

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 REPEALING PROVISIONS CONCERNING ADULT USE CANNABIS BUSINESS ESTABLISHMENTS", as presented.



SUMMARY OF ITEM:

Adoption of this ordinance shall repeal certain provisions contained in Chapter 8 of the Municipal Code concerning Adult Use Cannabis Business Establishments.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE REPEALING PROVISIONS CONCERNING
ADULT USE CANNABIS BUSINESS ESTABLISHMENTS**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by shading/underline; deletions by ~~strikeout~~):

Section 1. That Section 8.2200 is hereby repealed in its entirety:

Sec 8.2200 Short Title

This Ordinance shall be known as, and may be referred to as the "Village of Downers Grove Adult Use Cannabis Business Establishment Ordinance".

(Ord. 5777, Add, 10/08/2019)

Section 2. That Section 8.2201 is hereby repealed in its entirety:

Sec 8.2201 Findings And Purpose

The Village Council hereby finds, as follows:

~~That the Illinois Cannabis Regulation and Tax Act, Public Act 101-0027, provides that the Village is authorized to prohibit the location of adult use cannabis business establishments within the Village; and~~

~~That the operation of adult use cannabis business establishments may present adverse impacts upon the health, safety and welfare of the residents, and additional costs, burdens and impacts upon law enforcement and regulatory operations of the Village of Downers Grove; and~~

~~That prohibiting the location of adult use cannabis business establishments within the Village is in the best interests of the Village and the public.~~

(Ord. 5777, Add, 10/08/2019)

Section 3. That Section 8.2202 is hereby repealed in its entirety:

Sec 8.2202 Definitions

The following words and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this Section, as follows:

~~*Adult Use Cannabis Business Establishments.* Cannabis Business Establishments include: Adult Use Cannabis Cultivation Centers (not including Medical Cannabis Cultivation Centers as set forth in Chapter 28 of the Downers Grove Zoning Ordinance), Adult Use Cannabis Craft Growers, Adult Use Cannabis Processing Organizations, Adult Use Cannabis Infuser Organization or Infuser, Adult Use Cannabis Dispensing Organizations (not including Medical Cannabis Dispensing Organizations as set forth in Chapter 28 of the Downers Grove Zoning Ordinance), and Adult Use Cannabis Transporting Organizations.~~

~~*Adult Use Cannabis Craft Grower.* An Adult Use Cannabis Craft Grower is 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 definition of Craft Grower as set forth in the Cannabis Regulation and Tax Act, (P.A.101-0027), as may be amended from time to time, and regulations promulgated thereunder.~~

~~*Adult Use Cannabis Cultivation Center.* An Adult Use Cannabis Cultivation Center is 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 definition of Cultivation Center as set forth in the Cannabis Regulation and Tax Act, (P.A.101-0027), as may be amended from time to time, and regulations promulgated thereunder. Adult Use Cannabis Cultivation Center does not include Medical Cannabis Cultivation Centers as set forth in Chapter 28 of the Downers Grove Zoning Ordinance.~~

~~*Adult Use Cannabis Dispensing Organization.* An Adult Use Cannabis Dispensing Organization is 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 may be amended from time to time, and regulations promulgated thereunder. Adult Use Cannabis Dispensing Organization does not include Medical Cannabis Dispensing Organizations as set forth in Chapter 28 of the Downers Grove Zoning Ordinance.~~

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

~~*Adult Use Cannabis Processing Organization or Processor.* An Adult Use Cannabis Processing Organization, or Processor, is 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, (P.A.101-0027), as may be amended from time to time, and regulations promulgated thereunder.~~

~~*Adult Use Cannabis Transporting Organization or Transporter.* An Adult Use Cannabis Transporting Organization, or Transporter, is 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, (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.~~

~~*Person.* A natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.~~

~~(Ord. 5777, Add, 10/08/2019)~~

Section 4. That Section 8.2203 is hereby repealed in its entirety:

Sec 8.2203 Adult Cannabis Business Establishments; Prohibited

The following Adult Use Cannabis Business Establishments are prohibited from being located within the Village of Downers Grove. No person shall locate, operate, own, suffer, allow to be operated or aid, abet or assist in the operation within the Village of Downers Grove of any of the following:

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

Cannabis Business Establishments do not include Medical Cannabis Cultivation Centers or Medical Cannabis Dispensing Organizations as set forth in Chapter 28 of the Downers Grove Zoning Ordinance.

(Ord. 5777, Add, 10/08/2019)

Section 5. That Section 8.2204 is hereby repealed in its entirety:

Sec 8.2204 Public Nuisance Declared

Operation of any prohibited Adult Use Cannabis Business Establishments within the Village in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

(Ord. 5777, Add, 10/08/2019)

Section 6. That Section 8.2205 is hereby repealed in its entirety:

Sec 8.2205 Violations

Violations of this Chapter may be enforced in accordance with the provisions of DGMC Section 1.15 of the Code.

(Ord. 5777, Add, 10/08/2019)

Section 7. That Section 8.2206 is hereby repealed in its entirety:

Sec 8.2206 Severability

If any section, paragraph, or provision of this Ordinance, or the application hereof, is held unconstitutional or otherwise invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect other provisions of this Ordinance or any other Village ordinance, resolution, or provision of the Downers Grove Municipal Code that can be given effect without the unconstitutional or invalid section, paragraph, or provision. Any unconstitutional or invalid section, paragraph, or provision, or application hereof, is severable.

(Ord. 5777, Add, 10/08/2019)

Section 8. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 9. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk