

## CHAPTER 11

### CANNABIS BUSINESS ESTABLISHMENTS

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#### 3-11-1: Purpose and Intent

- A. It is the purpose of this chapter to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the corporate limits of the Village. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act, P.A. 101-0027 (Act), as it may be amended from time to time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply.
- B. It is further the purpose of this chapter to protect the public health, safety, and welfare of the residents, businesses, and property in the Village by prescribing the manner in which adult-use cannabis establishments operate, including matters in relation to:
  - 1. Provide for a means of cultivation, production and distribution to persons permitted to obtain, possess, and use cannabis for recreational purposes under the Act.
  - 2. Protecting public health and safety through reasonable limitations on business operations as they relate to noise, air, and water quality, food safety, neighborhood and public safety, security for the business and its personnel, and other health and safety concerns.
  - 3. Promoting lively street life and high-quality neighborhoods by limiting the concentration of any one type of adult-use cannabis establishments in specific areas.
  - 4. Creating regulations that address the particular needs of the residents and businesses of the Village and coordinate with laws that may be enacted by the State of Illinois regarding adult-use cannabis establishments and recreational cannabis use.
  - 5. Facilitating the implementation of the Act without going beyond the authority granted by it.
  - 6. Protecting public safety and residential areas by limiting the areas of the Village where

adult-use cannabis establishments may be located.

7. Permitting recreational cannabis use, distribution, cultivation, and production where it will have a minimal impact and potential negative impacts are minimized, since these can have an impact on health, safety, and community resources.
8. Use, distribution, cultivation, production, possession, and transportation of cannabis is currently illegal under federal law, and cannabis remains classified as a “Level 1 Controlled Substance” by federal law.
9. The General Assembly has adopted enabling legislation that provides for adult-use cannabis establishments; however, the Act does not completely address the local impacts of adult-use cannabis establishments on municipalities, making it appropriate for local regulation of adult-use establishments.
10. Nothing in this chapter is intended to promote or condone the production, distribution, or possession of cannabis in violation of any applicable laws.
11. This chapter is to be construed to protect the public over the interests of adult-use cannabis establishments.
12. Adult-use cannabis establishments are a heavily-regulated industry in the State and all licensees are assumed to be fully aware of the law, hence the Village shall not therefore be required to issue warnings before issuing citations.
13. This chapter is intended to specify the time, place and manner restrictions for operating an adult-use cannabis establishment in the Village as specified under the Act and in this chapter.
14. The Village Board has determined to allow adult-use cannabis establishments in the Village on the condition that the establishments are operated in compliance with this chapter rather than banning them in the Village as permitted by the Act.

#### 3-11-2: LICENSE REQUIRED:

- A. A valid license from the Illinois Department of Agriculture, Illinois Department of Financial and Professional Regulations, or other authorized State licensing agency.
- B. An adult-use cannabis business license from the Village
- C. The number of cannabis business licenses issued by the Village shall be one (1).

#### 3-11-3: ZONING DISTRICTS:

Adult-use cannabis business establishments shall be permitted in any Business District: B-1, B-2, B-3, OR Industrial: “I”.

#### 3-11-4: DISTANCES:

- A. Subject to more restrictive otherwise provided for in this chapter, no adult-use cannabis business establishments shall be located within two thousand (2,000) feet of any other adult-use cannabis business establishment.
- B. Subject to more restrictive otherwise provided for in this chapter, no adult-use cannabis

business establishments shall be located within one thousand (1,000) feet of any one of the following:

1. Public or private elementary or secondary school, or any facility owned or operated by such school;
  2. Playground, public park, recreation center or facility, or private park;
  3. Church, temple, synagogue, mosque or chapel; or
  4. Public building or public library.
- C. The distances provided for in the chapter shall be measured linearly and shall be the shortest distance between the closest points of the established building line of the primary structure of each property. This requirement shall not be subject to variance. If a boundary line measured touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Village.

#### 3-11-5: PRINCIPAL USE:

Adult-use cannabis business establishments shall:

- A. Be considered a principal use and cannot have an accessory use not directly related to that principal cannabis use;
- B. Not be located in the same offices of a physician or other medical provider, nor shall they share a facility that includes the offices of a physician or other medical provider.
- C. Not operate as a home occupation.

#### 3-11-6: APPLICATION:

- A. No person shall sell or offer for sale or possess with the intent to sell at retail any cannabis without a license issued by the Village pursuant to this chapter in addition to a license issued by the State of Illinois. All policies, procedures and standards of acquiring an adult-use cannabis license from the Village shall apply, unless as otherwise noted in this chapter. In addition to other information that may be required for an adult-use cannabis business establishment license from the Village the license shall include:
  1. Contacts: The names, addresses, office phone numbers, cell phone numbers, fax numbers, and email addresses of the owners, operators and agents of the adult-use cannabis business establishment.
  2. Site Plan: A site plan of the adult-use cannabis business establishment showing:
    - a. Nature of the structure to be used for the purpose of adult-use cannabis business establishment;
    - b. Demonstration that the facility meets the conditions for an enclosed, locked facility;
    - c. Distance from all other facilities and uses requiring setbacks as provided for in this chapter;
    - d. Location of video surveillance equipment;

- e. Location, height and nature of any fences or any other barriers meant to provide security for the site;
  - f. Nature and adequacy of supervision and security at the site.
3. Setbacks: Evidence demonstrating that the entire adult-use cannabis business establishment would meet all requirements of state law regarding setbacks required in the Act and any implementing regulations of same.
4. State Fees: Evidence demonstrating that all state required fees have been paid.
5. Limitation of Liability: At the time of submission of an application, the applicant shall submit a written acknowledgement that the applicant agrees to and accepts the limitations of liability and the requirement to indemnify, hold harmless and defend the Village and the Village employees and agents, including that the Village shall not be liable to the adult-use cannabis business establishment's employees, customers, qualifying patients or caregivers, qualifying patient's or caregiver's employer or employees, family members or guests, for any damage, injury, accident, loss, compensation or claim, based on, arising out of, or resulting from the property for which the zoning is requested being used, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to federal or state laws, any fire, robbery, theft, mysterious disappearance or any other casualty; of the actions of any other registrants or persons. This limitation of liability provision shall survive expiration or the early termination of the registration if the registration is granted, or dissolution of use or any subsequent change in zoning.
6. Provision of Notice: At the time of submission of an application under this section, the applicant shall submit a signed statement certifying that the applicant has actual notice that, notwithstanding state law and any action by the village, that:
  - a. Cannabis is currently a prohibited Schedule I controlled substance under federal law;
  - b. Participation in either the Illinois Compassionate Use of Medical Cannabis Program or the Illinois Cannabis Regulation and Taxation Act is permitted only to the extent provided by the strict requirements of the Acts and subsequent implementing regulations.
  - c. Any activity not sanctioned by the Medical Cannabis Program Act and its subsequent implementing regulations may be a violation of state law and may result in the revocation of zoning;
  - d. Growing, distribution or possessing cannabis in any capacity, except through a federally approved research program, is a violation of federal law;
  - e. Use of cannabis may affect an individual's ability to receive federal or state licensure in other areas;
  - f. Use of cannabis, in tandem with other conduct, may be a violation of state or federal law;
  - g. Participation in the Illinois Compassionate Use of Medical Cannabis Program, Illinois Cannabis Regulation and Tax Act, or approval of zoning by the Village does not authorize any person to violate federal or state law and, other than as set out in the Illinois Compassionate Use of Medical Cannabis Program Act and the Illinois Cannabis Regulation and Tax Act, and does not provide any immunity from or affirmative defense to arrest or prosecution under federal or state law; and
  - h. Application for the adult-use business establishments from the Village shall indemnify, hold harmless, and defend the Village for any and all civil or criminal

penalties resulting from participation in the Compassionate Use of Medical Cannabis Program and the Illinois Cannabis Regulation and Tax Act.

- B. Application: Applications for a license shall be made to the Village Clerk.
- C. Cannabis License: Each cannabis business establishment license shall be an annual registration and shall expire on April 30 following its issuance and every year thereafter requiring an application for renewal and approval. A cannabis license issued under this shall have an annual license fee in the amount of five thousand dollars (\$5,000.00).

### 3-11-7: SPECIAL REQUIREMENTS FOR ADULT-USE CANNABIS DISPENSING ORGANIZATION

- A. Parking: The adult-use cannabis dispensing organization shall have a minimum of twenty-five (25) parking spaces. Unless otherwise provided in this chapter, the parking area shall meet all requirements for off-street parking and loading. Parking shall be located in an area which is visible from a public road that is accessible to the public. It may not be screened from the roadway with vegetation, fencing or other obstructions, but such may be allowed with the presentation of evidence of a safety or security need. Parking areas shall be well lit and monitored by video surveillance equipment whose live images can be viewed by adult-use cannabis dispensing organization staff and continually recorded in a tamper proof format.
- B. Exterior Display: No adult-use cannabis dispensing organization shall be maintained or operated in a manner that causes, creates or allows the public viewing of medical cannabis, cannabis infused products, cannabis paraphernalia or similar products from any sidewalk, public or private right-of-way, or any property other than the lot on which the dispensary is located. No portion of the exterior of the dispensary shall utilize or contain any flashing lights, search lights, spotlights, or any similar lighting system.
- C. Exterior Signage:
  - 1. All exterior signs shall conform to the provisions set forth in Sign Code of the East Alton Municipal Code. Exterior signs of the dispensary building shall not obstruct the entrance or windows of the dispensary.
  - 2. Temporary signs are not permitted.
  - 3. Signs shall not include any realistic or stylized graphical representation of the cannabis plant or its parts, smoke, any realistic or stylized graphical representation of drug paraphernalia, or cartoonish imagery oriented toward youth.
  - 4. A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Persons under the age of 21 are prohibited from entering." The required text shall be no larger than one inch (1") in height.
- D. Drug Paraphernalia Sales: Adult-use cannabis dispensing organizations that display or sell drug paraphernalia shall do so in compliance with the Illinois Drug Paraphernalia Control Act (720 ILCS 600/1 et seq.), the Illinois Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1 et seq.), and the Illinois Cannabis Regulation and Taxation Act (410

ILCS 705/1 et seq.).

- E. Hours of Operation: Adult-use cannabis dispensing organization shall operate only between the hour of six o'clock (6:00) A.M. and eleven o'clock (11:00) P.M.
- F. Age and Access Limitations: It shall be unlawful for any adult-use cannabis dispensing organization to allow any person who is not at least twenty-one (21) years of age on the premises. Adult-use cannabis dispensing organizations shall not employ anyone under the age of twenty-one (21) years of age.
- G. Security and Video Surveillance:
  - 1. The adult-use cannabis dispensing organization shall be an enclosed, locked facility and shall provide and maintain adequate security on the premises, including lighting, video surveillance and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft.
  - 2. The dispensary parking area, client entrance, sales area, back room, storage areas and delivery bay and entrance shall be monitored by video surveillance equipment whose live images can be viewed by dispensary staff and continually recorded in a tamper proof format.
  - 3. A sign shall be posted in a prominent location which includes the following language: "These premises are under constant video surveillance."
  - 4. The Building and Zoning Department shall review the adequacy of lighting, security and video surveillance installations with assistance from the Village's Police Department.
  - 5. Adult-use cannabis dispensing organizations shall report all criminal activities to all appropriate law enforcement agencies immediately upon discovery.
  - 6. Deliveries shall occur during normal business hours within a secure enclosed delivery bay. No delivery shall be visible from the exterior of the building.
- H. Conduct on Site:
  - 1. Residential Co-Location: No person shall reside in or permit any person to reside in a dispensary or on the property of same.
  - 2. Drive-Through Services: Drive-through services shall be permitted in the context of site plan approval by the Village.
  - 3. Outdoor Seating: Outdoor seating shall be prohibited.
  - 4. Loitering: Loitering is prohibited on dispensary property.
  - 5. Smoking and Use of Cannabis Products: It shall be prohibited to smoke, inhale, or consume cannabis products at an adult-use or medical adult-use cannabis dispensing organization. A sign, at least eight and a half inches by eleven inches (8.5" x 11") shall be posted inside the public waiting room, limited access area, and the restricted access area of the dispensary in a conspicuous place and visible to a client and shall include the following language: "Smoking, eating, drinking or other forms of consumption of cannabis products is prohibited within the dispensary area." An adult-use cannabis dispensing organization may have an adult-use cannabis lounge located adjacent to the licensed adult-use cannabis dispensing organization, with the limitations provided for in



this chapter.

3-11-8: ADDITIONAL REQUIREMENTS: Cannabis Business Establishments. Applicant shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the application, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an adult-use cannabis business establishment and the site on which it is located, consistent with the requirements of the Act.

3-11-9: OPERATING REQUIREMENTS: The following requirements shall apply to all adult-use cannabis business establishments within the Village:

A. Generally:

1. Every adult-use cannabis business establishment shall comply with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, fire, building, health and zoning codes of the Village and State.
2. No adult-use cannabis business establishment shall be conducted in such a manner that permits the observation from public view of the activities and operations within the indoors of the business establishment.
3. No adult-use cannabis business establishment shall advertise the availability at such business of any activity that would be in violation of this chapter, or any State or Federal Law.
4. No alcoholic beverage or other intoxicant shall be displayed, sieved, ingested or sold on the premises of any adult-use cannabis business establishment.
5. No licensee, operator or employee shall be under the influence of any alcoholic beverage or other intoxicant while working at an adult-use cannabis business establishment.
6. No patron who is under the influence of any alcoholic beverage or other intoxicant shall be allowed to enter any adult-use cannabis business establishment.
7. No gambling shall be permitted by any person in any adult-use cannabis business establishment.

B. Employees:

1. The operator shall be responsible for the conduct of all employees while on the premises. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee and operator, when such operator knew, should have known, or could have known, of such act or omission, for purposes of determining whether the operating license shall be renewed, suspended or revoked and whether the licensee and operator shall be subject to the penalties imposed by this chapter.
2. No operator shall knowingly employ in an adult-use cannabis business establishment any person who, within three (3) years of the commencement of such employment, has been convicted in this or any other state of any of the crimes specified in Illinois Cannabis Control Act (720 ILCS 550/3, et seq.), the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, et seq.), or the Cannabis Regulation and Tax Act (410

ILCS 705/1, et seq.) regardless of the pendency of any appeal.

C. Minors:

1. No licensee, operator or employee of an adult-use cannabis business establishment shall allow or permit any minor to enter into or in any way loiter in or on any part of the licensed premises, purchase goods or services at the licensed premises, or work at the licensed premises as an employee.
2. Every adult-use cannabis business establishment shall display a sign outside each entrance of such business bearing the words "Adult-Use Cannabis Business Establishment. Persons Under 21 Years Old Not Admitted" in legible letters between two (2) and six (6) inches tall.

D. Security: In addition to any other requirements provided for in this chapter, during business hours, all adult-use cannabis business establishments shall store all useable cannabis, cannabis-infused product and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For usable cannabis products that must be kept refrigerated or frozen, these products must be stored in a locked refrigerator or freezer container in a manner approved by the Village, provided the container is affixed to the building structure.

3-11-10: ODOR EMISSIONS:

- A. Odors: Any cannabis odor shall be contained within the adult-use cannabis business establishment so that the odor of cannabis cannot be detected from any abutting use or property by a person with a normal functioning sense of smell. If any cannabis odor can be smelled from any abutting use or property, the adult-use cannabis business establishment shall be required to implement measures necessary to contain the odor, including, but not limited to installation of ventilation equipment.
- B. No person, tenant, occupant, or property owner shall permit the emission of cannabis odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- C. Whether or not a cannabis odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
- D. A cannabis odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if cannabis odor is detectable outside the premises.
- E. No person shall be convicted of a violation of this section unless the Village has delivered or posted a written warning, in the previous twelve (12) months, that conduct violating this chapter is occurring or has occurred.
  1. The person, tenant, occupant, or property owner must abate the cannabis odor emission



within seven (7) days after the warning is delivered or posted.

2. Seven (7) or more days after a warning is posted or delivered, a separate violation of this chapter occurs on each day that the cannabis odor emission repeats or continues.
3. The warning shall cite this section.
4. The warning may be delivered personally or posted on the property.
5. It shall be presumed that a person charged under this chapter received the warning if the warning was either: (i) delivered to the property owner, a tenant, or an occupant; or (ii) posted on the property.

### 3-11-12: PENALTIES:

- A. Any licensee, operator, employee or other person who violated any of the provisions of this chapter shall be subject to a fine as provided in section 1-4-1 of the Municipal Code for each such violation.
- B. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time, after having initially been made aware of the violation, shall be considered a separate offense for each hour of violation.
- C. In addition to any fines or penalties imposed in this chapter, this chapter may be enforced by injunctive procedure in a court of competent jurisdiction. The Village may further recover from any violator any and all costs and fees, including reasonable attorney's fees, expended by the Village in enforcing the provisions of this chapter.
- D. This chapter shall not preclude any additional enforcement action taken by any appropriate Village, State or Federal official conducted pursuant to any applicable ordinance, regulation or law of the Village or State or the United States of America.
- E. All remedies and penalties provided for in this chapter shall be cumulative and independently available to the Village, and the Village shall be authorized to pursue any and all remedies set forth in this chapter to the fullest extent allowed by law.

### 3-11-13: DISSOLUTION OF USE AND REVOCATION OF ZONING:

- A. Failure to Comply with State and Village Regulations: Should an adult-use cannabis business establishment fail to conform to and meet all laws, rules and regulations established by the State of Illinois and the Village pursuant to the production and distribution of cannabis and other associated products as allowed under the Act and its subsequent implementing regulations, this may be considered a dissolution of use, allowing for the revocation of the license issued by the Village.
- B. Termination of use should an adult-use cannabis business establishment fail to use the property for the purpose under which the business license was provided for a period of one hundred eighty (180) days, this may be considered dissolution of use, allowing for the revocation of the license by the Village.

3-11-14: MUNICIPAL TAX:

- A. **Tax imposed.** A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Program Act, at retail in the municipality at the rate of 3% of the gross receipts from such cannabis sales made in the municipality.

The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-23 of the Illinois Municipal Code (65 ILCS 5/8-11-23).

- B. **Illinois Department of Revenue to administer.** The tax hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Ordinance.
- C. **Clerk to file Ordinance with Illinois Department of Revenue.** The Village Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue on or before October 1, 2024.
- D. **Effective date.** This Ordinance shall take effect January 1, 2025 if filed with the Department of Revenue on or before October 1, 2024.
- E. **Repeal of conflicting provisions.** All Ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.