

## **ORDINANCE NUMBER 20 - 04**

### **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 Public 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) of the East Dundee Village Code is amended to add Sections 157.070 through 157.074 (Cannabis Overlay District) to read in its entirety as follows:

**“157.070 PURPOSE.**

The purpose of the Cannabis Overlay District is to allow cannabis business establishments to operate within the Village. Cannabis business establishments are enterprises unique and different from other uses and, as such, in addition to the regulations imposed by the underlying zoning district, require the imposition of certain specific regulations intended to promote the public health, safety, comfort, morals and convenience by ensuring that such uses are compatible with their surroundings. The

district regulations are designed to encourage compatibility with adjacent or nearby land uses.

The Cannabis Overlay District is intended to only regulate cannabis business establishments. All other uses shall be subject to the regulations of the underlying zoning district.

### **157.071 DEFINITIONS.**

**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.

### **157.072 CANNABIS OVERLAY DISTRICT.**

The Cannabis Overlay District shall consist of the areas set forth in the Cannabis Overlay District Map as part of the Village of East Dundee, Illinois, Zoning Map pursuant to Section 157.016 of this Code and defined as B-3, M-1 and M-2 properties only, East of Route 25. The boundary of the Cannabis Overlay District, as set forth in the Cannabis Overlay District Map, shall begin with the B-3, M-1 and M-2 properties West of and fronting Route 25 and shall continue East to the Village limits.

### **157.073 ALLOWABLE USE TABLE.**

A) Permitted uses, special uses, accessory uses, and temporary uses in the Cannabis Overlay District shall be as indicated on the following table.

<b><u>Allowable uses of land and buildings:</u></b> <b><u>P: Permitted by-right</u></b> <b><u>S: Permitted by special use permit</u></b>	<b><u>Cannabis Overlay District With Underlying B-3 Zoning</u></b>	<b><u>Cannabis Overlay District With Underlying M-1 and M-2 Zoning</u></b>
<b><u>(a) Retail</u></b>		
<u>Adult-use cannabis dispensing organizations</u>	<b><u>S</u></b>	<b><u>S</u></b>
<u>Medical cannabis dispensary</u>	<b><u>S</u></b>	<b><u>S</u></b>
<b><u>(b) Manufacturing uses.</u></b>		
<u>Adult-Use Cannabis Craft Grower</u>		<b><u>S</u></b>
<u>Adult-Use Cannabis Cultivation Center</u>		<b><u>S</u></b>
<u>Adult-Use Cannabis Infuser Organization or Infuser</u>		<b><u>S</u></b>
<u>Adult-Use Cannabis Processing Organization or Processor</u>		<b><u>S</u></b>
<u>Medical Cannabis Cultivation Center</u>		<b><u>S</u></b>
<b><u>(c) Transportation, utility and solid waste uses</u></b>		
<u>1. Transportation</u>		
<u>Adult-Use Cannabis Transporting Organization or Transporter</u>		<b><u>S</u></b>

- B) Any cannabis business establishments locating within the Cannabis Overlay District shall abide by all zoning regulations and restrictions of the underlying zoning district.
- C) Off-street parking and loading. Any cannabis business establishment locating within the Cannabis Overlay District shall abide by all parking regulations and restrictions of the underlying zoning district.”

#### **157.074 CANNABIS BUSINESS ESTABLISHMENT REQUIREMENTS.**

- A) The following items shall be submitted as part of the special use request for a Cannabis Business Establishments:
  - 1. An accurately dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses.
  - 2. 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.
  - 3. 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.
  - 4. 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.
- B) 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.
- C) A Cannabis Business Establishment may not be located within two thousand five hundred (2,500) feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, place of worship or an area zoned for residential use. This location restriction shall not apply to adult-use cannabis dispensing organizations or medical dispensaries.

D) All Cannabis Business Establishments shall abide by all other applicable state and Village regulations and requirements."

**SECTION 3:** Title XV (Land Usage) Chapter 157 (Zoning) Section 157.150 (Required Spaces) of the East Dundee Village Code is amended to a new subsection 157.150(X) (Adult-Use Cannabis Dispensing Organizations and Medical Cannabis Dispensaries) to read 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 twenty spaces must be provided."

**SECTION 4:** All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

**SECTION 5:** 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 6:** 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 7: 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, Selepe, Mahony, Andresen and Kunze\_\_\_\_\_

NAYES: \_None\_\_\_\_\_

ABSENT: \_Trustee Lynam\_\_\_\_\_

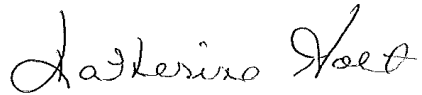
**APPROVED** by me this 25th day of February 2020.



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Lael Miller, Village President

**ATTEST:**



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Katherine Holt, Village Clerk

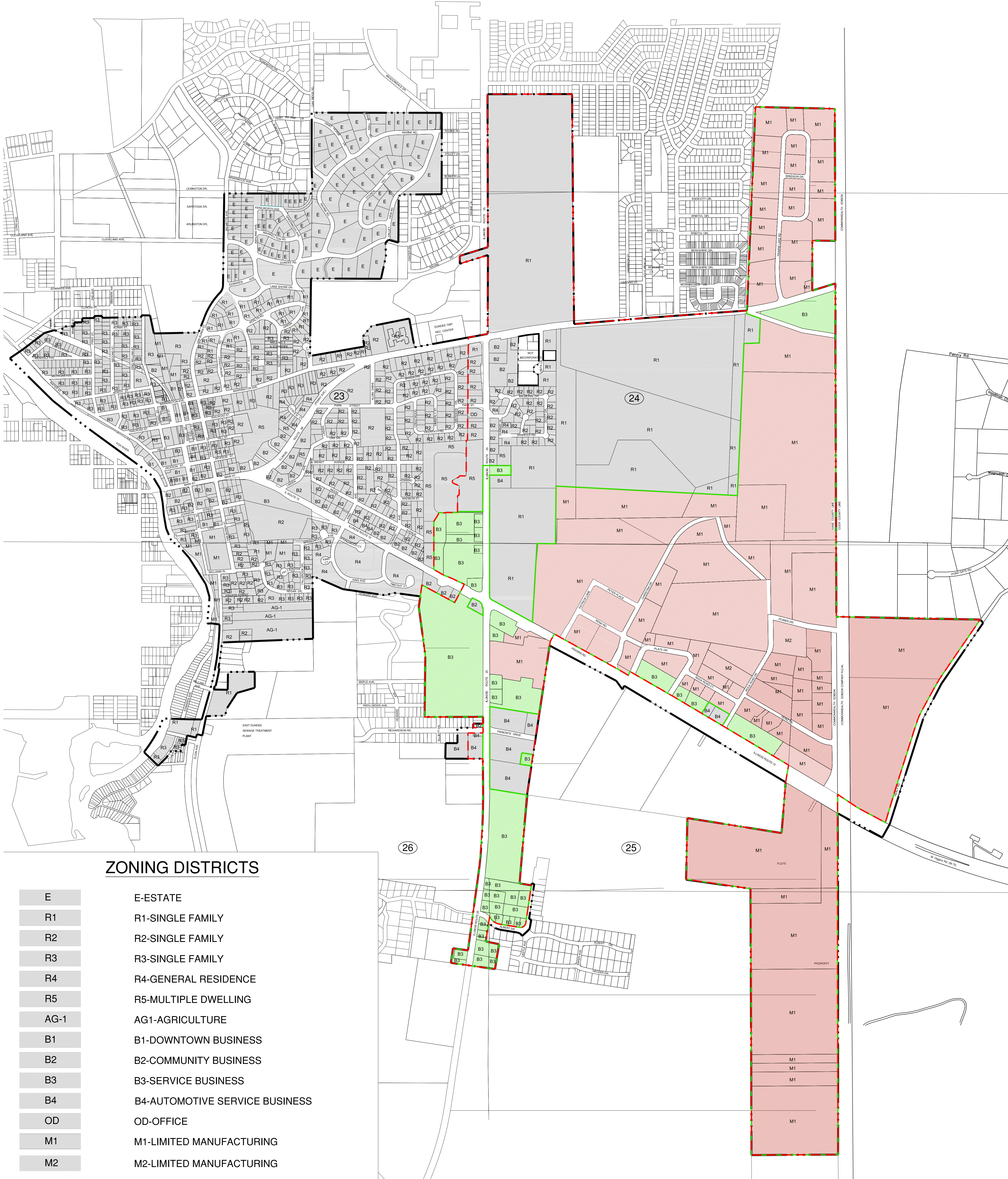
Published in pamphlet form this 6th day of April, 2020, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on April 6, 2020.





# CANNABIS OVERLAY DISTRICT



## ZONING DISTRICTS

E	E-ESTATE
R1	R1-SINGLE FAMILY
R2	R2-SINGLE FAMILY
R3	R3-SINGLE FAMILY
R4	R4-GENERAL RESIDENCE
R5	R5-MULTIPLE DWELLING
AG-1	AG1-AGRICULTURE
B1	B1-DOWNTOWN BUSINESS
B2	B2-COMMUNITY BUSINESS
B3	B3-SERVICE BUSINESS
B4	B4-AUTOMOTIVE SERVICE BUSINESS
OD	OD-OFFICE
M1	M1-LIMITED MANUFACTURING
M2	M2-LIMITED MANUFACTURING

VACATED RIGHT - OF - WAY

(22)

INDICATES GOVERNMENT LAND SECTION IN  
TOWNSHIP 42 NORTH RANGE 8 EAST OF 3RD P.M.  
(DUNDEE TOWNSHIP)

EAST DUNDEE  
CORPORATE LIMITS

## CANNABIS OVERLAY DISTRICT

### ALLOWABLE SPECIAL USE FOR CURRENTLY ZONED PROPERTIES

- DISPENSARIES ONLY**
- DISPENSARIES, CULTIVATION CENTERS CRAFT GROWERS, AND INFUSER, PROCESSING, AND TRANSPORTATION ORGANIZATIONS**