

**AGENDA
PLANNING AND ZONING COMMISSION
&
HISTORIC COMMISSION**

**Village of East Dundee
February 5, 2020
6:00 PM
Senior Center (Large Room)
665 Barrington Avenue
Carpentersville, IL 60110**

CALL TO ORDER

ROLL CALL / DECLARATION OF QUORUM

APPROVAL OF MINUTES

1. Planning and Zoning Commission Meeting Minutes dated June 6, 2019

PUBLIC COMMENT

HISTORIC COMMISSION

1. **Certificate of Appropriateness for Fence: 325 Meier Street**
 - a. Discussion and Motion to Recommend Approval/Denial of a Certificate of Appropriateness for Diamond Jim's temporary structure.

NEW BUSINESS

1. **PUBLIC HEARING (VOED)** – To consider a request for an Ordinance of the Village of East Dundee, Cook and Kane Counties, Illinois, amending various sections of Chapter 157 of the Village of East Dundee Village Code relative to adult-use and medical cannabis business establishments.
2. **ORDNANCE RECOMMENDATION (VOED)** - Recommendation to Village Board regarding an Ordinance of the Village of East Dundee, Cook and Kane Counties, Illinois, amending various sections of Chapter 157 of the Village of East Dundee Village Code relative to adult-use and medical cannabis business establishments.

OTHER BUSINESS

ADJOURNMENT

Chairman Brewer called the Historic Commission meeting to order at 6:00 p.m.

Roll: 6 Present (Holliman, Scarpelli, Steneck, Muscat, Schock and Brewer). 3 Absent (Meyer, Apke and Bernstein). Also present were Assistant Village Administrator Brad Mitchell, Building Inspector Chris Ranieri and Village Clerk Katherine Holt.

APPROVAL OF MINUTES:

1. Planning and Zoning Commission Meeting Minutes dated April 4, 2019

Motion to approve the April 4, 2019 meeting minutes by Holliman/Scarpelli.

Motion carries by unanimous vote.

PUBLIC COMMENT: None

NEW BUSINESS: None

HISTORIC COMMISSION:

1. Certificate of Appropriateness for Fence: 325 Meier Street

- a. Discussion and Motion to Recommend Approval/Denial of a Certificate of Appropriateness for Diamond Jim's proposed fence

Jeff Lambert, applicant and owner of Diamond Jim's, stated that the replacement fence will be wrought iron and just under 6 feet tall with simple geometric designs. He advised that the fence is being designed by an individual that specializes in historic renovations. He presented renderings of the design to the Commission.

Motion to Approve the Certificate of Appropriateness contingent upon final design presentation to the Village for 325 Meier Street by Holliman/Muscat.

6 Ayes (Scarpelli, Holliman, Steneck, Schock, Muscat and Brewer). 0 Nays. 3 Absent (Bernstein, Apke and Meyer). Motion carries.

2. Certificate of Appropriateness for Outdoor Patio/Covered Pavilion: 306-308 River Street

- a. Discussion and Motion to Recommend Approval/Denial of a Certificate of Appropriateness for Aliano's proposed outdoor patio/covered pavilion with a retaining wall

Jim Seng, Applicant and owner of Aliano's Ristorante, is requesting to build an outdoor dining space. He advised that the project would include new ground pavers and bricks, a 36 inch tall capped retaining wall along the sidewalk with an entrance gate, a 13 foot wide bar along the south wall of the existing building and a 20 foot wide by 50 foot long pergola above the bar and dining area. In addition, Seng is proposing to erect a 6 foot tall wooden fence with swinging gates along the backside of the lot. A bocce ball court will be set up near the fence area. There are plans to also build an outdoor brick fireplace which will require the installation of plumbing, electric and a gas line. Seng is requesting permission to use a temporary tent for the next two winter seasons as Phase 2 plans would include something more permanent for coverage. Commissioner Holliman asked if Aliano's owns the lot. Seng replied that Aliano's does not

Village of East Dundee
Kane County, IL
Historic Commission
June 6, 2019

currently own it but is signing a 5 year lease at this time with an option of another 5 years with an addendum for the first right to buy the properties at 306, 308 and 310 River Street. He said he wants to stay in East Dundee permanently.

Motion to Approve a Certificate of Appropriateness for Aliano's proposed outdoor patio/covered pavilion with a retaining wall as presented by Scarpelli/Schock.

6 Ayes (Scarpelli, Holliman, Steneck, Schock, Muscat and Brewer). 0 Nays. 3 Absent (Bernstein, Apke and Meyer). Motion carries.

Motion to close the Historic Commission Meeting at 6:27 p.m. Scarpelli/Schock.

Motion carries by unanimous vote.

Village of East Dundee Memorandum

To: Planning and Zoning Commission (Historic District Commission)
CC: Jennifer Johnsen, Village Administrator
Chris Ranieri, Building Inspector
From: Brad Mitchell, Assistant Village Administrator
Subject: 325 Meier Street (Diamond Jim's) – Historic Certificate of Appropriateness
Date: February 5, 2020

Jeff Lambert, of Diamond Jim's Tavern, located at 325 Meier Street, has submitted an application for a Certificate of Appropriateness for a three (3) sided temporary structure in front of their outside bar. It should be noted that this structure has already been built without a permit and is currently being utilized for shelter by patrons of the establishment. The exterior panels are OSB (Oriented Strand Board) and not designed for direct exposure to the weather. The roof is covered with roofing felt paper and does not have shingles. The structure is four foot (4') sections and the total size is 12' x 16', which matches the size of the outside bar. The panel sections are built for easy assembly and disassembly.

As the property is located within the Village's Historic District, the application requires review by the Planning and Zoning Commission acting as the Historic District Commission (HDC). Attached, please find the Certificate of Appropriateness application and photos of the temporary structure. The Historic District Commission shall consider the following in determining issuance of a Certificate of Appropriateness:

1. The historic or architectural value and significance of the district and the surrounding area will not be lessened.
2. The relationship of any architectural features of the building and the surrounding area will be positively affected.
3. The general design, arrangement, and materials proposed to be used will be maintained.
4. The height of the new building shall comply with the Zoning Code and shall not exceed the height of the existing building.
5. The proportions of the front facade shall match the existing building and comply with the Building Code.
6. The proportions of windows, doors and other openings shall match the existing building and comply with Building Code.
7. The building bulk and density shall comply with the Zoning Code.
8. The textures, materials and shape for roof shall match the existing building and comply with Building Code.

Staff Recommendation: It is the recommendation of the Village's Building Inspector to not approve the Certificate of Appropriateness and that the structure be removed.

Action Requested: Discussion and Motion to Recommend Approval/Denial of a Certificate of Appropriateness for 325 Meier Street (Diamond Jim's) three (3) sided temporary enclosure located in front of their outside bar in the courtyard.

Attachments: Certificate of Appropriateness
Photos of temporary structure



EAST DUNDEE HISTORIC COMMISSION
CERTIFICATE OF APPROPRIATENESS

Please submit this application along with supporting documents (one [1] original and nine [9] copies). Your application will be reviewed by the East Dundee Historic Commission. You are strongly urged to attend this meeting in person. If you would like assistance with the preparation of this application, or if you have any questions concerning your request or the review procedure, call the village office at 847-426-2822.

MUST BE SUBMITTED A MINIMUM OF 8 DAYS PRIOR TO MEETING. THE HISTORIC COMMISSION MEETS ON THE SECOND THURSDAY OF EVERY MONTH IMMEDIATELY FOLLOWING THE PLANNING/ZONING MEETING.

ADDRESS OF PROPOSED WORK 325 MEER ST., E. DUNDEE

APPLICANTS NAME JEFF LAWSON, DIAMOND JUNG TAVEL

TELEPHONE NUMBER (Home) 847-800-9927 (Work) _____

PROPERTY OWNERS NAME CARL MIZAK PHONE # 773-593-5455

Nature of proposed change: (check all that apply)

☒ New Construction ☐ Extensive renovation

☐ Sign

☐ Demolition

☐ Minor Renovation, Repair or Alteration

☐ Facade

☒ Other TEMPORARY ENCLOSURE

*Sign: Must include the lettering style and size.

Describe all changes proposed for the structures exterior. Include plans, photographs and any other information as needed. Give size, style, and precise location of lettering, if any; and any other information that will assist the commission in their deliberations. Use attachments as necessary. Include a date when the project will be completed.

3 SIDED TEMPORARY ENCLOSURE PLACED IN FRONT OF THE OUTSIDE BAR. PROVIDING SHELTER, BUILT IN PANEL SECTIONS SCREWED TOGETHER FOR EASY ASSEMBLY + DISASSEMBLY. FOUR FOOT SECTIONS. STRUCTURE IS 12' x 16' MATCHING THE SIZE OF THE BAR. PLEASE SEE ATTACHED PHOTOS.

12' x 16' x 12'

Circle one or more of the East Dundee Historic Code Provisions that apply.

- ☒ A The historic or architectural value and significance of the district and the surrounding area will not be lessened.
- ☒ B The relationship of any architectural features of the building and the surrounding area will be positively affected.
- ☒ C The general design, arrangement, and materials proposed to be used will be maintained.

I, the undersigned, hereby state that all of the information presented in this application is true and complete, to the best of my knowledge.

Signature: Jeff Lawson

Date: 1/17/20

HISTORIC COMMISSION USE ONLY

This application has been (Approved / Denied)











Village of East Dundee Memorandum

To: Planning and Zoning Commission

CC: Village President and Board of Trustees
Brad Mitchell, Assistant Village Administrator
Chris Ranieri, Building Inspector
Joe Heinz, Village Engineer

From: Jennifer Johnsen, Village Administrator

Subject: Cannabis Zoning Code Amendments

Date: February 5, 2020

P&Z Discussion Items and Purpose

The purpose of the February 5th Planning and Zoning Commission is to review the attached ordinance regarding proposed amendments to the Zoning Code related to cannabis uses. The areas of discussion are as follows:

- Zoning district(s) or overlay district(s) in which cultivation centers, craft growers, and infuser, processing, and transportation organizations should be permitted.
- Zoning district(s) or overlay district(s) in which dispensaries should be permitted.
- Whether or not each cannabis use should be a use that is permitted outright or require a special use permit with or without outlined site plan, disposal, ventilation, and security requirements.
- Whether or not to establish separate parking requirements for dispensaries and require dedicated parking in the B-1 Downtown District.

As the Village Board has already approved legislation to permit cannabis uses within the Village, the Planning and Zoning Commission must make a recommendation on the aforementioned areas of discussion including the permitted location of such uses, and the Village Board must approve said regulations, otherwise, the cannabis uses will be permitted outright throughout the Village.

Background

On August 1, 2013, the State of Illinois adopted the Illinois Compassionate Use of Medical Cannabis Pilot Program Act. Then in November 2014, the Village Board reached a consensus to add pharmacies and drug stores to the M-1 Zoning District to allow for the sale of medical marijuana in these districts. However, no business in East Dundee was ever granted one of the limited number of medical marijuana licenses available in the State and the Village Code was never amended to effectuate this consensus.

On June 25, 2019, the State of Illinois approved the Cannabis Regulation and Tax Act (hereinafter “the Act”) which legalized the use and sale of recreational cannabis in the State of Illinois and took effect on January 1, 2020. Then in mid-November, the State approved a trailer bill further amending the Act. Attached, please find a PowerPoint summary of the Act prepared by Klein, Thorpe and Jenkins.

On September 16, 2019, the Village Board approved an ordinance allowing for cannabis uses within the Village and creating a 3% municipal cannabis tax.

On December 9, 2019, the Village Board considered draft regulations related to cannabis uses. The regulations were separated into those that would be incorporated in the Village Code as regulations related to the business and those that would be incorporated into the Zoning Code. The attached ordinance effectuates the recommendation approved by the Village Board.

Zoning Regulations Recommended by the Village Board (Included within the Draft Ordinance)

Cultivation Centers Craft Growers, and Infuser, Processing, and Transportation Organizations

- Zoning Districts: M-1 and M-2
- Overlay District: N/A
- Location Restriction from Certain Uses: Cannot locate within 2,500 feet of any existing school, day care, residential district (to mirror medical cultivation center State restrictions) and church (as churches are included in the liquor code).
- Distance Between Cannabis Uses: 1,500 (as required by the State’s Act)
- Such cannabis uses shall only be permitted by special use permit with outlined site plan, disposal, ventilation, and security requirements.

Dispensaries

- Zoning Districts: B-1, B-2, B-3, M-1 and M-2
- Overlay District: N/A
- Location Restriction: None.

Although the Village can implement distance requirements, the Village Board’s recommendation does not include distance requirements for dispensary uses.

- Distance Between Cannabis Uses: 1,500 (as required by the State’s Act)
- Such cannabis uses shall only be permitted by special use permit with outlined site plan, disposal, ventilation, and security requirements.

Parking Regulations Recommended by Staff (Included within the Draft Ordinance)

The draft ordinance also contains proposed amendments to the parking regulations for cannabis dispensaries. The need for this recommendation became apparent following the commencement of the sale of recreational cannabis that occurred on January 1st. Although the demand should lessen over time, it is evident that the use will require a sufficient number of dedicated off-street parking spaces in order to satisfy the needs of the business and not negatively impact existing businesses or residential streets.

- At least one parking space shall be provided for each 150 square feet of gross floor area; minimum of ten spaces must be provided.
- All dispensary uses in the B-1 Downtown District shall be required to provide off-street parking regardless of current parking exemptions contained within the Zoning Code for other uses located within the B-1 Downtown District. As such, dispensary uses located downtown will need to construct, purchase or lease off-street parking that is not already dedicated to another establishment.

Business Regulations Recommended by the Village Board (For Reference Only)

The Village Board also reached a consensus to amend the Village Code regarding the business regulations for cannabis uses and adopt the following regulations which are above and beyond those regulations contained within the State's Act. As such, it is anticipated that the additional regulations will be incorporated into the Village Code. However, these are not amendments to the Zoning Code, and are therefore outside of the scope of the discussion by the Planning and Zoning Commission. Nevertheless, they are helpful in understanding how the uses will be regulated.

Please note, the ventilation plan and security plan are also incorporated into the proposed special use permit process.

All Cannabis Uses

- No cannabis odors shall be detectable outside of the premise and a ventilation plan shall be required at the time of application and shall be maintained.
- No products (cannabis and paraphernalia) being sold shall be visible by the general public or public space.
- A security plan that includes an interior and exterior surveillance system and the lighting of all entrances and exits to the facility shall be required at the time of application and shall be maintained.
- Access to police, code enforcement, and other appropriate Village personnel shall be provided at all times for inspection to ensure compliance with State and Village regulations.
- The total number of cannabis uses shall not be restricted as it will be controlled by the special use permit process.

Dispensaries

- The on-site consumption or use of cannabis shall be permitted.
- Hours of Operation: Hours of operation on Sunday shall be 8 a.m. – 10 p.m. to mirror the opening hour for the sale of alcoholic liquor on Sundays.
- Mobile, non-mobile, or temporary vending of cannabis shall be prohibited.

Other Background Information

The trailer bill amended the Cannabis Act to restrict the on-site consumption of cannabis to a dispensary or retail tobacco store. As such, other uses such as farm-to-table restaurant concepts which include the on-site consumption of cannabis are prohibited. As noted above, the Village Board is recommending that the on-site consumption of cannabis be permitted within a dispensary.

The State of Illinois will only be issuing 47 licenses for recreational dispensary uses for our region which includes Kane, Cook, McHenry, Lake, DuPage, Will, Kendall, and Grundy Counties. These licenses will be issued conditionally. Applications were due January 2, 2020. A business issued a conditional license has 180 days to determine a location and receive zoning approval.

Actions Requested: Public Hearing

Recommendation to Village Board regarding an Ordinance of the Village of East Dundee, Cook and Kane Counties, Illinois, amending various sections of Chapter 157 of the Village of East Dundee Village Code relative to adult-use and medical cannabis business establishments.

Attachments:

1. Ordinance of the Village of East Dundee, Cook and Kane Counties, Illinois, amending various sections of Chapter 157 of the Village of East Dundee Village Code relative to adult-use and medical cannabis business establishments.
2. Cannabis Regulation and Tax Act PowerPoint
3. Zoning Map
4. Public Hearing Notice

ORDINANCE NUMBER 20 - __

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK
AND KANE COUNTIES, ILLINOIS, AMENDING VARIOUS SECTIONS OF CHAPTER
157 OF THE VILLAGE OF EAST DUNDEE VILLAGE CODE RELATIVE TO ADULT-
USE AND MEDICAL CANNABIS BUSINESS ESTABLISHMENTS**

WHEREAS, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Public Act 101-0027, known as the Cannabis Regulation and Tax Act, (410 ILCS 705/1 *et seq.*) (the “Act”), which became effective on June 25, 2019, allows the possession, use, cultivation, transportation and dispensing of adult-use cannabis in Illinois effective January 1, 2020; and

WHEREAS, pursuant to the Act, local governments, including the Village, may enact reasonable zoning ordinances or resolutions and other ordinances not in conflict with the Act regulating adult-use cannabis business establishments, including regulations prohibiting or significantly limiting the location of such establishments, and/or governing the time, place, manner and number of adult-use cannabis business establishments, and minimum distance limitations between adult-use cannabis business establishments and locations the Village deems sensitive; and

WHEREAS, on May 17, 2013, the Illinois General Assembly passed House Bill 0001, which created the “Compassionate Use of Medical Cannabis Program Act” (the “Medical Cannabis Act”). That legislation was signed into law on August 1, 2013, as Public Act 098-0122 and became effective January 1, 2014. Originally a pilot program, the Act was recently made permanent under Pubic Act 101-0363, which became effective August 9, 2019. Under the Medical Cannabis Act, qualifying patients that have been diagnosed as having a debilitating medical condition, as defined by the Medical Cannabis Act, are authorized to use cannabis without being subject to arrest, prosecution, or denial of any right or privilege for the medical use of cannabis in accordance with the Medical Cannabis Act. In addition, state-licensed “medical cannabis dispensing organizations,” as defined in the Medical Cannabis Act, are authorized to sell medical cannabis to qualifying patients or state-approved caregivers of qualifying patients; and

WHEREAS, while the Medical Cannabis Act preempts municipal authority to wholly prohibit medical cannabis dispensing organizations within municipal borders, it does allow municipalities to enact reasonable zoning regulations in regard to such facilities, provided that the regulations do not conflict with the provisions of the Medical Cannabis Act; and

WHEREAS, on February 5, 2020, the Planning & Zoning Commission (“P&Z”) held a public hearing on the Proposed Code Amendments pursuant to notice thereof given in the manner required by law, and, after considering all of the testimony and evidence presented at the public hearing, recommended approval of the Proposed Code Amendments subject to certain conditions; and

WHEREAS, the President and Board of Trustees of the Village have duly considered the Findings and Recommendation of the P&Z, and all of the materials, facts and circumstances affecting the Proposed Code Amendments; and

WHEREAS, pursuant to the authority granted under Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1 et seq.), the President and Board of Trustees of the Village of East Dundee approve the Proposed Code Amendments to the Village Code set forth below, and find the adoption of the Proposed Code Amendments to be in the best interests of the Village.

BE IT ORDAINED by the President and Board of Trustees of the Village of East Dundee, Cook County, Illinois, as follows:

SECTION 1: Incorporation. That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

SECTION 2: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.003 (Rules and Definitions) of the East Dundee Village Code is amended by amending existing definitions or by adding the new definitions set forth below, at their proper alphabetical location within the Section:

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT. An adult-use cannabis craft grower, cultivation center, dispensing organization, infuser organization, processing organization, or transporting organization, per the Cannabis Regulation and Tax Act.

ADULT-USE CANNABIS CRAFT GROWER. 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.

ADULT-USE CANNABIS CULTIVATION CENTER. 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.

ADULT-USE CANNABIS DISPENSING ORGANIZATION OR DISPENSARY. 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.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER. 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.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR. 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.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER. 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.

CANNABIS BUSINESS ESTABLISHMENT. A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization. As used in this section, a cannabis business establishment shall also

include all medical cannabis cultivation centers and dispensaries licensed under the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1 et seq).

CANNABIS REGULATION AND TAX ACT. The Cannabis Regulation and Tax Act, (410 ILCS 705/1 et seq), as amended from time-to-time, and regulations promulgated thereunder.

MEDICAL CANNABIS CULTIVATION CENTER. A facility operated by an organization or business that is registered by the applicable State of Illinois agency designated to oversee said facility to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis in accordance with the laws of the State of Illinois.

MEDICAL CANNABIS DISPENSARY. A facility operated by an organization or business that is registered by the applicable State of Illinois agency designated to oversee said facility 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 in accordance with the laws of the State of Illinois.

SECTION 3: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.050(F)(1) (General Requirements; Allowable Use Of Land Or Buildings; Allowable Uses Table) of the East Dundee Village Code is amended to add the following uses as a special use within certain zoning districts as follows:

Allowable uses of land and buildings: P: Permitted by-right S: Permitted by special use permit	Downtown Business District (B-1)	Community Business District (B-2)	Service Business District (B-3)	Automotive Service Business District (B-4)	Office District (O-D)
(c) Retail					
<u>Adult-use cannabis dispensing organizations</u>	<u>S</u>	<u>S</u>	<u>S</u>		
<u>Medical cannabis dispensary</u>	<u>S</u>	<u>S</u>	<u>S</u>		
(m) Manufacturing					

uses.					
<u>Adult-Use Cannabis Craft Grower</u>	<u>S</u>	<u>S</u>	<u>S</u>		
<u>Adult-Use Cannabis Cultivation Center</u>	<u>S</u>	<u>S</u>	<u>S</u>		
<u>Adult-Use Cannabis Infuser Organization or Infuser</u>	<u>S</u>	<u>S</u>	<u>S</u>		
<u>Adult-Use Cannabis Processing Organization or Processor</u>	<u>S</u>	<u>S</u>	<u>S</u>		
<u>Medical Cannabis Cultivation Center</u>	<u>S</u>	<u>S</u>	<u>S</u>		
(I) Transportation, utility and solid waste uses					
1. Transportation					
<u>Adult-Use Cannabis Transporting Organization or Transporter</u>	<u>S</u>	<u>S</u>	<u>S</u>		

SECTION 4: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.050(F)(2) (General Requirements; Allowable Use Of Land Or Buildings; Use-Specific Requirements) of the East Dundee Village Code is amended to a new subsection (d) (Cannabis Business Establishments) to read in its entirety as follows:

“(d) Cannabis Business Establishments.

1. The following items shall be submitted as part of the special use request for a Cannabis Business Establishments:
 - a. An accurately dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses.

- b. A plan for disposal of any cannabis or byproducts that are not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal and shall abide by applicable state or local regulations.
 - c. A plan for ventilation of the cannabis business establishment that describes the ventilation systems that will be used to prevent any odor of cannabis off the premises of the business. For cultivation centers, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises.
 - d. A security plan for the cannabis business establishment that includes facility access controls, surveillance systems, on-site security personnel, and other security measures required by state or local regulations. Security arrangements must deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and the theft of cannabis or cannabis products from the Adult-Use Cannabis Business Establishment, and ensure the safety of employees and customers of the Adult-Use Cannabis Business Establishment, as well as the surrounding area, and include no less than the minimum security and lighting measures required by State law. The security plan shall be reviewed and approved by the chief of police.
- 2. A Cannabis Business Establishment shall not be located within one thousand five hundred (1,500) feet of the property line of any pre-existing Cannabis Business Establishment located within or outside the village.
 - 3. All Cannabis Business Establishments shall abide by all other applicable state and Village regulations and requirements.”

SECTION 5: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.051(K) (B-1, Downtown Business District; Off-Street Parking And Loading) of the East Dundee Village Code is amended to read in its entirety as follows:

“(K) *Off-street parking and loading.* In addition to the applicable regulations set forth in §§ 157.120 through 157.127 and 157.140 through 157.150, the following parking regulations shall apply in the B-1 district.

- 1) No parking spaces shall be required unless the computation of total parking spaces pursuant to this section requires ten or more additional parking spaces for the establishment. In computing whether ten additional parking places are required, all exemptions hereinafter provided shall be first considered. If the construction or reconstruction of any building deletes existing parking spaces, they shall be counted in computing whether or not ten parking space requirement has been reached.
- 2) One parking space per 200 square feet of floor area is required for each of the following categories; provided that:

- a) For retail stores and facilities providing personal and commercial services, the first 2,500 square feet of floor area on the first floor and the first 3,500 square feet of floor area on any other floor of an existing building are exempt from the parking requirement.
 - b) For business and professional offices, the first 1,500 square feet of floor area on the first floor and the first 3,000 square feet of floor area on any other floor of an existing building are exempt from the parking requirement.
 - c) For establishments providing for the sale and consumption on the premises of food and refreshment, the first 2,000 square feet of floor area on the first floor and the first 2,500 square feet of floor area on any other floor of an existing building are exempt from the parking requirement.
 - d) For educational services, the first 2,500 square feet of floor area on any floor, except the first floor of an existing building, are exempt from the parking requirement.
- 3) Residential housing units: one parking space is required per single family unit and must be provided on the property.
- 4) New buildings, additions to or remodeling of existing buildings, that increase floor area, as defined herein, or a change in the permitted use of existing buildings, which increases the parking requirements pursuant to this section, shall invoke the requirements of this section. Existing parking spaces provided on the premises shall be used to satisfy new parking requirements required hereunder, except for required, on-premises residential parking. Change of use only within the same business category for parking purposes shall not impose new parking requirements on the establishment.
- 5) Establishments shall provide parking in accordance with the terms of this chapter. In the event an establishment cannot provide parking on-site or within 300 feet from the establishment, except for residential uses, the applicant shall contribute an amount equal to 50% of the actual cost of each required parking space to a special fund created by the village for the purpose of maintaining and improving existing downtown public parking, and to acquire and construct new parking facilities in the downtown area.
- 6) Signs shall be required in accordance with the applicable regulations set forth in Chapter 156 of this code of ordinances.
- 7) The number of parking spaces required per § 157.150 shall be provided for all adult-use cannabis dispensing organizations and medical cannabis dispensary uses and there shall be no exceptions to the parking requirements or exemptions for these uses located in the B-1 Downtown Business District."

SECTION 6: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.065 (A)(1) (General Requirements; Allowable Use Of Land Or Buildings; Allowable Uses Table) of the East Dundee Village Code is amended to add the following uses as a special use within certain zoning districts as follows:

Allowable uses of land and buildings: P: Permitted by-right S: Permitted by special use permit	Limited Manufacturing District (M-1)	Limited Manufacturing District (M-2)
(c) Retail		
<u>Adult-use cannabis dispensing organizations</u>	<u>S</u>	<u>S</u>
<u>Medical cannabis dispensary</u>	<u>S</u>	<u>S</u>
(j) Manufacturing uses.		
<u>Adult-Use Cannabis Craft Grower</u>	<u>S</u>	<u>S</u>
<u>Adult-Use Cannabis Cultivation Center</u>	<u>S</u>	<u>S</u>
<u>Adult-Use Cannabis Infuser Organization or Infuser</u>	<u>S</u>	<u>S</u>
<u>Adult-Use Cannabis Processing Organization or Processor</u>	<u>S</u>	<u>S</u>
<u>Medical Cannabis Cultivation Center</u>	<u>S</u>	<u>S</u>
(l) Transportation, utility and solid waste uses		
1. Transportation		
<u>Adult-Use Cannabis Transporting Organization or Transporter</u>	<u>S</u>	<u>S</u>

SECTION 7: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.065 (A)(2) (General Requirements; Allowable Use Of Land Or Buildings; Use-Specific Requirements) of the East Dundee Village Code is amended to a new subsection (f) (Cannabis Business Establishments) to read in its entirety as follows:

“(f) Cannabis Business Establishments.

1. The following items shall be submitted as part of the special use request for a Cannabis Business Establishment:
 - a. An accurately dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses.
 - b. A plan for disposal of any cannabis or byproducts that are not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal and shall abide by applicable state or local regulations.
 - c. A plan for ventilation of the cannabis business establishment that describes the ventilation systems that will be used to prevent any odor of cannabis off the premises of the business. For cultivation centers, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises.
 - d. A security plan for the cannabis business establishment that includes facility access controls, surveillance systems, on-site security personnel, and other security measures required by state or local regulations. Security arrangements must deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and the theft of cannabis or cannabis products from the Adult-Use Cannabis Business Establishment, and ensure the safety of employees and customers of the Adult-Use Cannabis Business Establishment, as well as the surrounding area, and include no less than the minimum security and lighting measures required by State law. The security plan shall be reviewed and approved by the chief of police.
2. A Cannabis Business Establishment shall not be located within one thousand five hundred (1,500) feet of the property line of any pre-existing Cannabis Business Establishment located within or outside the village.
3. All Cannabis Business Establishments shall abide by all other applicable state and village regulations and requirements."

SECTION 8: Title XV (Land Usage) Chapter 157 (Zoning) Section 157.150 (Required Spaces) of the East Dundee Village Code is amended to a new subsection (X) (Adult-Use Cannabis Dispensing Organizations and Medical Cannabis Dispensaries) to read in its entirety as follows:

"(X) Adult-Use Cannabis Dispensing Organizations and Medical Cannabis Dispensaries: At least one parking space for each 150 square feet of gross floor area; minimum of ten spaces must be provided."

SECTION 9: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

SECTION 10: Each section, paragraph, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such

decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 11: Except as to the Code Amendments set forth above in this Ordinance, all Chapters and Sections of the Village Code, as amended, shall remain in full force and effect.

SECTION 12: Effect. That this Ordinance shall be in full force and effect upon its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED this __th day of _____, 2020 pursuant to a roll call vote as follows:

AYES: _____

NAYES: _____

ABSENT: _____

APPROVED by me this _th day of _____, 2020.

Lael Miller, Village President

ATTEST:

Katherine Holt, Village Clerk

Published in pamphlet form this _th day of _____, 2020, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on _____, 2020.

CANNABIS REGULATION AND TAX ACT: MUNICIPAL CONSIDERATIONS

Village of East Dundee

Board of Trustees Meeting

December 9, 2019

KTJ

KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

Background - Illinois Compassionate Use of Medical Cannabis Pilot Program Act

- ▣ Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/ (adopted in 2013)
 - Signed by Governor Patrick Quinn on August 1, 2013, as Public Act 098-0122, effective January 1, 2014.
 - Illinois Dept. of Agriculture and Dept. of Financial and Professional Regulation adopted admin. rules regulating “registered qualified patients”, “medical cannabis cultivation centers” and “medical cannabis dispensing organizations”
 - Authorized 56 dispensaries and 20 cultivation centers state-wide

Background - Illinois Compassionate Use of Medical Cannabis Pilot Program Act

- ❑ **Preempted municipal regulatory authority:** cannot prohibit “medical marijuana disbursement facilities” within municipal borders.
- ❑ Municipalities can only regulate medical cannabis establishment location via **“reasonable” zoning regulations** (special use permits, zoning districts, etc.)
- ❑ Local zoning restrictions on the location of dispensaries cannot violate Act’s mandate: “dispensing organizations shall be **geographically dispersed** throughout the State **to allow all registered qualified patients reasonable proximity and access to a dispensing organization.**”

Background - Illinois Compassionate Use of Medical Cannabis Pilot Program Act

▣ Distance Restrictions in the Act:

- Registered **cultivation centers cannot locate within 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, or an area zoned for residential use. 410 ILCS 130/105(c)
- Registered **dispensing organizations cannot locate within 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, or part day child care facility or be located in a house, apartment, condominium, or an area zoned for residential use. 410 ILCS 130/130(d)
- **P.A. 101-363 (effective: August 9, 2019) eliminates mandatory distance requirements for all medical cannabis dispensaries registering after July 1, 2019.**
 - ▣ Any medical cannabis dispensary that locates in a municipality going forward, there are no mandatory distance requirements unless a municipality imposes them.

Medical Cannabis Act Amendments

- ▣ **Compassionate Use of Medical Cannabis Program**
 - P.A. 101-0363
 - Effective Date - 8/9/2019
- ▣ **Changes include:**
 - No longer a “Pilot Program”
 - More qualifying medical conditions
 - Autism, chronic pain, IBS, migraines, osteoarthritis, anorexia nervosa, Ehlers-Danlos syndrome, Neuro-Behcet’s, autoimmune disease, neuropathy, polycystic kidney disease, superior canal dehiscence, ulcerative colitis
 - From Doctor to “certifying healthcare professional”
- ▣ **Conflict between Medical Cannabis regulations and Recreational Cannabis regulations – Recreational regulations shall control**

CANNABIS REGULATION AND TAX ACT

Basics

[Illinois 11th State to Approve Private Use]

Signed by Governor JB Pritzker on June 25, 2019

Effective date: January 1, 2020

- ❑ Legally authorizes private use / possession for adults 21+ years.
- ❑ Municipality may pass an ordinance to Opt Out of allowing recreational cannabis establishments which are dispensaries and cultivation centers to operate in the Village.
- ❑ Must take formal action to Opt Out by December 31, 2019
- ❑ If Opt Out, Currently authorized medical cannabis regulations remain intact.

Local Government Regulations

▣ Local Governments

- **May enact an “opt-out” ordinance** that “prohibits” cannabis business establishments (but not medical cannabis dispensaries)
- **May enact an ordinance that “significantly limits”** a cannabis business establishment’s location
- **May not prohibit home cultivation by medical cannabis patients**
- **May not unreasonably prohibit use of cannabis** as authorized by the Act (home rule pre-emption)

Cannabis Business Establishments

- **Adult-Use Cannabis Craft Grower:** 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 & Tax Act.**
 - Minimum 3000 sq feet to max 14,000 square feet of cultivation space
 - Required 1500 feet distance between other craft growers and 1500 feet between craft growers and cultivations centers
- **Adult-Use Cannabis Cultivation Center:** 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 & Tax Act.**
 - Max-210,000 square feet of cultivation space
 - Required 1500 feet distance between other cultivation centers and 1500 feet between cultivation centers and craft growers

Cannabis Business Establishments

- **Adult-Use Cannabis Infuser Organization or Infuser:** 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 & Tax Act.**
- **Adult-Use Cannabis Processing Organization or Processor:** 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 & Tax Act.**

Cannabis Business Establishments

- **Medical Cannabis Dispensing Organization:** A facility operated by an organization or business registered by the Illinois Department of Financial & Professional Regulation **to acquire medical cannabis from a registered cannabis 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.**
- **Adult-Use Cannabis Dispensing Organization:** A facility operated by an organization or business that is licensed by the Illinois Department of Financial & 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 & Tax Act.**

Cannabis Business Establishments

- **Adult-Use Cannabis Transporting Organization or Transporter:** 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 & Tax Act.**

Cannabis Regulation and Tax Act

Village Zoning Authority

- ❑ Village can allow sales by dispensaries and/or cultivation in Village and regulate by zoning.
 - ❑ Can restrict by zoning district.
 - ❑ Can possibly restrict hours of operation.
 - ❑ Can regulate proximity to school, parks, churches, etc.
 - ❑ Can prohibit in residential areas (except limited “home-grow” medical cannabis solely for resident).
 - ❑ Can limit # of total dispensaries in Village.
 - ❑ Under the Act, a dispensing organization may not be located within 1500 feet of the property line of a pre-existing dispensing organization. There are no other use separation requirements under the Act.

Cannabis Regulation and Tax Act

Village Zoning Authority

- ❑ The Act allows local governments to authorize the on premise consumption of cannabis at specific locations
- ❑ **Trailer Biller:**
 - The amended language passed in the Trailer Bill eliminates the “other entity” language for on premise consumption, stating that a unit of local government, including a home rule unit, or any non-home rule county within the unincorporated territory of the county may authorize on-site consumption of cannabis at or in a **dispensing organization** or a **retail tobacco store**, and that such dispensing organizations or retail tobacco store shall not be considered public places within the meaning of the Smoke Free Illinois Act.
 - **Note:** Section 35 (“Exemptions”) of the Smoke Free Illinois Act, 410 ILCS 82/35(2) was also amended, at page 96 of the Trailer Bill, to specifically state that:
 - “A retail tobacco store may, with authorization or permission from a unit of local government, including a home rule unit, or any non-home rule county within the unincorporated territory of the county, allow the on-premises consumption of cannabis in a specially designated areas.”

Cannabis Regulation and Tax Act

Village Zoning Authority

- ❑ If the Village allows recreational cannabis establishments, where should they be located? Which ones will be allowed?
- ❑ Will cannabis be allowed? – allow in any Zoning District?
- ❑ Dispensaries are a retail use – allow in one or more Zoning Districts?
- ❑ Cultivation centers are an industrial use – allow in one or more Zoning Districts?
- ❑ If allowed in one or more Zoning Districts, then what type of use: permitted, special or planned development?
- ❑ Local Ordinances may establish civil penalties for violation of CRTA (sale and use provisions) and Zoning Regulations

Cannabis Regulation and Tax Act

State Restrictions on Advertising

No cannabis business establishment nor any person or entity shall place or maintain or cause to be placed or maintained an advertisement in any form:

- Within 1000 feet of school grounds, playgrounds, hospitals, health care facilities, recreation centers, child care centers; public parks, public libraries; or game arcades that admit persons under the age of 21 .
- That promotes the overconsumption of cannabis.
- That displays cannabis.
- That shows someone under 21 consuming cannabis.
- That makes health or medicinal claims about cannabis.
- That includes the image of the cannabis leaf or bud.
- That includes any image that is likely to appeal to minors.
- On or in publicly owned or publicly operated property.
- On or in a public transportation vehicle or on a public transportation shelter.
- That is false or misleading.

Cannabis Regulation and Tax Act

State Restrictions on Operations of a Dispensary

Operation of a dispensary:

- Operation is only allowed between 6 A.M. and 10 P.M.
- No “delivery” service to any location.
- No drive-thru facilities.
- Operation is prohibited when video surveillance equipment is inoperative.
- Operation is prohibited when point-of-sale equipment is inoperative.
- Operation is prohibited when the State’s cannabis electronic verification system is inoperative.
- Operation is prohibited when there are fewer than 2 people working. No alcohol products can be sold.
- Must be packaged and labeled with the name of dispensing organization, the contents, the weight of the raw cannabis [grams] or, for cannabis products, the amount of THC [mg].
- The age of the purchaser shall be verified by checking a government-issued identification card by use of an electronic reader or electronic scanning device to scan the identification.
- Specific required sales information on each sale must be entered into the State’s cannabis electronic verification system.

Cannabis Regulation and Tax Act

Prohibited Activities Under the Act

- No smoking cannabis in any “public place” where a person could reasonably be expected to be observed by others, in a healthcare facility or any other place where smoking is prohibited.
 - Note: public place = outdoors and in public buildings. Private residence is not a public place, unless used for child care, foster care or social services.
- No use of motor vehicle while using or under the influence of cannabis.
- No sales by use of vending machines.
- **Possession limits for Illinois resident** who are 21 years or older:
 - 30g of cannabis flower
 - 500 mg or less of THC of cannabis-infused products
 - 5g of cannabis product in concentrated form
- **A person who is under 21 years of age may not possess cannabis.**
- Non-resident of Illinois (21 years) – lower possession thresholds

Recreational Cannabis –Additional Limitations

- ▣ Additional limitations for Recreational Cannabis:
 - 410 ILCS 705/10-35
 - Cannot use / possess on school grounds, unless a medical cardholder
 - Cannot use / possess in correction facility
 - Cannot use / possess in vehicle open to public
 - Cannot use / possess in school bus, unless a medical cardholder
 - Cannot use / possess in public places
- ▣ “Public place” – where a person could reasonably expected to be observed by others
- ▣ “Public place” – all or parts of buildings owned in whole or in part or leased by State or local government

UNDERAGE POSSESSION AND FALSE IDENTIFICATION

▣ **Underage Possession and False Identification**

- A person who is under 21 years of age may not possess cannabis.
- A person who is under 21 years of age cannot use a False ID to: (1) purchase, attempt to purchase or otherwise obtain or attempt to obtain cannabis or any cannabis product; or (2) gain access to a cannabis establishment

▣ **Violation: Class A misdemeanor** consistent with the Liquor Control Act of 1934 (i.e., up to 364 days jail time and/or up to \$2,500 fine)

- Secretary of State may suspend or revoke the driving privileges

Home Grow Limitations

- ▣ Home Grow Limitations
 - Only by registered medical cannabis patients (21 years old+) or authorized agent attending to patient
 - Must own, or have consent from owner, of the residential property (Landlord consent can be denied)
 - Must be Illinois resident and domiciled in State for 30 days before growing allowed
- ▣ Registered medical cannabis patients can purchase cannabis seeds from a dispensary for home cultivation
- ▣ Cannabis plants cannot be cultivated in areas subject to “ordinary public view”
 - Normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property
- ▣ Home grown cannabis cannot exceed 5 plant limit or be sold or given away
 - Statutory penalties apply, including loss of home grow privileges

Cannabis Regulation and Tax Act

State Application Process and Fees

Early Approval

- Existing medical cannabis cultivators and dispensers may apply for early approval to convert, in whole or part, to recreational cannabis cultivators or dispensers.
- For cultivators, the non-refundable permit fee is \$100,000, plus there is a development fund fee of the lesser of 5% of their revenue from 7/1/18 to 7/1/19 or \$500,000.
- For dispensers, the non-refundable permit fee is \$30,000, plus a development fund fee of the lesser of 3% of their revenue from 7/1/18 to 7/1/19 or \$100,000, for the first recreational license and a non-refundable fee of \$30,000 plus a development fund fee of \$200,000 for a second location license.

New Entrants

- Processors and craft growers: \$5,000 non-refundable application fee plus \$40,000 licensing fee.
- Dispensers: \$5,000 non-refundable application fee plus \$10,000 licensing fee.

Background Checks

- Illinois State Police (“ISP”) conducts background checks on everyone involved in the licensed cannabis sector.
- Background checks include a criminal history check and fingerprints check of all principal officers, board members and agents of licensees.

KTJ

KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

Taxation/Revenue

How is the sale of cannabis going to be taxed on the state level?

A State Tax is imposed upon cannabis purchasers at the following rates:

- Purchases of cannabis flower or products with less than 35% THC – 10% tax.
- Cannabis-infused products (i.e., edibles) – 20% tax.
- Products with a THC concentration higher than 35% – 25% tax.

8% of state taxes will be allocated to municipalities [the LGDF] for crime prevention programs, law enforcement training and drug interdiction efforts.

How is cannabis going to be taxed on the local level?

The Village can impose a Village tax on cannabis sales not to exceed 3% of the purchase price.

Tax is on top of your regular sales tax rate.

The State Department of Revenue will collect and enforce this tax. In addition, State and local sales taxes still apply.

- Tax ordinances need to be in by June 1 for collection in September
- Trailer Bill allows for collection on July 1 if passed by April 1
- Medical Marijuana dispensary-relevancy.

Cannabis Regulation Fund and Revenue Sharing

- ▣ Revenues and Appropriations
- ▣ Cannabis Regulation Fund
 - Collects all moneys generated under Cannabis Regulation and Tax Act and Compassionate Use of Medical Cannabis Pilot Program Act
 - State agencies responsible for administering the Adult Use Cannabis Program will receive resources to cover administrative costs
- ▣ All remaining revenue allocated as follows:
 - 35% transferred to the General Revenue Fund
 - 25% transferred to the Criminal Justice Information Projects Fund to support Restoring, Reinvest and Renew Program for community reinvestment
 - 20% transferred to Department of Human Services Community Services Fund to fund mental health and substance abuse services at local health departments
 - 10% transferred to Budget Stabilization Fund to pay the backlog of unpaid bills
 - 8% transferred to Local Government Distributive Fund (LGDF) to create a “grant program” to fund crime prevention programs, training, and interdiction efforts relating to the illegal cannabis market and cannabis-based DUIs
 - 2% transferred to the Drug Treatment Fund for public education and awareness

Cannabis Business Establishments

- ▣ **Early approval adult use license for current medical cannabis license holders**
 - Cultivation organizations
 - Dispensing organizations

- ▣ **New entrants to the adult use cannabis market**
 - Cultivation centers
 - Craft growers
 - Processors
 - Transporting organizations
 - Dispensing organizations
 - Infusers

How will DUI's be addressed?

Driving under the influence of cannabis will continue to be illegal.

The Act allows for use of validated roadside chemical tests or standardized field sobriety tests approved by the National Highway Traffic Safety Administration when conducting investigations of a violation of Section 625 ILCS 5/11-501 of the Motor Vehicle Code or a similar local ordinance by drivers suspected of driving under the influence of cannabis.

Refusal to submit to chemical test - drivers license sanctions 11-501.1

Expungements

What records will be automatically expunged?

- ▣ The Act mandates that arrest records relating to offenses under the Cannabis Control Act for possession of under 30 grams of any substance containing cannabis that are not associated with an arrest, conviction or other disposition of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.
- ▣ “Minor Cannabis Offenses” will be automatically expunged by all law enforcement agencies, including records of an arrest, charges not initiated by arrest, orders of supervision or orders of qualified probation for all offenses committed prior to the Act if:
 - One year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and
 - No criminal charges were filed or if filed they were dismissed and/or arrestee was acquitted.

Expungements

What is the schedule for automatic expungement?

- ▣ The Act provides that all law enforcement agencies must expunge qualifying records according to the following schedule:
- ▣ Records created prior to the effective date of the Act, but on or after January 1, 2013, shall be automatically expunged prior to January 1, 2021;
- ▣ Records created prior to January 1, 2013, but on or after January 1, 2000, shall be automatically expunged prior to January 1, 2023; and
- ▣ Records created prior to January 1, 2000, shall be automatically expunged prior to January 1, 2025.

Recreational Cannabis – Employment Issues

- ▣ One of the stated purposes of new legislation references employer-employee relationship:
 - 410 ILCS 705/1-5
 - Employee workplace safety shall not be diminished
 - Employer workplace policies shall be interpreted broadly to protect employee safety

Recreational Cannabis – Employment Issues

- ▣ **Can an employer regulate off-duty recreational cannabis use?**
 - 820 ILCS 55/5a – **Right to Privacy in Workplace Act**
 - Effective 06/25/2019
 - It shall be unlawful for an employer to refuse to hire or to discharge any individual... because the individual uses lawful products off the premises of the employer during nonworking and non-call hours.
 - ▣ “Lawful product” = legal under State law
 - ▣ Includes recreational cannabis
 - ▣ During “nonworking” hours
 - ▣ If not “on call”

Recreational Cannabis – Employment Issues

820 ILCS 55/5a – Right to Privacy in Workplace Act - exceptions

- The employer is a **non-profit who's primary purpose discourages use of "lawful products"**
- Use of those "lawful products" which impairs employee's ability to perform assigned duties
- "Except as otherwise specifically provided by law, including Section 10-50 of the Cannabis Regulation and Tax Act"

Recreational Cannabis – Employment Issues

▣ Private and Public Employers

- 410 ILCS 705/10-50
- Effective as of 6/25/2019
- Similar to Medical Cannabis regulations

▣ Employers may:

- Adopt and enforce **reasonable employment policies** concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call
- Adopt and enforce **reasonable zero-tolerance or drug free workplace policies**
 - ▣ All such policies must be applied in a nondiscriminatory manner and be reasonable (time, frequency and manner)
- **Discipline (including termination) an employee** for a drug test failure that violates the employer's employment policies or workplace drug policy
- Employers are **not required to permit employees to be under the influence of or use cannabis in the workplace, or while performing job duties or while on call**

Recreational Cannabis – Employment Issues

- ▣ **"Workplace"** means the employer's premises, including:
 - Buildings, real property, and parking area under employer control
 - Areas used by employees while performing job duties
 - Employer vehicles (leased, rented, or owned)
 - Employer may further define “workplace” in policies, if it is consistent with the Act

- ▣ **Employee is deemed "on call"** when he/she is scheduled with at least 24 hours' notice by employer to be on standby or otherwise responsible for performing tasks related to his or her employment

Recreational Cannabis – Employment Issues

- ▣ Section 10-50, cont'd:
- ▣ Is the employee impaired at work? – same as Medical cannabis regulations
- ▣ Employer may consider employee “impaired or under the influence of cannabis” if:
 - **Employer** has a “**good faith belief**” that an employee manifests “specific, articulable symptoms while working” that
 - ▣ decrease or lessen the employee's performance of duties or tasks
 - ▣ Impacted speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior
 - ▣ negligence or carelessness in operating equipment or machinery
 - ▣ disregard for safety of self or others
 - ▣ Involved in an accident causing serious damage to equipment or property
 - ▣ disruption of a production or manufacturing process
 - ▣ carelessness that results in injury to employee or others
 - **Must afford employee reasonable opportunity to contest basis**

Recreational Cannabis – Employment Issues

- ▣ The Act **does not interfere** with any federal, State, or local restrictions on employment including, but not limited to, the United States DOT regulation 49 CFR 40.151(e)
- ▣ Does not impact an employer's ability to comply with federal or State law or cause it to lose a federal or State contract or funding
- ▣ The Act **cannot be construed to create or imply a cause of action for any person against an employer** for:
 - Enforcing a reasonable drug and alcohol testing under the employer's workplace drug policy
 - Actions, including discipline or termination, by employer based on good faith belief of employee being impaired by cannabis on duty / on call
 - Injury, loss, or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired

Recreational Cannabis – Employment Issues

- ▣ The Act cannot be construed to create or imply a cause of action for any person against an employer for:
 - Injury, loss, liability to third party
 - If employer neither knew
 - Nor had reason to know
 - Employee impaired

Recreational Cannabis – Employment Issues

- ▣ Other similarities between Medical Cannabis and Recreational Cannabis:
 - Discrimination prohibited – 410 ILCS 705/10-30
 - Limitations and penalties – 410 ILCS 705/10-35
 - ▣ Employee cannot engage in work task under influence
 - ▣ When doing so constitutes negligence, professional malpractice, or professional misconduct
 - ▣ Cannot operate or be in control of a motor vehicle while under influence
 - ▣ Cannot use as an “active duty law enforcement officer” or “firefighter”
 - ▣ Cannot use if a school bus driver
 - ▣ Cannot use if have a CDL

Existing Area Medical Dispensaries

13 of these are located within an industrial park	10 are located in high traffic major retail corridors	7 are located adjacent to residential neighborhoods
Buffalo Grove	Romeoville	Worth
Mt. Prospect	Addison	Justice
Rolling Meadows	St. Charles	Posen
Schaumburg	Evanston	Naperville
Mokena	Elmwood Park	Oak Park
Joliet	Homewood	North Aurora
Mundelein	Chicago	Highland Park

Number of State Licenses

First licenses anticipated to be issued to organizations
already operating existing medical dispensaries

State	# of Licenses	Population
Illinois	Up to 140 (by 1/1/2020 – increasing over time)	12.8 million
California	261	36 million
Nevada	61	3 million
Washington	123	7.5 million
Massachusetts	22	7 million
Colorado 568 5.6 million	568	5.6 million
Oregon	659	4 million
Alaska	212	740,000
Maine	None yet.	1.3 million
Michigan	None yet.	10 million

Open Issues and Concerns

▣ **Public Health Concerns**

- Quality control and dosage risks (e.g., gummy bears)
- Abuse / addiction, impact on EMS and health systems and social services
- Another form of impaired driving – more accidents, injuries, deaths, etc.

▣ **Healthcare and liability insurance costs**

▣ **Workplace impacts (safety issues, zero-tolerance, etc.)**

▣ **Testing for impairment (technology not on par with BAC test)**

▣ **Increased liability for public / private employers and individuals for “impairment” based personal injury and property damage claims** due to positive THC test since THC stays in body longer than alcohol

▣ **Law Enforcement Concerns**

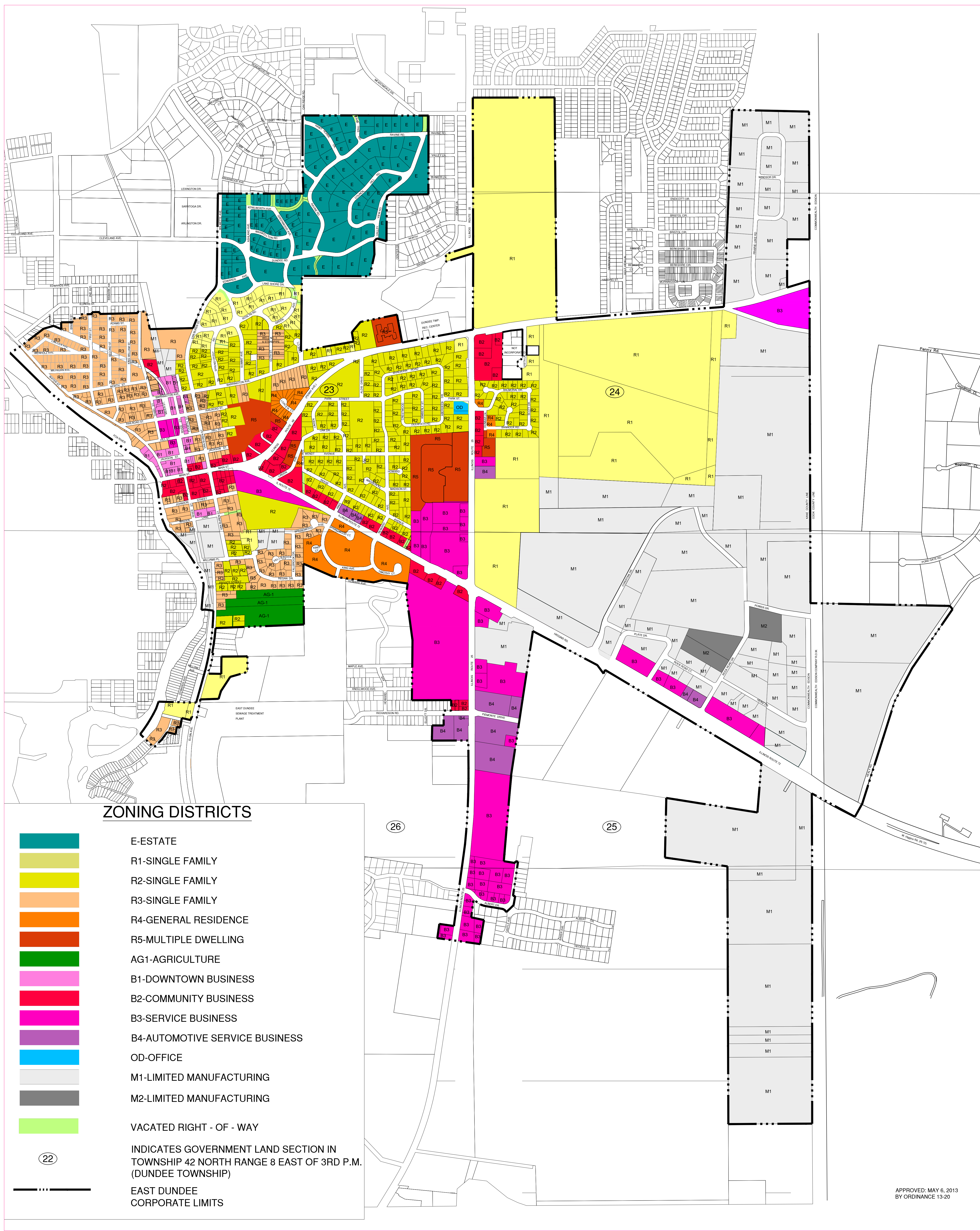
- Potential issues with Road Side Testing
- Existing saliva tests cannot verifiably determine an individual's impairment
- More stringent evaluations involving memory and balance tests may not accurately ascertain impairment levels in individuals who suffer from illnesses commonly treated with medical marijuana
 - ▣ i.e. MS, arthritis, or epilepsy

Next Steps

- ▣ Code Amendments and Policy Updates
- ▣ Draft the following documents:
 - Opt Out Ordinance
 - Zoning and business license Code amendments and forms for regulating or prohibiting CBEs
 - Sales Tax Ordinance
 - Ordinances addressing law enforcement issues
 - Updates to employment policy manual
 - Updates to Police GO's/SOP's
 - Updates to labor contracts

Questions?

VILLAGE OF EAST DUNDEE OFFICIAL ZONING MAP



**NOTICE OF CONSIDERATION OF AN ORDINANCE TO AMEND
VARIOUS SECTIONS OF CHAPTER 157 (ZONING) OF THE VILLAGE OF EAST DUNDEE VILLAGE CODE
RELATIVE TO ADULT-USE AND MEDICAL CANNABIS BUSINESS ESTABLISHMENTS**

Notice is given that the Planning & Zoning Commission of the Village of East Dundee, Cook and Kane Counties, Illinois, will conduct a public hearing at the hour of 6:00 p.m., or as soon thereafter as the matter may be heard, on February 5, 2020, at the Senior Center (large room) at 665 Barrington Avenue, Carpentersville, Illinois, relative to proposed code amendments to certain sections of the Village of East Dundee Municipal Code as contained in the below-listed Ordinance:

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES,
ILLINOIS, AMENDING VARIOUS SECTIONS OF CHAPTER 157 OF THE VILLAGE OF EAST
DUNDEE VILLAGE CODE RELATIVE TO ADULT-USE AND MEDICAL CANNABIS BUSINESS
ESTABLISHMENTS

A copy of the draft Ordinance is on file and available for public inspection at the Village Clerk's Office, Village Hall, 120 Barrington Avenue, Illinois 60118.

All persons wishing to be heard may appear and be heard at the public hearing or may submit written comments with respect to any issues regarding the draft Ordinance. This Notice is given pursuant to 65 ILCS 5/11-13-1 *et seq.* and the Open Meetings Act. The public hearing may be continued by the Planning & Zoning Commission without further notice other than a motion to be entered upon the minutes of the public hearing, fixing the time and place of any continued public hearing, if necessary, or except as otherwise required by the Illinois Open Meetings Act.

If you have any physical or mental conditions that would be considered a disability under the American's with Disabilities Act, the Village will make and take all reasonable measures to assist you in participating in the public meeting process. If you need translators or other assistance to make the process meaningful for you, please also notify us. It is our goal to provide these reasonable accommodations to those with disabilities so that they may meaningfully participate in the public hearing process. Persons requiring auxiliary aids and services should contact Ms. Katherine Holt at the Village Hall, 120 Barrington Avenue, Illinois 60118 or call Ms. Holt at 847-426-2822 at least five (5) days prior to the meeting to inform of your anticipated attendance.

Katherine Holt
Village Clerk