

ORDINANCE NUMBER 20 - 03

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AMENDING VARIOUS SECTIONS OF THE VILLAGE OF EAST DUNDEE VILLAGE CODE RELATIVE TO CANNABIS BUSINESS ESTABLISHMENTS AND CANNABIS REGULATIONS

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, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety and welfare of its citizens; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act, (410 ILCS 705/1 *et seq.*) (“Act”), which pertains to the possession, use, cultivation, transportation and dispensing of cannabis, which became effective June 25, 2019; and

WHEREAS, pursuant to the Act, the Village may enact reasonable zoning ordinances or resolutions not in conflict with the Act, regulating cannabis business establishments, including rules adopted governing the time, place, manner and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations the Village deems sensitive; 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 VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, 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 XI (Business Regulations) of the East Dundee Village Code is amended to add a new Chapter 122 (Cannabis Business Establishments), to read in its entirety as follows:

“CHAPTER 122: CANNABIS BUSINESS ESTABLISHMENTS

- 122.01 Purpose and Applicability.
- 122.02 Definitions.
- 122.03 Consumption, Purchase, Acceptance Or Possession Prohibited.
- 122.04 Building enhancements.
- 122.05 Conduct Of Employees And Agents; Supervisor On Premises.
- 122.06 Compliance With Other Regulations.
- 122.07 On-Site Consumption or Use.
- 122.08 Signage Prohibiting Sales.
- 122.09 Advertisement Prohibited.
- 122.10 - Other Restrictions on Cannabis Dispensing Organizations.

122.01 Purpose and Applicability.

It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of cannabis occurring within the corporate limits of the Village of East Dundee. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et seq.*) (“Act”) and the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1 *et seq.*) (“Medical Cannabis Act”), as they may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that either the Act or Medical Cannabis Act is amended, the more restrictive of the state or local regulations shall apply.

122.02 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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 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, (410 ILCS 705/1 *et seq.*) as it may be amended from time-to-time, and regulations promulgated thereunder.

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, (410 ILCS 705/1 *et seq.*) as it may be amended from time-to-time, and regulations promulgated thereunder.

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, (410 ILCS 705/1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

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, (410 ILCS 705/1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

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, (410 ILCS 705/1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

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, (410 ILCS 705/1 *et seq.*), as it may be amended from time-to- time, and regulations promulgated thereunder.

PERSON: Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

122.03 Consumption, Purchase, Acceptance Or Possession Prohibited.

- A) It shall be unlawful for any person, firm or corporation to sell, give away, deliver, possess with intent to sell at wholesale or retail, possess with intent to give away or deliver for promotional purposes, either retail or wholesale, any cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies within the Village without first having obtained a license from the State of Illinois. A dispensing organization's license allows for a dispensary to be operated only at a single location.
- B) It shall be unlawful for any person, firm or corporation to sell, give away, deliver, possess with intent to sell at wholesale or retail, possess with intent to give away or deliver for promotional purposes, either retail or wholesale, any cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to persons under twenty-one (21) years of age and in contravention to the provisions of the Cannabis Regulation and Tax Act, (410 ILCS 705/1 *et seq.*). The prohibitions set forth in this section shall not apply to persons who consume, purchase, or possess cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies pursuant to the Compassionate Use of Medical Cannabis Program, 410 ILCS 130/1 *et seq.*
- C) It shall be unlawful for any person under twenty-one (21) years of age to consume, purchase, accept as a gift of or have cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies in his or her possession or in his or her bloodstream. The prohibitions set forth in this section shall not apply to persons who consume, purchase, or possess cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies pursuant to the Compassionate Use of Medical Cannabis Program, 410 ILCS 130/1 *et seq.*

122.04 Building enhancements.

- A) Any licensee of a Cannabis Business Establishment shall install building enhancements, such as security cameras, lighting or other improvements to ensure the safety of employees and customers of the cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for a Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act and the Medical Cannabis Act. The Village Administrator or his or her designee may, at his or her discretion, require the Cannabis Business Establishment to install improvements and buildings enhancements beyond the State's requirements based on the specific characteristics of the Cannabis Business Establishment in order to ensure the safety of employees, customers and Village residents.
- B) A Cannabis Use Establishment must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.
- C) Any Cannabis Business Establishment shall install building enhancements, following approval of a ventilation plan, so that no cannabis odors shall be detectable outside of the establishment, The Village Administrator or his or her designee may, at his or her discretion, require the Cannabis Business Establishment to install improvements and buildings enhancements beyond the State's requirements based on the specific characteristics of the Cannabis Business Establishment in order to ensure the safety of employees, customers and Village residents.

122.05 Conduct Of Employees And Agents; Supervisor On Premises.

- A) Any act or failure to act of an employee or agent of either the licensee or a management company with respect to the licensed business shall be deemed to be the act of the licensee. Any duty set forth in this chapter as a duty of the licensee shall also be the duty of any agent or employee of the licensee.
- B) No employee or other server of cannabis may consume or be permitted to consume any cannabis product on the licensed premises while on duty or while performing any duties of employment.
- C) No person, including any employee, manager, owner or agent of the licensee may consume cannabis products on the licensed premises before or after the permitted hours of operation.

- D) A person must be at least twenty one (21) years of to sell cannabis products.
- E) A manager shall be on the premises at all times that the licensed premise is open for business.
- F) A dispensing organization shall submit a list to the State of the names of all service professionals that will work at the dispensary.

122.06 Compliance With Other Regulations.

- A) All licensed premises shall be maintained in full compliance with all other regulations of the State, the Cannabis Regulation and Tax Act, the Compassionate Use of Medical Cannabis Program Act and the Village, including, but not limited to, those relating to the storage or sale of food, sanitary conditions, building and safety conditions.
- B) Applicants seeking to open a Cannabis Business Establishment facility shall provide the Village with proof of State licensing approval prior to the issuance by the Village of a special use permit. Persons operating a Cannabis Business Establishment shall annually provide to the Village all State inspection reports and other information necessary to verify ongoing compliance with State and Village requirements. Applicants shall, after commencing operations, provide to the Village, within seven (7) days of receipt, copies of any notices, citations or other enforcement actions undertaken against the facility by the State, along with an explanation as to what steps are being taken by the Applicant to bring the facility back into compliance.
- C) Cooperation with Village: Cannabis Business Establishments and property owners where such Cannabis Business Establishments are located shall provide access to Village police, fire and code enforcement personnel during periods when employees are present to verify compliance with this Chapter and other Village ordinances. Cannabis Business Establishments and property owners where such Cannabis Business Establishments are located shall cooperate with the Village police, fire and code enforcement personnel in the provision of security footage when requested, and in any related prosecution of any persons who violate State law or local ordinances within a Cannabis Business Establishment and on properties where such Organizations are located.

122.07 On-Site Consumption or Use.

No cannabis shall be smoked, eaten or otherwise consumed or ingested within any Cannabis Business Establishment unless specifically authorized by the Village pursuant to the establishment's special use permit.

122.08 Signage Prohibiting Sales.

- A) Signs informing the public of the age restrictions of this article, shall be posted by every licensee in conspicuous view on the premises. Each such sign shall state:

The sale of cannabis products to persons under twenty-one (21) years of age is prohibited by law. A photo identification showing proof of age shall be required of everyone under twenty seven (27) years of age desiring to purchase cannabis products. Violations shall be reported to the Police Department

- B) Said sign(s) shall be plainly visible and shall measure at least eight and one-half inches (8 1/2") in height and eleven inches (11") in width. Lettering on said sign shall be at least one-half inch (1/2") in height. Said signs shall also inform the public that the Village Police Department is to be contacted should the law be violated.
- C) The signage requirement set forth in this section shall not apply to any medical cannabis cultivation center or dispensary which operates exclusively under a license issued pursuant to the Compassionate Use of Medical Cannabis Program, 410 ILCS 130/1 *et seq.*

122.09 Advertisement Prohibited.

Cannabis Business Establishments cannot advertise cannabis or a cannabis-infused product in any form or through any medium:

- A) Within 1,000 feet of school grounds, playground, hospital, healthcare facility, recreation center or facility, child care center, public park or library or any arcade that admits persons under age 21;
- B) On or in a public transit vehicle or public transit shelter;
- C) On a billboard as defined in Section 156.02;

D) On or in a publicly-owned or publicly-operated property; or

E) Which contains information that:

- i. is false or misleading;
- ii. promotes excessive consumption;
- iii. depicts a person under 21 years of age consuming cannabis;

This includes the image of a cannabis leaf or any image designed or likely to appeal to minors, including cartoons, toys, animals or children, or any other likeness to images, characters or phrases that are popularly used to advertise to children, or any imitation of candy packaging or labeling or that promotes consumption of cannabis.

122.10 - Other Restrictions on Cannabis Dispensing Organizations.

A) Hours of Operation: Cannabis Dispensing Organizations shall operate only between the hours of 8:00 a.m. and 10:00 p.m.

B) Product Display: No products sold by a Cannabis Dispensing Organizations shall be visible from the public street, sidewalk or other public place.

C) A dispensing organization may only accept cannabis deliveries into a restricted access area. Deliveries may not be accepted through the public or limited access areas unless otherwise approved under the Act or Medical Cannabis Act.

D) A dispensing organization must include the legal name of the dispensary on the packaging of any cannabis product it sells.

E) Dispensing organizations are prohibited from selling any product containing alcohol except tinctures, which must be limited to containers that are no larger than 100 milliliters.

F) Dispensing organizations shall not:

1. Sell cannabis, cannabis concentrate, or cannabis-infused products in combination or bundled with each other or any other items for one price, and each item of cannabis, concentrate, or cannabis-infused product must be separately identified by quantity and price on the receipt;
2. Sell clones or any other live plant material;

3. Have fewer than 2 people working at the dispensary at any time while the dispensary is open;
4. Operate a dispensary if its video surveillance equipment is inoperative;
5. Operate a dispensary if the point-of-sale equipment is inoperative;
6. Operate a dispensary if the State's cannabis electronic verification system is inoperative
7. Enter into agreements to allow persons who are not dispensing organization agents to deliver cannabis or to transport cannabis to purchasers.
8. Operate drive-through windows;
9. Allow for the dispensing of cannabis or cannabis-infused products in vending machines;
10. Transport cannabis to residences or other locations where purchasers may be for delivery;
11. Produce or manufacture cannabis;
12. Accept a cannabis product from an adult use cultivation center, craft grower, infuser, dispensing organization, or transporting organization unless it is pre-packaged and labeled in accordance with the Act and any rules that may be adopted pursuant to the Act;
13. Obtain cannabis or cannabis-infused products from outside the State of Illinois;
14. Sell cannabis or cannabis-infused products to a purchaser unless the dispensary organization is licensed under the Compassionate Use of Medical Cannabis Pilot Program, and the individual is registered under the Compassionate Use of Medical Cannabis Pilot Program or the purchaser has been verified to be over the age of 21;
15. Violate any other requirements or prohibitions set by State rules."

SECTION 3: Title XIII (General Offenses) Chapter 133 (Offenses Against Public Morality) Section 133.063 (Possession) of the East Dundee Village Code is amended to read in its entirety as follows:

133.063 POSSESSION.

- A) It is unlawful for any person knowingly to possess cannabis in violation of the Cannabis Control Act (720 ILCS 550/1 *et seq.*), Cannabis Regulation and Tax Act (410 ILCS 705/1 *et seq.*) or the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1 *et seq.*).
- B) Any person who violates this subchapter with respect to:

- 1) a) Not more than ten grams of any substance containing cannabis is guilty of a civil law violation punishable by a minimum fine of \$100 and a maximum fine of \$200. The proceeds of the fine shall be payable to the Clerk of Circuit Court. Within 30 days after the deposit of the fine, the Clerk shall distribute the proceeds of the fine as follows:
 1. Ten dollars of the fine to the Circuit Clerk and \$10 of the fine to the law enforcement agency that issued the citation; the proceeds of each \$10 fine distributed to the Circuit Clerk and each \$10 fine distributed to the law enforcement agency that issued the citation for the violation shall be used to defer the cost of automatic expungements under Criminal Identification Act, § 5.2(a)(2.5);
 2. Fifteen dollars to the county to fund drug addiction services;
 3. Ten dollars to the Office of the State's Attorneys Appellate Prosecutor for use in training programs;
 4. Ten dollars to the to the State's Attorney'; and
 5. Any remainder of the fine to the law enforcement agency that issued the citation for the violation.
 - b) With respect to funds designated for the Department of State Police, the moneys shall be remitted by the Circuit Court Clerk to the Department of State Police within one month after receipt for deposit into the State Police Operations Assistance Fund. With respect to funds designated for the Department of Natural Resources, the Department of Natural Resources shall deposit the moneys into the Conservation Police Operations Assistance Fund.
- 2) More than ten grams, but not more than thirty grams, of any substance containing cannabis is guilty of a Class B misdemeanor; and
 - 3) More than 30 grams, but not more than 100 grams, of any substance containing cannabis is guilty of a Class A misdemeanor.

SECTION 4: Title XIII (General Offenses) Chapter 133 (Offenses Against Public Morality) Section 133.064 (Manufacture) of the East Dundee Village Code is amended to read in its entirety as follows:

133.064 MANUFACTURE.

- A) It is unlawful for any person knowingly to manufacture, deliver or possess with intent to deliver or manufacture cannabis in violation of the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et seq.*) or the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1 *et seq.*).

- B) Any person who violates this subchapter with respect to:
- 1) Not more than two and one-half grams of any substance containing cannabis is guilty of a Class B misdemeanor; and
 - 2) More than two and one-half grams, but not more than ten grams, of any substance containing cannabis is guilty of a Class A misdemeanor.

SECTION 5: Title XIII (General Offenses) Chapter 133 (Offenses Against Public Morality) Section 133.100 (Drug Paraphernalia) of the East Dundee Village Code is amended to read in its entirety as follows:

133.100 DRUG PARAPHERNALIA.

As used in this section, unless the context otherwise requires, **DRUG PARAPHERNALIA** means all equipment, products and materials of any kind, other than methamphetamine manufacturing materials, as defined in Section 10 of the Methamphetamine Control and Community Protection Act, which are intended to be used unlawfully in planting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the Cannabis Control Act, the Cannabis Regulation and Tax Act, the Compassionate Use of Medical Cannabis Program Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act. It includes, but is not limited to:

- A) Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- B) Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;
- C) Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- D) Dilutents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;
- E) Objects intended to be used unlawfully in ingesting, inhaling or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - 1) Water pipes;
 - 2) Carburetion tubes and devices;
 - 3) Smoking and carburetion masks;
 - 4) Miniature cocaine spoons and cocaine vials;
 - 5) Carburetor pipes;

- 6) Electric pipes;
- 7) Air-driven pipes;
- 8) Chillums;
- 9) Bonges;
- 10) Ice pipes or chillers;
- 11) Any item whose purpose, as announced or described by the seller, is for use in violation of this section.

SECTION 6: Title XIII (General Offenses) Chapter 133 (Offenses Against Public Morality) Section 33.103 (Exemptions) of the East Dundee Village Code is amended to read in its entirety as follows:

33.103 EXEMPTIONS.

Section 133.102 does not apply to:

- A) Items used in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- B) Items historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance. Items exempt under this division include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette-rolling papers.
- C) Items which are used for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this chapter.
- D) A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.
- D) Items permitted or authorized pursuant to the Cannabis Control Act (720 ILCS 550/1 et seq.), Cannabis Regulation and Tax Act (410 ILCS 705/1 et seq.) and/or the Compassionate Use of Medical Cannabis Program, 410 ILCS 130/1 et seq.

SECTION 7: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

SECTION 8: 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 9: 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 10: 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 25th day of February, 2020 pursuant to a roll call vote as follows:

AYES: __ Trustees, Wood, Selep, Mahony, Andresen and Kunze _____

NAYES: __ None _____

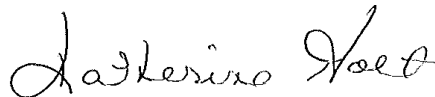
ABSENT: _Trustee Lynam _____

APPROVED by me this 25th day of February, 2020.



Lael Miller, Village President

ATTEST:



Katherine Holt, Village Clerk

Published in pamphlet form this 6th day of April, 2020, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on April 6, 2020.