

ORDINANCE NO. 2020 - 39

AN ORDINANCE AMENDING CHAPTER 153, BY DELETING SECTIONS 153.074(a), 153.074(b), 153.075(a), AND 153.075(b), AND ADDING SECTION 153.082 OF TITLE XV (LAND USAGE) OF THE PECATONICA MUNICIPAL CODE PERTAINING TO ADULT-USE CANNABIS

WHEREAS, the Village of Pecatonica, 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 July 21, 2020, the Village Board did adopt and approve Ordinance 2020-14, which ordinance amended Title XV (Land Usage) to add zoning regulations to adult-use cannabis facilities within the Village of Pecatonica; and

WHEREAS, the corporate authorities wish to amend Ordinance 2020-14 and said adult-use cannabis facilities regulations as it applies to the proximity of cannabis craft growers and cannabis cultivation centers to certain uses.

WHEREAS, on August 27, 2020, the Village of Pecatonica Planning and Zoning Commission did lawfully convene a meeting and hearing on the amendments contemplated herein, and after discussion regarding same did, make and second a motion to recommend the amendments herein, and upon a vote of three (3) ayes, two (2) nays, and one (1) absent, failed to obtain the four (4) votes necessary to recommend the measure.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Pecatonica as follows:

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

SECTION 2: Chapter 153 (Zoning), Sections 153.074(a) & (b) and 153.075(a) & (b) are hereby deleted and Sections 153.071 – 153.081 of Title XV (Land Usage) of the Pecatonica Municipal Code shall hereby read as follows:

ADULT-USE CANNABIS

§ 153.071 PURPOSE AND APPLICABILITY: It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within

the corporate limits of the Village of Pecatonica. 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.

§ 153.072 SPECIAL USE: Adult-Use Cannabis Business Establishment facilities, as defined herein, requiring approval of a Special Use Permit in the respective districts in which they are requested shall be processed in accordance with Section 153.041 of this Title (Application) and Section 153.073 (Adult-Use Cannabis Facility Components) as provided herein.

§ 153.073 ADULT-USE CANNABIS FACILITY COMPONENTS: In determining compliance with Section 153.040 (Special Use Permits) of this Title, the following components of the Adult-Use Cannabis Facility 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:

- (a) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
- (b) 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.
- (c) Hours of operation and anticipated number of customers/employees.
- (d) Anticipated parking demand and available private parking supply.
- (e) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
- (f) Site design, including access points and internal site circulation.
- (g) Proposed signage plan.
- (h) Compliance with all requirements provided in Section 153.074 (Adult-Use Cannabis Craft Grower); Section 153.075 (Adult-Use Cannabis Cultivation Center); Section 153.076 (Adult-Use Cannabis Dispensing Organization); Section 153.077 (Adult-Use Cannabis Infuser Organization); Section 153.078 (Adult-Use Cannabis Processing Organization); or Section 153.079 (Adult-Use Cannabis Transporting Organization), as applicable.
- (i) Other criteria determined to be necessary to assess compliance with Section 153.040(B) (Special Use Permits – Purpose-Formula) of this Title.

§ 153.074 ADULT-USE CANNABIS CRAFT GROWER: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

- (a) ~~Facility may not be located within 500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.~~

- ~~(b) Facility may not be located within 500 feet of the property line of a pre-existing property zoned or used for residential purposes.~~
- (c) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (d) Petitioner shall file an affidavit with the Village affirming compliance with Section 153.074 as provided herein and all other requirements of the Act.

§ 153.075 ADULT-USE CANNABIS CULTIVATION CENTER: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

- ~~(a) Facility may not be located within 500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.~~
- ~~(b) Facility may not be located within 500 feet of the property line of a pre-existing property zoned or used for residential purposes.~~
- (c) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (d) Petitioner shall file an affidavit within the Village affirming compliance with Section 153.075 as provided herein and all other requirements of the Act.

§ 153.076 ADULT-USE CANNABIS DISPENSING ORGANIZATION: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

- (a) Facility may not be located within 500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (b) Facility may not be located in a dwelling unit or within 500 feet of the property line of a pre-existing property zoned or used for residential purposes.
- (c) At least 75% of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in Section (e) below in the same tenant space.
- (d) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

- (e) Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the dispensing organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the facility required by Section 153.80 (Additional Requirements) shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Section 153.047 (Revocation) of the Village of Pecatonica Municipal Code.
- (f) Petitioner shall file an affidavit with the Village affirming compliance with Section 153.076 as provided herein and all other requirements of the Act.

§ 153.077 ADULT-USE CANNABIS INFUSER ORGANIZATION: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

- (a) Facility may not be located within 500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (b) Facility may not be located in a dwelling unit or within 500 feet of the property line of a pre-existing property zoned or used for residential purposes.
- (c) At least 75% of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (d) Petitioner shall file an affidavit with the Village affirming compliance with Section 153.077 as provided herein and all other requirements of the Act.

§ 153.078 ADULT-USE CANNABIS PROCESSING ORGANIZATION: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

- (a) Facility may not be located within 500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (b) Facility may not be located in a dwelling unit or within 500 feet of the property line of a pre-existing property zoned or used for residential purposes.
- (c) At least 75% of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

- (d) Petitioner shall file an affidavit with the Village affirming compliance with Section 153.078 as provided herein and all other requirements of the Act.

§ 153.079 ADULT-USE CANNABIS TRANSPORTING ORGANIZATION: In those zoning districts in which an Adult-Use Transporting Organization may be located, the proposed facility must comply with the following:

- (a) Facility may not be located within 500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (b) Facility may not be located in a dwelling unit or within 500 feet of the property line of a pre-existing property zoned or used for residential purposes.
- (c) The transporting organization shall be the sole use of the tenant space in which it is located. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (d) Petitioner shall file an affidavit with the Village affirming compliance with Section 153.079 as provided herein and all other requirements of the Act.

§ 153.080 ADDITIONAL REQUIREMENTS: Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the Special Use Permit, 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.

§ 153.081 CO-LOCATION OF CANNABIS BUSINESS ESTABLISHMENTS: The Village may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Special Use Permit criteria within the Village of Pecatonica Municipal Code. In a co-location, the floor space requirements of Section 153.076(c) and 153.077(c) shall not apply, but the co-located establishments shall be the sole use of the tenant space.

SECTION 3: Chapter 153 (Zoning) is hereby amended to add Section 153.082, “Setbacks and Off-Street Parking”, and shall read as follows:

Section 153.082 Setbacks and Off-Street Parking: The following setbacks and off-street parking regulations shall apply to the following uses:

- (a) Adult-use Cannabis Craft Grower – shall comply with the setback and off-street parking requirements of Section 153.027;
- (b) Adult-use Cannabis Cultivation Center – shall comply with the setback and off-street parking requirements of Section 153.027;

- (c) Adult-use Cannabis Dispensing Organization – shall comply with the setback and off-street parking requirements of Section 153.026;
- (d) Adult-use Cannabis Infuser Organization – shall comply with the setback and off-street parking requirements of Section 153.027;
- (e) Adult-use Cannabis Processing Organization – shall comply with the setback and off-street parking requirements of Section 153.027; and
- (f) Adult-use Cannabis Transporting Organization – shall comply with the setback and off-street parking requirements of Section 153.027.

SECTION 4: Effective Date. This Ordinance shall be in full force and effect upon its passage and approval as required by law.

Passed the ____ day of _____, 20____.

AYES: _____

NAYS: _____

Absent: _____

Approved this ____ day of _____, 20____.

WILLIAM SMULL, Village President
Village of Pecatonica, Illinois

ATTEST:

GWENN SHIRLEY, Village Clerk
Village of Pecatonica, Illinois