

VILLAGE OF SOUTH ELGIN

ORDINANCE 2019 - 50

AN ORDINANCE APPROVING TEXT AMENDMENTS
TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)
REGARDING CANNABIS BUSINESS ESTABLISHMENTS
IN THE VILLAGE OF SOUTH ELGIN, ILLINOIS

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF SOUTH ELGIN
THIS 2ND DAY OF DECEMBER, 2019

Published in pamphlet form
by authority of the President
and Board of Trustees of the
Village of South Elgin
Kane County, Illinois, this
2nd day of December, 2019

ORDINANCE NO. 2019 - 50

**AN ORDINANCE APPROVING TEXT AMENDMENTS
TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)
REGARDING CANNABIS BUSINESS ESTABLISHMENTS
IN THE VILLAGE OF SOUTH ELGIN, ILLINOIS**

WHEREAS, the Village of South Elgin, County of Kane, State of Illinois has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, including the use of land within its corporate boundaries, and to protect the public health, safety, and welfare of its citizens; and

WHEREAS, by Ordinance 2018-49, the Village adopted its Unified Development Ordinance (“UDO”) and new zoning map on October 1, 2018; and

WHEREAS, the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et. seq. (the “Act”), authorizes the cultivation, sale, possession, and consumption of cannabis; and

WHEREAS, the Act authorizes the sale and consumption of cannabis for adult use throughout the State of Illinois; and

WHEREAS, the Act provides the Village with the power to regulate cannabis businesses, such as dispensaries, cultivation centers, infusers, transporters, processors, and craft growers (collectively, “Cannabis Business Establishments”); and

WHEREAS, the Act authorizes the Village to enact reasonable zoning ordinances or resolutions regulating cannabis business establishments as long as such regulations are not in conflict with the Act (410 ILCS 705/55-25(1)); and

WHEREAS, the Act allows the Village to enact ordinances governing the time, place, manner, and number of cannabis business establishments, including minimum distance

limitations between cannabis business establishments and locations the Village deems sensitive (410 ILCS 705/55-25(2)); and

WHEREAS, the Act expressly authorizes the Village to regulate cannabis business establishments through the use of conditional use permits (410 ILCS 705/55-25(2)); and

WHEREAS, the Village has the authority to regulate the on-premises consumption of cannabis at or in a cannabis business establishment ((410 ILCS 705/55-25(3); and

WHEREAS, the Act further authorizes the Village to enact ordinances to prohibit or significantly limit cannabis business establishment's location (410 ILCS 705/55-25(5)); and

WHEREAS, the Village may enact reasonable zoning ordinances not in conflict with the Compassionate Use of Medical Cannabis Program Act and its rules regulating registered medical cannabis cultivation centers and medical cannabis dispensary organizations, 410 ILCS 130/140;

WHEREAS, the Village's UDO currently regulates medical cannabis dispensaries, but does not address the new cannabis business establishments established by state law; and

WHEREAS, a notice of public hearing concerning the establishment of regulations for cannabis business establishments (the "Proposed Amendment") was duly published on September 18, 2019 in the *Elgin Courier* and a public hearing concerning Proposed Amendment was held on October 16, 2019 before the Planning and Zoning Commission ("PZC"); and

WHEREAS, at the conclusion of the public hearing, the PZC adopted specific written findings of fact that the Proposed Amendment will not endanger the health, safety, comfort, convenience, and general welfare of the public; will add clarification to be consistent with state law; and is consistent with the intent of the elements of the Comprehensive Plan; and

WHEREAS, at the conclusion of the public hearing, the PZC considered the Proposed Amendment and recommended to the Village Board of Trustees that the Village approve the Proposed Amendment; and

WHEREAS, the President and Board of Trustees of the Village of South Elgin desire to amend various provisions of the UDO to regulate cannabis business establishments as authorized by the Act; and

WHEREAS, the President and Board of Trustees find that, on balance, the Proposed Amendment satisfies the standards for UDO text amendment, Village Code § 156.03.C.7.r.1,

(a) the Proposed Amendment will not endanger the health, safety, comfort, convenience, and general welfare of the public because cannabis business establishments are highly-regulated by the State of Illinois, and the Proposed Amendments provide further require minimum distances from sensitive places and special use permits ;

(b) the Proposed Amendment reflects a change in state policy to authorize the adult use of cannabis and the Village's response to accommodate a new industry supported by a range of cannabis business establishments; and

(c) the proposed amendment is consistent with the intent of the elements of the Comprehensive Plan, the UDO, and the other land use policies of the Village by encouraging the attracting and developing new and emerging businesses within the South Elgin market (Comprehensive Plan, Objective E.5.1).

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of South Elgin, Kane County, Illinois, as follows:

Section 1. RECITALS. The foregoing recitals are incorporated as though fully set forth herein.

Section 2. AMENDMENT. The following changes are made to Section 156.01.E of the Village of South Elgin Municipal Code (additions underlined and deletions ~~struck through~~):

Section 156.01.E Interpretation

[...]

7. Unlisted uses are prohibited by this Chapter. The listing of a use as “prohibited” or “not permitted” in this Chapter shall not be construed to permit unlisted uses by inference.

Section 3. AMENDMENT. The following changes are made to Table 156.07.B-1 of the Village of South Elgin Municipal Code (additions underlined and deletions ~~struck through~~):

<i>Uses</i>	<i>Districts</i>								<i>Use Standards</i>
Commercial	F	R-	R-2	R-3	B-I	B-2	VC	I	
<u>Cannabis Dispensary</u>					<u>S</u>	<u>S</u>			<u>See 156.07.C.13</u>
<u>Medical Marijuana-Cannabis Dispensary</u>					<u>S</u>	<u>S</u>			<u>See 156.07.C.13</u>
<u>On-Premises Cannabis Consumption Establishment</u>									<u>None – Prohibited Use</u>
Manufacturing	F	R-I	R-2	R-3	B-I	B-2	VC	I	
<u>Cannabis Infuser</u>								<u>S</u>	<u>See 156.07.C.13</u>
<u>Cannabis Processor</u>								<u>S</u>	<u>See 156.07.C.13</u>
Other Uses	F	R-I	R-2	R-3	B-I	B-2	VC	I	
<u>Medical Cannabis Cultivation Center</u>								<u>S</u>	<u>See 156.07.C.13</u>
<u>Cannabis Cultivation Center</u>								<u>S</u>	<u>See 156.07.C.13</u>
<u>Cannabis Transporter</u>								<u>S</u>	<u>See 156.07.C.13</u>
<u>Cannabis Craft Grower</u>								<u>S</u>	<u>See 156.07.C.13</u>

Section 4. AMENDMENT. The following changes are made to Section 156.07.C of the Village of South Elgin Municipal Code (additions underlined and deletions ~~struck through~~):

Section 156.07.C Use Standards

[...]

13. ~~Medical Marijuana Dispensary.~~ Cannabis Business Establishment.

~~a. Compliance with State Regulations. Medical marijuana dispensaries must comply with all applicable rules and regulations enacted by the State of Illinois, including licensing and registration requirements and minimum spacing of 1,000 feet from preschools, elementary or middle schools, high schools, day care centers and day care homes. When such State regulations are amended, such regulations control over this Ordinance.~~

~~b. Minimum Spacing. A medical marijuana dispensary shall not be located within 500 feet of another medical marijuana dispensary.~~

~~c. Security. The site design shall incorporate adequate security measures, such as exterior lighting, surveillance cameras, and/or fencing.~~

a. Application Requirements. In addition to all other applicable special use application requirements, cannabis business establishments must submit all documents requested by the Zoning Administrator for evaluation under the applicable special use standards, which may include:

- (1) A complete copy of all applications and plans submitted for required state licenses;
- (2) An odor control plan;
- (3) A security plan;
- (4) An inventory control plan;
- (5) A floor plan;
- (6) A traffic study;
- (7) A plan for the recycling and destruction of cannabis waste;
- (8) A site plan. A site plan for any dispensary use must show adequate public access, the layout promotes the safe dispensing of cannabis, the location is sufficient in size, power allocation,

lighting, parking, handicapped accessible parking spaces, accessible entry and exists as required by the Americans with Disabilities Act, product handling, and storage; and

- (9) A recoverable costs agreement, in a form acceptable to the Zoning Administrator, to reimburse the Village for the actual costs incurred in processing the application, including costs for legal publication, court reporter services, administrative preparation and review, document preparation and review, professional and technical consultants, legal review and consultation, and document recording.

b. Conditions. In addition to all other required special use conditions, cannabis business establishments must comply with the following conditions:

- (1) Compliance with State Regulations and Rules. All cannabis business establishments must comply with all applicable state and local laws, including the Cannabis Regulation and Tax Act, as amended, the Compassionate Use of Medical Cannabis Program Act, as amended, and applicable administrative rules.
- (2) Compliance with Plans. The development, use, operation, and maintenance of the cannabis business establishment will be in substantial compliance with all application documents and plans, except for minor changes and site work approved by the Zoning Administrator in accordance with all applicable Village rules, regulations, and ordinances.
- (3) Minimum Distance Limits. In addition to all state-imposed minimum distance limits, any building used for a cannabis business establishment may not be located within the distance of a pre-existing sensitive use listed in the following table:

Table 150.07.C-1. Minimum Distances from Cannabis Business Establishment Buildings to Pre-Existing Sensitive Uses

<u>Publicly owned or operated</u>	<u>Private</u>	<u>Pre-existing sensitive use</u>	<u>Cannabis business establishment building distance from sensitive use</u>	<u>Measured from</u>
<u>Y</u>	<u>Y</u>	<u>Preschool</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>Y</u>	<u>Y</u>	<u>Elementary school</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>Y</u>	<u>Y</u>	<u>Secondary School</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>Y</u>	<u>Y</u>	<u>Day care center</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>Y</u>	<u>Y</u>	<u>State-licensed day care home</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>Y</u>	<u>n/a</u>	<u>Park</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>Y</u>	<u>n/a</u>	<u>Library</u>	<u>250'</u>	<u>Property line of sensitive use</u>
<u>n/a</u>	<u>Y</u>	<u>Principal residential building</u>	<u>100'</u>	<u>Nearest point of principal residential building</u>

- (4) Security. In addition to all state-imposed security requirements, the Village may require a cannabis business establishment to provide sufficient additional safeguards in response to any special security concerns.

- (5) Air Treatment. In addition to all state-imposed air treatment requirements, the Village may impose additional air treatment requirements on a cannabis business establishment to promote compliance with village nuisance and other ordinances.
- (6) Traffic. The Village may impose conditions requiring the design of the cannabis business establishment to minimize traffic congestion, pedestrian hazards, and adverse impacts on surrounding properties.
- (7) Cannabis Waste. All cannabis business establishments must comply with all state, county, and Village regulations governing cannabis waste.
- (8) Hours of Operation. Unless otherwise prescribed by state law, the Board of Trustees may impose hours of operation for a cannabis business establishment as a condition of any zoning certificate to reduce conflicts with surrounding land uses.
- (9) Drive-Through Windows. Cannabis business establishments may not have a drive-through service.
- (10) On-Premises Consumption. No cannabis business establishment may allow the smoking, inhalation, or consumption of cannabis in any form anywhere inside or outside the building on its property. A sign, at least 8.5 by 11 inches, shall be posted inside the cannabis business establishment in a conspicuous place and visible to patrons and shall include the following language: "Smoking, eating, drinking or other forms of consumption of cannabis products is prohibited on the premises of this establishment."
- (11) Principal Use. Cannabis business establishments are only permitted as a principal use and are not allowed as an accessory use under Section 156.07.D, or a temporary use under Section 156.07.E of this ordinance.
- (12) State License. Before issuance of a certificate of occupancy or otherwise opening to the public, cannabis business establishments must file a copy of all required state licenses to operate as a cannabis business establishment with the Zoning Administrator. Cannabis business establishments must maintain

all required state licenses in effect at all times, and keep satisfactory proof thereof on file with the Zoning Administrator.

(13) Non-Transferability. Unless otherwise expressly provided by Ordinance, the privileges, obligations, and provisions of a special use permit for a cannabis business establishment:

- i. are for the sole benefit of and will be binding on the applicant; and
- ii. may not be transferred to any other person or entity without a new application for approval for a person or entity other than the applicant.

(14) Inspections.

- i. Cannabis dispensaries and medical cannabis dispensaries are subject to random and unannounced inspections by local law enforcement.
- ii. Cannabis infusers are subject to random inspections by local law enforcement.
- iii. Cannabis cultivation centers and craft growers are subject to random inspections by local safety or health inspectors.
- iv. When reasonable cause of a violation exists, all cannabis business are subject to inspections by the Zoning Administrator with the assistance of the Village Attorney, the Police Department, or other Village agents and employees.

c. Number. The number of each type of cannabis business establishments allowed in the Village may be established by resolution duly adopted by the Board of Trustees.

Section 5. AMENDMENT. The following changes are hereby made following changes are made to Table 156.08.B-A of the Village of South Elgin Municipal Code (additions underlined and deletions ~~struck through~~):

<i>Uses</i>	<i>Parking Requirements</i>
Commercial	
<u>Cannabis Dispensary</u>	<u>1 per 300 sf of GFA</u>
<u>Medical Cannabis Dispensary</u>	<u>1 per 300 sf of GFA</u>
Industrial	
<u>Cannabis Infuser</u>	<u>1 per 500 sf of office + 1 per 1,000 sf of GFA, then 1 per 2,000 sf of GFA in excess of 20,000</u>
<u>Cannabis Processor</u>	<u>1 per 500 sf of office + 1 per 1,000 sf of GFA, then 1 per 2,000 sf of GFA in excess of 20,000</u>
Other Uses	
<u>Medical Cannabis Cultivation Center</u>	<u>1 per 500 sf of office + 1 per 1,000 sf of GFA, then 1 per 2,000 sf of GFA in excess of 20,000</u>
<u>Cannabis Cultivation Center</u>	<u>1 per 500 sf of office + 1 per 1,000 sf of GFA, then 1 per 2,000 sf of GFA in excess of 20,000</u>
<u>Cannabis Transporter</u>	<u>1 per 500 sf of office + 1 per 1,000 sf of GFA, then 1 per 2,000 sf of GFA in excess of 20,000</u>
<u>Cannabis Craft Grower</u>	<u>1 per 500 sf of office + 1 per 1,000 sf of GFA, then 1 per 2,000 sf of GFA in excess of 20,000</u>

Section 6. AMENDMENT. The following changes are made to Section 156.12.B of the Village of South Elgin Municipal Code (additions underlined and deletions ~~struck through~~):

Section 156.12.B Definitions

Cannabis: shall have the same definition as “cannabis” set forth in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Business Establishment: means a “cannabis business establishment,” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended; or a medical cannabis dispensary, or medical dispensary cultivation center.

Cannabis Dispensary: means “dispensing organization” and “dispensary” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Cultivation Center: means “cultivation center” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Craft Grower: means “craft grower” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Infuser: means “infuser organization” or “infuser” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Transporter: means “transporting organization” or “transporter” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Processer: means “processing organization” or “processer” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

[...]

Medical Cannabis Dispensary: means “medical cannabis dispensing organization”, or “dispensing organization”, or “dispensary organization,” as defined in Section 10 of the Compassionate Use of Medical Cannabis Program Act, as amended.

Medical Cannabis Cultivation Center: means a “cultivation center” as defined in Section 10 of the Compassionate Use of Medical Cannabis Program Act, as amended.

~~Medical Marijuana Dispensary: An establishment licensed, certified, or accredited by the appropriate state agencies to acquire medical cannabis from a registered cultivation center for the purposes of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients.~~

[...]

On-Premises Cannabis Consumption Establishment: means a cannabis dispensary, or retail tobacco store (as defined in Section 10 of the Smoke Free Illinois Act), authorized or permitted to allow the on-premises consumption of cannabis.

[...]

Professional Office: An establishment that engages in the application, processing, or manipulation of business information or professional expertise, which may or may not offer services to the public or offers health-related

outpatient treatment by licensed health professionals. A "Professional Office" shall not manufacture, assemble, warehouse, or repair goods and products for the retail or wholesale market or engage in the repair of products or the provision of retail services. "Professional Office" may include, but shall not be limited to, medical offices, dental offices, law firms, insurance agencies, accounting forms, real estate agencies, investment firms, and non-profit organizations. "Professional Office" does not include ~~"Medical Marijuana Dispensary"~~ or government offices, which are considered "Government Facilities."

[...]

Retail Goods Establishment: A commercial enterprise primarily engaged in providing physical goods, products, or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. "Retail Goods Establishment" may include, but shall not be limited to, grocery stores, clothing stores, jewelry stores, appliance stores, electronics stores, furniture stores, office supply stores, bookstores, and sporting goods stores. "Retail Goods Establishment" does not include "Adult Use" or ~~"Medical Marijuana Dispensary."~~

Section 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 8. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

Section 9. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

APPROVED AND ADOPTED by the Board of Trustees of the Village of South Elgin this 2nd day of December, 2019, pursuant to roll call vote as follows:

AYES: Trustees Wieser, Sweet, Barconi, Richmond & Kolodziej (5)

NAYS: (0) Trustee Guess (1)

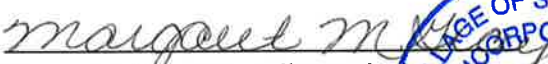
ABSENT: (0)

ABSTAIN: (0)

APPROVED this 2nd day of December, 2019.


Steven Ward, Village President

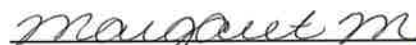
ATTEST:


Margaret M. Gray, Village Clerk



CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of South Elgin, Kane County, Illinois, and that the foregoing is a true and exact copy of Ordinance 2019-50 enacted on December 2, 2019 and approved on December 2, 2019 as the same appears from the official records of the Village of South Elgin.


Margaret M. Gray, Village Clerk

