

VILLAGE OF LIBERTYVILLE

ORDINANCE NO. 14-O- 41

AN ORDINANCE AMENDING THE LIBERTYVILLE ZONING CODE
TO REGULATE MEDICAL CANNABIS CULTIVATION CENTERS
AND MEDICAL CANNABIS DISPENSARIES

Adopted by the
President and Board of Trustees
of
the Village of Libertyville
Lake County, Illinois
this 24 day of June, 2014

Published in pamphlet form by direction
and authority of the Village of Libertyville
Lake County, Illinois
this 25 day of June, 2014

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TO REGULATE MEDICAL CANNABIS CULTIVATION CENTERS
AND MEDICAL CANNABIS DISPENSARIES

WHEREAS, Public Act 98-0122 of the Illinois General Assembly (410 ILCS 130/1 *et seq.*), or the Compassionate Use of Medical Cannabis Pilot Program Act (the “Medical Cannabis Act”), was signed by Governor Quinn on August 1, 2013, which, among other things, allows for the establishment of up to sixty (60) medical cannabis dispensing organizations and twenty-two (22) medical cannabis cultivation centers, all to be geographically dispersed throughout the State of Illinois; and

WHEREAS, the Village of Libertyville, Illinois Municipal Code (the “Municipal Code”) and the Libertyville Zoning Code (the “Zoning Code”), when adopted and as amended, did not provide for regulation and/or zoning pertinent to medical cannabis dispensing organizations or medical cannabis cultivation centers; and

WHEREAS, at present the Zoning Code does not contain any explicit provisions contemplating the approval, zoning or regulation of medical cannabis dispensing organizations or medical cannabis cultivation centers; and

WHEREAS, on December 10, 2013, the Village Board of Trustees passed a moratorium on the establishment of medical cannabis cultivation centers, medical cannabis dispensing organizations and/or the issuance of building permits and zoning certificates of compliance for such uses in the Village of Libertyville for a period of 180 days, and such moratorium was extended for an additional 60 days on June 8, 2014, in order to provide an opportunity for

Village Staff and the Village Plan Commission sufficient time to draft and seek approval for appropriate text amendments to the Zoning Code for such uses; and

WHEREAS, the President and Board of Trustees for the Village desire to adopt changes to the Zoning Code relative to the Village's regulation and zoning of medical cannabis dispensing organizations and medical cannabis cultivation centers, to ensure that said regulations adequately protect the public health, safety and welfare from the potentially harmful secondary effects of medical cannabis dispensing organizations and/or medical cannabis cultivation centers; and

WHEREAS, based upon the local medical marijuana regulating experiences in other states, including California, where medical cannabis dispensing organizations and/or medical cannabis cultivation centers were permitted, local agencies found the locations created a number of secondary effects associated with them, including: (1) illegal drug activity and drug sales in the vicinity of dispensaries; (2) robberies of persons leaving dispensaries; (3) driving under the influence of controlled substances obtained from dispensaries; (4) persons acquiring cannabis from a dispensary and then selling it to non-qualified persons; (5) burglaries and robberies; and (6) increased vacancies in the commercial areas near such dispensaries. Such impacts were compiled in an extensive white paper report prepared by the California Police Chiefs Association's Task Force on Marijuana Dispensaries, dated April 22, 2009, and the Village President and Board of Trustees hereby finds that such report contains persuasive anecdotal and documented evidence that medical cannabis dispensing organizations and/or medical cannabis cultivation centers pose a threat to the public health, safety and welfare; and

WHEREAS, the President and Board of Trustees for the Village hereby finds that it is in the best interest of the health, safety and welfare of the residents of the Village of Libertyville to prevent potentially harmful secondary effects of medical cannabis dispensing organizations

and/or medical cannabis cultivation centers to adopt this ordinance and regulate medical cannabis dispensing organizations and medical cannabis cultivation centers, as well as to designate which zoning districts are appropriate for such uses and the level of review required for approval of such uses; and

WHEREAS, the Libertyville Plan Commission conducted public hearings on January 27, 2014, April 28, 2014 and May 19, 2014, on matter PC 13-27 in consideration of text amendments to the provisions of the Zoning Code pertinent to the zoning and regulation of medical cannabis dispensing organizations and/or medical cannabis cultivation centers; and

WHEREAS, during late 2013 and early 2014, Village staff members participated in joint task force meetings with other Lake County, Illinois governmental entities and personnel to discuss and develop appropriate manners and methods of zoning and regulating medical cannabis dispensing organizations and medical cannabis cultivation centers throughout Lake County; and

WHEREAS, Section 140 of the Medical Cannabis Act provides that units of local government may enact reasonable zoning ordinances or resolutions regulating registered medical cannabis cultivation centers and/or medical cannabis dispensing organizations; and

WHEREAS, following public hearings, the Village Plan Commission recommended approval of these amendments to the Zoning Code in order to require, among other things, minimum buffering of certain sensitive land uses and require that medical cannabis cultivation centers and medical cannabis dispensing organizations are limited to the I-1 Limited Industrial District as Special Permitted Uses; and

WHEREAS, the President and Board of Trustees further find that these amendments to the Zoning Code regarding medical cannabis dispensaries and cultivation centers provide for the protection of the public health, safety, morals and welfare of the community, and are otherwise in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LIBERTYVILLE, COUNTY OF LAKE, STATE OF ILLINOIS, AS FOLLOWS:

SECTION ONE: The foregoing recitals are true and correct and are incorporated into the text of this ordinance as its findings to the same extent as if each such recital had been set forth herein in its entirety.

SECTION TWO: The Libertyville Zoning Code, as amended, is further amended in Article 2-2 – Definitions, as shown below, with additions in bold, so that the following definitions shall be added to Article 2-2, in alphabetical order, as follows:

CARDHOLDER. A qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card by the Illinois Department of Public Health pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act. (410 ILCS 130/1 *et seq.*)

DESIGNATED CAREGIVER. A person who: (1) is at least 21 years of age; (2) has agreed to assist with a patient’s medical use of cannabis; (3) has not been convicted of an excluded offense; and (4) assists no more than one registered qualifying patient with his or her medical use of cannabis.

ENCLOSED, LOCKED FACILITY. A room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cultivation center’s agents or a dispensing organization’s agent working for the registered cultivation center or the registered dispensing organization to cultivate, store and distribute cannabis for registered qualifying patients.

MEDICAL CANNABIS INFUSED PRODUCT. Food, oils, ointments, or other products containing usable cannabis that are not smoked.

MEDICAL CANNABIS CONTAINER. A sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization.

MEDICAL CANNABIS CULTIVATION CENTER (“CULTIVATION CENTER”). A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

MEDICAL CANNABIS DISPENSING ORGANIZATION (“DISPENSING ORGANIZATION,” “DISPENSARY ORGANIZATION,” “MEDICAL CANNABIS DISPENSARY” OR “DISPENSARY”). A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation 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.

SECTION THREE: The Libertyville Zoning Code, as amended, is further amended in Article 7 – I-1 Limited Industrial District, as shown below, with additions underlined, so that the following shall be added as sub-paragraph 7-2.3(r):

r. **Medical and Botanical Manufacturing, but limited to Medical Cannabis Cultivation Centers**

SECTION FOUR: The Libertyville Zoning Code, as amended, is further amended in Article 7 – I-1 Limited Industrial District, as shown below, with additions in bold, so that the following shall be added as sub-paragraph 7-2.4(f):

f. **Medical Cannabis Cultivation Centers.**

- 1) **Minimum Distance from Protected Uses.** No medical cannabis cultivation center shall be established, maintained or operated on any lot that has a property line with 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, or an area zoned for residential use.
- 2) **Measurement.** For the purposes of Section 7-2.4(f)(1), distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which an applicable cultivation center is located to the nearest point on a property line of any protected use (as defined in Section 7-2.4(f)(1)).
- 3) **Compliance with State Regulations and Rules.** Each cultivation center shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*) and all rules and regulations adopted in accordance thereto.
- 4) **Single Use Site.** No cultivation center may be established in multiple use or tenant property or on a site that shares parking with other uses.

- 5) **Setbacks.** Each cultivation center shall be a minimum of 50 feet from all property lines.
- 6) **Parking.**
 - i) **Parking areas shall be well lit and monitored by video surveillance equipment whose live images can be viewed by cultivation center staff and are continually recorded in a tamper proof format.**
 - ii) **The video surveillance system shall be available 24 hours per day, and 7 days per week to the Village of Libertyville Police Department and law enforcement agencies via a secure web-based portal.**
- 7) **Signage.**
 - i) **All commercial signage for a cultivation center shall be limited to one flat wall sign not to exceed ten square feet in area, and one identifying sign, not to exceed two square feet in area, which may only include the cultivation center address. Such signs shall not be directly illuminated.**
 - ii) **Electronic message boards and temporary signs are not permitted in connection with a cultivation center.**
 - iii) **Signage shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth, or language referencing cannabis.**
- 8) **Age and Access Limitations.** Each cultivation center shall prohibit any person who is not at least twenty-one (21) years of age from entering the cultivation center property. Cultivation centers shall not employ anyone under the age of twenty-one (21). Access to the cultivation center site shall be limited exclusively to cultivation center staff, local and state officials and those specifically authorized under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*)
- 9) **Security and Video Surveillance.**
 - i) **All cultivation, production and related operations at a medical cannabis cultivation center shall occur in an enclosed locked facility (“facility”). Each cultivation center shall provide and maintain adequate security on the entire site on which the cultivation center sits, including lighting, video surveillance, security personnel and alarms reasonably designed to ensure the safety of persons and to protect the facility from theft. The facility shall be enclosed by high security fence or wall. The fence or wall must be adequately secure to prevent unauthorized entry and include gates tied into an access control system.**

- ii) **The medical cannabis cultivation center parking area, cultivation, production, warehousing areas and shipping bays and entrances shall be monitored by video surveillance equipment whose live images can be viewed by cultivation center staff and are continually recorded in a tamper proof format.**
 - iii) **The video surveillance system shall be available 24 hours per day, and 7 days per week to the Village of Libertyville Police Department and law enforcement agencies via a secure web-based portal.**
 - iv) **A sign shall be posted in a prominent location which includes the following language: "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE".**
 - v) **The Director of Community Development shall review the adequacy of lighting, security and video surveillance installations with the assistance from local law enforcement officials. The Director of Community Development and the Libertyville Police Department have the discretion to conduct periodic reviews of the security features, as appropriate.**
 - vi) **Loading of product shall occur within secure enclosed shipping bays and shall not be visible from the exterior of the facility.**
- 10) **Noxious Odors. All cultivation centers shall operate in a manner that prevents odor impacts on neighboring premises or properties and, if necessary, the facility shall be ventilated with a system for odor control.**
- 11) **Conduct on Site.**
- i) **A cultivation center may not sell or distribute any cannabis to any individual or entity other than a dispensary organization registered under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*).**
 - ii) **It shall be prohibited to cultivate, manufacture, process or package any product, other than medical cannabis and cannabis infused products, at a cultivation center.**
 - iii) **It shall be prohibited to consume cannabis products in a cultivation center or anywhere on the site occupied by the cultivation center. A sign, at least 8.5 by 11 inches, shall be posted inside a cultivation center building in a conspicuous place and visible to staff and shall include the following language: "Smoking, eating, drinking, ingesting or other forms of consumption of cannabis products is prohibited on cultivation center property."**

SECTION FIVE: The Libertyville Zoning Code, as amended, is further amended in Article 7 – I-1 Limited Industrial District, as shown below, with additions underlined, so that the following shall be added as sub-paragraph 7-2.3(n)(4):

n. Retail Trade, but limited to:

- 1) **Building Material and Garden Equipment and Supplies Dealers (444), including outdoor storage, but in no event shall such outdoor storage exceed fifty percent (50%) of the lot**
- 2) **Motor Vehicle Parts Dealers, but limited to Motorcycle, Boat, and other Motor Vehicle Dealers, but further limited to Boat Dealers (441222)**
- 3) **Non-store Retailers, but limited to Fuel Dealers (45431)**
- 4) **Medical Cannabis Dispensaries**

SECTION SIX: The Libertyville Zoning Code, as amended, is further amended in Article 7 – I-1 Limited Industrial District, as shown below, with additions in bold, so that the following shall be added as sub-paragraph 7-2.4(g):

g. Medical Cannabis Dispensaries.

- 1) **Minimum Distance from Protected Uses.**
 - i) **No medical cannabis dispensary shall be established, maintained or operated on any lot that has a property line with 1,000 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, or part day child care facility.**
 - ii) **No medical cannabis dispensary shall be established, maintained or operated in any house, apartment, condominium, or an area zoned for residential use.**
- 2) **Measurement. For the purposes of Section 7-2.4(g)(1), distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which an applicable medical cannabis dispensary is located**

to the nearest point on a property line of any protected use (as defined in Section 7-2.4(g)(1)).

- 3) **Compliance with State Regulations and Rules.** All medical cannabis dispensaries shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*) and all rules and regulations adopted in accordance thereto.
- 4) **Single Use Site.** No medical cannabis dispensary shall be established in multiple use or tenant property or on a site that shares parking with other uses.
- 5) **Setbacks.** Each medical cannabis dispensary shall be a minimum of 30 feet from its surrounding property lines.
- 6) **Buffering from Other Medical Cannabis Dispensaries.** Each medical cannabis dispensary shall be a minimum of 1,000 feet from all other dispensaries, as measured from the applicable property lines.
- 7) **Parking.**
 - i) **Parking shall be located in an area which is visible from a public road or a private road that is accessible to the public. It cannot be screened from the roadway with vegetation, fencing or other obstructions.**
 - ii) **Parking areas shall be well lit and monitored by video surveillance equipment whose live images can be viewed by dispensary staff and are continually recorded in a tamper proof format.**
- 8) **Exterior Display.** No medical cannabis dispensary shall be maintained or operated in a manner that causes, creates or allows the public viewing of medical cannabis, medical cannabis infused products or 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 or spot lights or any similar lighting system.
- 9) **Signage and Advertising.**
 - i) **All commercial signage for a medical cannabis dispensary shall be limited to one flat wall sign not to exceed ten square feet in area, and one identifying sign, not to exceed two square feet in area, which may only include the dispensary address. Such signs shall not be directly illuminated. Exterior signs on the**

dispensary building shall not obstruct the entrance or windows on the dispensary.

- ii) Electronic message boards and temporary signs are not permitted in connection with a medical cannabis dispensary.
 - iii) Signage shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth, or language referencing cannabis.
 - iv) A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Only cardholders, designated caregivers, and staff may enter these premises. Persons under the age of 18 are prohibited from entering." The required text shall be no larger than 1 inch in height.
 - v) Any additional merchandise packaging provided by a dispensary, such as bags, sacks, totes or boxes, shall be opaque without text or graphic advertising or identifying the contents of the products contained within.
- 10) **Drug Paraphernalia Sales.** Medical cannabis dispensaries that display or sell drug paraphernalia shall do so in compliance with the Illinois Drug Paraphernalia Control Act (720 ILCS 600/1 *et seq.*) and the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*).
- 11) **Age and Access Limitations.** Each medical cannabis dispensary shall prohibit any person who is not at least eighteen (18) years of age from entering the dispensary facility. Dispensaries shall not employ anyone under the age of eighteen (18). Access to the dispensary facility shall be limited exclusively to dispensary staff, cardholders, designated caregivers, local and state officials, and those specifically authorized under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*)
- 12) **Hours of Operation.** A medical cannabis dispensary may operate between the hours of 6 a.m. local time to 8 p.m. local time.
- 13) **Drive-In Windows.** Medical cannabis dispensaries may not have drive-in or drive-through services.
- 14) **Security and Video Surveillance.**
- i) Each medical cannabis dispensary shall be an enclosed locked facility ("facility"). Each dispensary shall provide and

maintain adequate security on the entire property on which the dispensary exists, including lighting, video surveillance, security personnel and alarms reasonably designed to ensure the safety of persons and to protect the facility from theft.

- ii) The medical cannabis dispensary parking areas, client entrances, sales areas, back rooms, storage areas and delivery bays and any other entrances shall be monitored by video surveillance equipment whose live images can be viewed by dispensary staff and are continually recorded in a tamper proof format.**
- iii) A sign shall be posted in a prominent location in the dispensary which includes the following language: "THIS AREA IS UNDER LIVE/RECORDED VIDEO SURVEILLANCE TO AID IN THE PROSECUTION OF ANY CRIMES COMMITTED AGAINST THE FACILITY OR ITS PATRONS".**
- iv) The Director of Community Development shall review the adequacy of lighting, security and video surveillance installations with the assistance from local law enforcement officials. The Director of Community Development and the Libertyville Police Department have the discretion to conduct periodic reviews of the security features, as appropriate.**
- v) Each medical cannabis dispensary shall report all criminal activities occurring on the property to the applicable law enforcement agency immediately upon discovery.**
- vi) Deliveries shall occur between 7 a.m. local time and 8 p.m. local time within a secure enclosed delivery bay and shall not be visible from the exterior of the facility.**

15) Conduct on Site.

- i) Loitering is prohibited on the dispensary property.**
- ii) It shall be prohibited to consume cannabis products in a medical cannabis dispensary or anywhere on the site occupied by a dispensary. A sign, at least 8.5 by 11 inches, shall be posted inside the dispensary building in a conspicuous place and visible to a client and shall include the following language: "Smoking, eating, drinking, ingesting or other forms of consumption of cannabis products is prohibited on dispensary property."**

SECTION SEVEN: All ordinance or parts of ordinance in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith. Each section, subsection, subdivision and provision of this ordinance is hereby declared to be an independent division and subdivision and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

SECTION EIGHT: All ordinance or parts of ordinance in conflict with the provisions of this ordinance are hereby repealed.

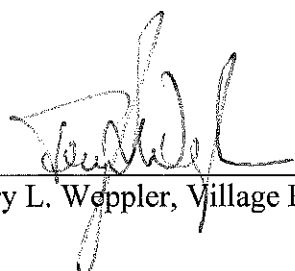
PASSED this 24 day of June, 2014.

AYES: Johnson, Moras, Justice, Gaines, Moran

NAYS: None

ABSENT: Cullum

APPROVED this 25 day of June, 2014.



Terry L. Weppler, Village President

ATTEST:

Kevin J. Bowen, Deputy
Sally Kowal, Village Clerk