

VILLAGE OF DOWNERS GROVE
Report for the Village
12/8/2020

SUBJECT:	SUBMITTED BY:
Zoning Ordinance Text Amendments – Adult Use Cannabis	Stan Popovich, AICP Director of Community Development

SYNOPSIS

Ordinances have been prepared regarding the following:

- Requesting approval of text amendments to various sections of the Zoning Ordinance related to adult use cannabis business establishments. The proposed amendments will also allow medical cannabis dispensing organizations and cultivation centers as a Special Use in the M-2, Restricted Manufacturing District to align with Adult Use cannabis regulations;
- Imposing a Municipal Cannabis Retailers' Occupation Tax; and
- Repealing provisions regarding Adult Use Cannabis establishments

STRATEGIC PLAN ALIGNMENT

The goals for 2019-2021 includes a *Strong, Diverse Local Economy* and *Exceptional Municipal Services*.

UPDATE & RECOMMENDATION

This item was discussed at the December 1, 2020 Village Council meeting. Based on discussions during the December 1 Village Council meeting, staff offers the following responses and clarifications:

1. A link to the Zoning Ordinance's Operational Performance Standards is provided here: https://downersgrove.municipalcodeonline.com/book?type=ordinances#name=Sec_28.10.040_Operational_Performance_Standards
2. A craft grower would not be included in the total number of dispensaries allowed in the Village. Staff reviewed the definition of a craft grower in the State law (410 ILCS 705) and found that a craft grower does not include a dispensary. According to the law, a craft grower may share premises with a processing organization or a dispensing organization. As such, if an applicant came in with a combined craft grower and dispensary application, the Village would need to grant a Special Use for both the craft grower and the dispensary. The dispensary associated with the craft grower would then be one of three Adult Use and Medical Use dispensaries that would be allowed in the Village.
3. The text of the proposed amendments has been clarified to note that the total number of Adult Use and Medical Use Dispensaries is three.

Staff recommends approval on the December 8, 2020 Active Agenda.

FISCAL IMPACT

N/A

BACKGROUND

In 2019, the State of Illinois passed the Cannabis Regulation and Tax Act which legalized the use of recreational marijuana beginning January 1, 2020. At their December 17, 2019 meeting, the Village Council approved amendments to Chapter 8 (Business and Activity Licenses and Regulations) and Chapter 28 (Zoning Ordinance) of the Downers Grove Municipal Code, prohibiting Adult Use Cannabis Business Establishments.

At their October 6, 2020 meeting, the Village Council provided updated direction to allow Adult Use Cannabis Establishments as a Special Use in the M-1, Light Manufacturing and M-2, Restricted Manufacturing Zoning Districts. In summary the proposed zoning text amendments are consistent with the following parameters:

- All Adult Use Cannabis Business Establishments will require a special use in the M-1 and M-2 Zoning Districts. Adult Use Cannabis Business Establishments are listed here:
 - *Adult Use Cannabis Craft Grower*
 - *Adult Use Cannabis Cultivation Center*
 - *Adult Use Cannabis Dispensing Organization*
 - *Adult Use Cannabis Infuser Organization or Infuser*
 - *Adult Use Cannabis Processing Organization or Processor*
 - *Adult Use Cannabis Transporting Organization or Transporter*
- Adult Use Cannabis Business Establishments will:
 - be prohibited adjacent to residential districts
 - require a 1,300 ft. separation from daycare centers, schools and parks.
- There will be a maximum limit of Adult Use and Medical Cannabis Dispensing Organization Special Use Permits to three (3).
- For parity in the Zoning Ordinance, Medical Cannabis Dispensing Organizations and Cultivation Centers will now be an allowed special use in the M-2 Zoning District (currently only allowed as special uses in the M-1 Zoning District).
- The separation distance of Medical Cannabis Dispensing Organizations and Cultivation Centers has been modified so that the separation distance from pre-existing parks and the prohibition adjacent to residential zoning districts matches the Adult Use separation distance requirement.
- Parking requirements for Adult Use Cannabis and Medical Cannabis Business Establishments will be added to the Zoning Ordinance (further discussed below).

As noted in the attached Plan Commission staff report, using the parameters summarized above, a map is provided in the staff report that demonstrates the potential locations where Medical Cannabis Dispensing Business Establishments and Adult Use Cannabis Business Establishments could be located.

Staff researched the parking requirements utilized by existing cannabis facilities located through the state as well as regulations recently established for the 12 DuPage County opt-in communities (Addison, Naperville, Schaumburg, Geneva, Joliet, Lombard, etc.). Based on this research, most communities require cannabis dispensaries to be parked at a retail rate (with regulations ranging from 3 parking spaces/1,000 square feet to 5 parking spaces/1,000 square feet). However, best practices research also shows that this level of parking tends to be insufficient for cannabis dispensing facilities, particularly during demand surges that occur in their first year of operation.

Based on the overall research collected, staff is recommending the following parking requirements for

cannabis dispensaries:

- For those Adult Use and Medical Dispensaries that will be located in an industrial campus in which shared parking is available: 6 parking spaces per 1,000 square feet of gross floor area of the dispensary.
- For those Adult Use and Medical Dispensaries that are located on a property in which no shared parking is available: 7.5 parking spaces per 1,000 square feet of gross floor area of the dispensary.
- For craft growers: follow dispensary guidelines for the dispensary part of their business plus 1.17 spaces per 1,000 square feet, similar to the general industrial parking requirement.
- In addition to the required parking, the Adult Use and Medical Dispensary and craft growers will be required to submit a parking plan, subject to review and approval by the Community Development Director that denotes additional parking supply (including off-site) which can be used to meet the increased parking demands of the dispensary or craft grower upon its initial opening.
- All other Adult Use Cannabis Business Establishments will require 1.17 spaces per 1,000 square feet, similar to the general industrial parking requirements.

Staff finds that the above recommendations will allow for required parking beyond that of a typical retail facility (3.5 parking spaces/1,000 square feet in Downers Grove), as has been found to be necessary by other communities. Additionally, the parking plan will allow for the increased parking demands of a newly opened Adult Use or Medical Dispensary to be adequately accounted for and accommodated.

Public Comment

Prior to and during the Plan Commission meeting, staff did not receive any inquiries regarding this proposal.

Imposing a Municipal Cannabis Retailers' Occupation Tax

Chapter 21 of the Village's Municipal Code will be amended to include an addition of Article XIII imposing a Municipal Cannabis Retailers' Occupation tax at a rate of 3% of gross receipts. The tax will go into effect July 1, 2021.

The tax will be imposed on any retailer selling cannabis.

Repealing provisions regarding Adult Use Cannabis establishments

Section 8.2200 through Section 8.2206 of Chapter 8 of the Village's Municipal Code will be repealed to remove the prohibition of Adult Use Cannabis Establishments in the Village of Downers Grove.

ATTACHMENTS

Council Action Summary

Ordinance

Staff Report with attachments dated October 26, 2020

Draft Minutes of the Plan Commission Hearing dated October 26, 2020

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: December 8, 2020
(Name)

RECOMMENDATION FROM: _____ FILE REF: _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE AMENDING THE DOWNERS GROVE MUNICIPAL CODE BY THE ADDITION OF CHAPTER 21, ARTICLE XIII IMPOSING A MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX", as presented.



SUMMARY OF ITEM:

Adoption of this ordinance shall adopt and impose a Municipal Cannabis Retailer's Occupation Tax.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE DOWNERS GROVE MUNICIPAL CODE
BY THE ADDITION OF CHAPTER 21, ARTICLE XIII
IMPOSING A MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

WHEREAS, the Village of Downers Grove 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, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/8-11-23 *et seq.* (Act); and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a municipal cannabis retailers' occupation tax which will be collected by the Illinois Department of Revenue;

NOW, THEREFORE, BE IT ORDAINED by the Village Council of the Village of Downers Grove as follows:

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Adoption of Tax. Chapter 21 of the Municipal Code of the Village of Downers Grove shall be amended by the addition of Article XIII that will read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

Chapter 21, Article XIII. Municipal Cannabis Retailers' Occupation Tax

21. 1301. Tax imposed; Rate.

(a) 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 Pilot Program Act, at retail in the Village at the rate of three percent (3%) of the gross receipts from these sales made in the course of that business.

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

21.1302. Collection of tax by retailers.

(a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this Article.

Section 3. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 4. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after July 1, 2021. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to April 1, 2021.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

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