the fact that there are more and more vape shops popping up all the time. He wanted to discuss this matter will the full
Council to get a consensus on what the vision is for the community at large with respect to vape shops.

Alderman Condon discussed the health risk associated with vaping. Alderman Schaefer commented on the fact that e-cigarettes and vaping supplies are readily assessable. He reported that you can purchase them at gas stations, convenient stores, and vape shops. Chief Birk reported that his department is currently in the process of conducting educational sessions at both the Middle and High Schools. He hopes by offering these types of educational sessions it will deter minors’ from using e-cigarettes and vaping. Attorney McArdle suggested the Council Members consider placing a moratorium on vape shops until more research can be completed. The Council Members concurred with Attorney McArdle’s recommendation.

Mayor Jett asked those in attendance if they had any comments on the matter that was currently under discussion. Those in attendance offered no comments.

Attorney McArdle reported that he will draft an Ordinance placing a moratorium on vape shops for Council consideration at an upcoming City Council Meeting.

Staff Reports:

Chief Birk reported that two Officers in two separate squad cars were recently involved in two traffic accidents. He was pleased to report that there were no injuries.

Mayor and City Council Comments:

Mayor Jett apologized for a recent incident involving his Constant Contact account.

Executive Session:

Motion to enter into Executive Session to discuss Collective Bargaining Matters as permitted by 5 ILCS 120/2 (c) [2].

Mayor Jett stated at this time he would entertain a motion to enter into executive session to discuss collective bargaining matters as permitted by 5 ILCS 120/2 (c) [2] with no action to follow.

A Motion was made by Alderman Santi and seconded by Alderman Curry to enter into executive session to discuss collective bargaining matters as permitted by 5 ILCS 120/2 (c) [2] with no action to follow. Roll call: Vote: 7-ayes: Alderman Santi, Alderman Curry, Alderman Glab, Alderman Schaefer, Alderman Milhevc, Alderman Devine and Alderman Condon. 0-nays, 0-abstained. Motion carried.

The Council Members along with Attorney McArdle, Chief Birk and Deputy Clerk Meadows entered into executive session 8:26 p.m.
PROPOSED ORDINANCE AMENDING THE TEXT OF ARTICLE III GENERAL
DISTRICT REGULATIONS, ARTICLE V COMMERCIAL DISTRICTS AND
ARTICLE XIX DEFINITIONS OF THE CITY OF MCHENRY ZONING
ORDINANCE REGARDING VAPING ESTABLISHMENTS

WHEREAS, the City of McHenry, McHenry County, Illinois, is a home rule
municipality as contemplated under Article VII, Section 6, of the Constitution of the
State of Illinois, and the passage of this Ordinance constitutes an exercise of the
City’s home rule powers and functions as granted in the Constitution of the State of Illinois;

WHEREAS, the City Council of the City of McHenry has determined that is in
the best interest of the City to amend the current Zoning Ordinance regulations
relating to vaping stores and to clarify that such uses include establishments that
sell alternative nicotine products as set forth in this Ordinance (the “Proposed
Amendments”);

WHEREAS, a petition has been filed by the City Council of the City of McHenry
requesting a Zoning Text Amendment to the Zoning Ordinance;

WHEREAS, a public hearing on said petition was held before the Planning and
Zoning Commission on September 18, 2019 in the manner prescribed by ordinance
and statute, and as a result of said hearing, the Planning and Zoning Commission
did recommend to the City Council the granting of the requested Zoning Text
Amendment; and

WHEREAS, the City Council has considered the evidence and
recommendations from the Planning and Zoning Commission and finds that the
approval of the requested Zoning Text Amendment is consistent with the
objectives of the City of McHenry Zoning Ordinance to protect the public health,
safety, morals and general welfare of its residents.
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCHENRY, MCHENRY COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The foregoing recitals are incorporated into this Ordinance as if fully set forth in this section.

SECTION 2: Article XIX Definitions of the City of McHenry Zoning Ordinance is hereby amended by adding thereto the following definitions:

**Vape Store:** Retail establishment which specializes (25% or more of its shelf space inventory) in the sale of electronic and/or e-cigarette items, products and/or paraphernalia."

**Vaping Product:** Any item and/or paraphernalia used for vaping and/or utilized for electronic and/or e-cigarettes.

**Vaping:** Inhaling vapor which is produced by either a vaporizer or electronic cigarette.

**Electronic Cigarette/E-Cigarette:** A battery-operated device designed to resemble a traditional cigarette used to inhale nicotine vapor; a device that aerosolizes nicotine for inhalation but does not burn tobacco.

SECTION 3: Article III of the City of McHenry Zoning Ordinance is Hereby Amended to add a new subsection R as follows:

R. Vape Stores and Accessory Use of Vaping Products.

1. Principal Use: Vape Stores may be established as a principal use only in the C-5 Highway Commercial Zoning District as specified by this Ordinance after obtaining a tobacco license.
2. Accessory Use Vaping Products also may be sold as an accessory use in all commercial zoning districts so long as a) the vaping products display and storage utilize less than two (2) percent of the gross floor area of the authorized principal structure or two-hundred (200) square feet, whichever is less; (b) they are customarily and traditionally incidental to the principal use, such as in the case of a grocery store, convenience store, or similar retail use; and (c) a tobacco license is obtained prior to the sale and/or distribution of any vaping products.

3. The minimum distance between any two vape stores shall be one thousand (1,000) feet, as measured from front door to front door.

4. The minimum distance any vape store and any lot, premises or building used primarily as a school, child care facility or for the education or recreation of children under 18 years of age shall be one thousand (1,000) feet, as measured from the front door to the front door.

SECTION 4: That Article V Commercial Districts Group N: Additional Permitted Uses in C-5 District is hereby amended by adding thereto the following language:

"Vape Stores"

SECTION 5: All Ordinances or parts thereof in conflict with the terms and provisions hereof are hereby repealed to the extent of such conflict.

SECTION 6: This Ordinance shall be published in pamphlet form by and under the authority of the corporate authorities of the City of McHenry, McHenry County, Illinois.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.
PASSED THIS _________ DAY OF ___________________, 2019

AYES: ___________________________________________

NAYS: ___________________________________________

ABSTAINED: _______________________________________

ABSENT: _________________________________________

NOT VOTING: _______________________________________

APPROVED THIS _______ DAY OF ___________________, 2019

_______________________________________________
MAYOR

ATTEST:

_______________________________________________
CITY CLERK