

VILLAGE OF ELBURN

ORDINANCE NO. 2019 – 18

**AN ORDINANCE AMENDING CHAPTER 3, DEFINITIONS, CHAPTER 8.2.C, B-1
COMMERCIAL DISTRICT, CHAPTER 8.3.C, B-2 COMMERCIAL DISTRICT, AND
CHAPTER 9.2.B, CM COMMERCIAL-MANUFACTURING DISTRICT OF THE
VILLAGE OF ELBURN MUNICIPAL ZONING CODE PERTAINING TO ADULT-USE
CANNABIS**

**ADOPTED BY
THE BOARD OF TRUSTEES
OF THE
VILLAGE OF ELBURN**

On this 16 day of September, 2019

ORDINANCE NO. 2019-18

AN ORDINANCE AMENDING CHAPTER 3, DEFINITIONS, CHAPTER 8.2.C, B-1 COMMERCIAL DISTRICT, CHAPTER 8.3.C, B-2 COMMERCIAL DISTRICT, AND CHAPTER 9.2.B, CM COMMERCIAL-MANUFACTURING DISTRICT OF THE VILLAGE OF ELBURN MUNICIPAL CODE PERTAINING TO ADULT-USE CANNABIS

WHEREAS, the Village of Elburn, Illinois, has enacted Municipal Code Regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act (Act), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use 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, on August 19, 2019, the Village Board initiated a text amendment to the Zoning Ordinance to review and consider additional amendments to further regulate adult-use cannabis facilities within the Village of Elburn; and

WHEREAS, the Planning and Zoning Commission/Zoning Board of Appeals conducted public hearings, as required by law, on September 4, 2019, in regards to the proposed text amendments to Sections 8.2.C (B-1), 8.3.C (B-2) and 9.2.B (CM) of the Village of Elburn Zoning Code pertaining to adult-use cannabis; and

WHEREAS, the Planning and Zoning Commission/Zoning Board of Appeals recommended approval of the proposed amendments to Sections 8.2.C (B-1), 8.3.C (B-2) and 9.2.B (CM) of the Village of Elburn Zoning Code

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Village of Elburn as follows:

SECTION 1: The recitals set forth above are incorporated herein.

SECTION 2: Section 3.2 Definitions of the Village of Elburn Zoning Code is hereby amended by adding the underlined language, as follows:

ADULT-USE CANNABIS DISPENSING ORGANIZATION:

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, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

SECTION 3: Sections 8.2.C.(5), 8.3C.(6) and 9.2.B.14 of the Village of Elburn Zoning Code is hereby amended by adding the underlined language as follows:

ADULT-USE CANNABIS:

1. Purpose and Applicability: It is the intent and purpose of this Section to provide regulations regarding ADULT-USE CANNABIS DISPENSING ORGANIZATION, as defined in Article III, DEFINITIONS, occurring within the corporate limits of the Village of Elburn. 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.

2. Adult-Use Cannabis Dispensing Organization Components: In determining compliance with Article 8 or 9, as applicable, of this Title, the following components of the Adult-Use Cannabis Dispensing Organization shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

3.1 Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.

3.2 Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan, and building code compliance.

3.3 Hours of operation and anticipated number of customers/employees.

3.4 Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.

3.5 Site design, including access points and internal site circulation.

3.6 Proposed signage plan.

3.7 Compliance with all requirements provided in Section 3 (Adult-Use Cannabis Dispensing Organization);

3. Adult-Use Cannabis Dispensing Organization: The proposed facility must comply with the following:

3.1 Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

3.2 On-site consumption of cannabis is prohibited.

3.3 A Cannabis Dispensary shall not be located within 150 feet from any licensed day care or school, as measured from the primary, public entrance of the facility.

3.4 Hours of operation are limited to 8:00 am to 9:00 pm, seven days a week.

3.5 Petitioner shall file an affidavit with the Village affirming compliance with all other requirements of the Act.

4. Additional Requirements: Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, 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.

The total number of Cannabis Dispensaries at any one time within the Village of Elburn shall not exceed one cannabis dispensary licenses for the first 10,000 persons or fraction thereof, residing within the Village, and one cannabis dispensary for each additional 10,000 persons, or fraction thereof, residing in the Village, as determined by the most recent U.S. census.

SECTION 6: Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 7: Effective Date. This Ordinance shall be in full force and effect upon its passage and approval as required by law.

| Trustee Name | Aye | Nay | Absent | Abstain |
|-------------------|-----|-----|--------|---------|
| Ken Anderson | | ✓ | | |
| Sue Filek | ✓ | | | |
| Bill Grabarek | | ✓ | | |
| Chris Mondri | ✓ | | | |
| Patricia Schuberg | ✓ | | | |
| Matt Wilson | ✓ | | | |
| Mayor Jeff Walter | ✓ | | | |

PRESENTED to the Board of Trustees of the Village of Elburn, Kane County, Illinois this 16th day of September, 2019.

PASSED by the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 16th day of September, 2019.

SIGNED by the President of the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 16th day of September, 2019.



Jeffrey D. Walter
Village President
Village of Elburn, Kane County, Illinois

(SEAL)



ATTEST:



Diane McQuilkin
Village Clerk
Village of Elburn, Kane County, Illinois

STATE OF ILLINOIS)

) SS

COUNTY OF KANE)

SECRETARY'S CERTIFICATE

I, the undersigned, Village Clerk of the Village of Elburn, in the County of Kane, State of Illinois, do hereby certify that attached hereto is a true and correct copy of that certain Ordinance now on file in my office entitled:

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AN ORDINANCE AMENDING CHAPTER 3, DEFINITIONS, CHAPTER 8.2.C, B-1 COMMERCIAL DISTRICT, CHAPTER 8.3.C, B-2 COMMERCIAL DISTRICT, AND CHAPTER 9.2.B, CM COMMERCIAL-MANUFACTURING DISTRICT OF THE VILLAGE OF ELBURN MUNICIPAL CODE PERTAINING TO ADULT-USE CANNABIS

which said Ordinance was adopted by the President and Board of Trustees of the Village of Elburn at a regular meeting held on September 16th, 2019, at which meeting a quorum was present.

I further certify that the vote on the question of the adoption of the said Ordinance by the President and Board of Trustees of the Village of Elburn was taken by Ayes and Nays and recorded in the Journal of Proceedings of the President and Board of Trustees of the Village of Elburn.

I do further certify that the Ordinance of which the foregoing is a true and correct copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand on September 16th, 2019.



Diane McQuilkin
Village Clerk
Village of Elburn, Kane County, Illinois