

\*\*\*\*\*

**ORDINANCE NO. 19-20-40**

**AN ORDINANCE AMENDING SECTION 11 BUSINESS DISTRICTS  
OF THE JOHNSBURG ZONING ORDINANCE, ADDING 11.11 REGULATING  
CANNABIS BUSINESS ESTABLISHMENTS IN THE VILLAGE OF JOHNSBURG**

\*\*\*\*\*

AN ORDINANCE PASSED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF JOHNSBURG  
AT A REGULAR MEETING ON DECEMBER 10, 2019  
PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF JOHNSBURG

President

Edwin P. Hettermann

Board of Trustees

Tom Curry  
Beth Foreman  
Kyle Frost  
Josh Hagen  
Greg Klemstein  
Kevin McEvoy

Village Administrator

Claudett E. Sofiakis

## **ORDINANCE NO. 19-20-40**

### **AN ORDINANCE AMENDING SECTION 11 BUSINESS DISTRICTS OF THE JOHNSBURG ZONING ORDINANCE, ADDING 11.11 REGULATING CANNABIS BUSINESS ESTABLISHMENTS IN THE VILLAGE OF JOHNSBURG**

**WHEREAS**, the Village of Johnsburg, 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 November 5, 2019, the Village Board initiated an amendment to the Section 11 of the Johnsburg Zoning Ordinance to review and consider amendments to further regulate adult-use cannabis facilities within the Village of Johnsburg; and

**WHEREAS**, the Planning and Zoning Commission conducted public hearings, as required by law, on November 26, in regards to the proposed amendments to Section 11 of the Johnsburg Zoning Ordinance pertaining to adult-use cannabis; and

**WHEREAS**, the Planning and Zoning Commission recommended approval of the proposed amendments to Section 11 of the Johnsburg Zoning Ordinance on November 26, 2019.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Trustees of the Village of Johnsburg as follows:

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

**SECTION 2:** Section 11, Business District, of the Johnsburg Zoning Ordinance is hereby amended to add Section 11.11 as follows:

#### **11.11 CANNABIS BUSINESS ESTABLISHMENTS**

**11.11-1 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 Johnsburg. 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.

**11.11-2 DEFINITIONS** – As used in this Section, the following words and phrases will have the following meanings:

**ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:** An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

**ADULT-USE CANNABIS CRAFT GROWER:** 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 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 CULTIVATION CENTER:** A 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 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 DISPENSING ORGANIZATION:** 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 it may be amended from time-to-time, and regulations promulgated thereunder.

**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:** 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 it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:** 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.

**11.11-3 – PERMITTED USE:** Adult-Use Cannabis Business Establishment facilities, as defined herein shall require approval as a permitted use (or alternatively as a conditional use), in the respective districts in which they are allowed per this Section, and shall be processed in accordance with the Johnsburg Zoning Ordinance and as provided herein.

**11.11-4 – FACILITY COMPONENTS:** In determining compliance with this Section, the following aspects 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 property:

- 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 based on Section 8 of the Johnsburg Zoning Ordinance 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 11.11-4.1 (Adult-Use Cannabis Craft Grower); 11.11-4.2 (Adult-Use Cannabis Cultivation Center); 11.11-4.3 (Adult-Use Cannabis Dispensing Organization); 11.11-4.4 (Adult-Use Cannabis Infuser Organization); 16.6-4.5 (Adult-Use Cannabis Processing Organization); or 11.11-4.6 (Adult-Use Cannabis Transporting Organization), as applicable.
- I. Other criteria determined to be necessary to assess compliance with Section 11, Business Districts of the Johnsburg Zoning Ordinance.

11.11-4.1. Adult-Use Cannabis Craft Grower: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located as a permitted use (or alternatively as a conditional use), the proposed facility must comply with the following:

A. Facility may not be located within 1,500 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 1,500 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. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as "Industry" per Section 8 (Chart of Off-Street Parking Requirements) of the Johnsburg Zoning Ordinance, provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 11.11-3 herein.

E. Petitioner shall file an affidavit with the Village affirming compliance with Section 11.11 as provided herein and all other requirements of the Act.

11.11-4.2 Adult-Use Cannabis Cultivation Center: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located as a permitted use (or alternatively as a conditional use), the proposed facility must comply with the following:

A. Facility may not be located within 1,500 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 1,500 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. For purposes of determining required parking, Adult-Use Cannabis Cultivation Centers shall be classified as "Industry" per Section 8 (Chart of Off-Street Parking Requirements), of the Johnsburg Zoning Ordinance provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 11.11-4 herein.

E. Petitioner shall file an affidavit with the Village affirming compliance with Section 16.6 as provided herein and all other requirements of the Act.

11.11-4.3 Adult-Use Cannabis Dispensing Organization: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located as a permitted use (or alternatively as a conditional use), the proposed facility must comply with the following:

A. Facility may not be located within 1,500 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 250 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.

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 11.11-5 (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 any conditional use previously approved by the Village may be suspended or revoked following notice and a hearing as provided in Section \_\_ of the Village of Johnsburg Municipal Code if the facility is in violation of such permit or its conditional use requirement or conditions.

F. For purposes of determining required parking, said facilities shall be classified as "Retail" per Section 8 (Chart of Off-Street Parking Requirements) of the Johnsburg Zoning Ordinance, provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 11.11-4 herein.

G. Petitioner shall file an affidavit with the Village affirming compliance with Section 11.1 as provided herein and all other requirements of the Act.

11.11-4.4 Adult-Use Cannabis Infuser Organization: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located as a permitted use, (or alternatively as a conditional use), the proposed facility must comply with the following:

A. Facility may not be located within 1,500 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 250 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. For purposes of determining required parking, said facilities shall be classified as "Industry" per Section 8 (Chart of Off-Street Parking Requirements) of the Johnsborg Zoning Ordinance, provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 11.11-4 herein.

E. Petitioner shall file an affidavit with the Village affirming compliance with Section 11.11 as provided herein and all other requirements of the Act.

11.11-4.5 Adult-Use Cannabis Processing Organization: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, as a permitted use (or alternatively as a conditional use), the proposed facility must comply with the following:

A. Facility may not be located within 1,500 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 250 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. For purposes of determining required parking, said facilities shall be classified as "Industry" per Section 8 (Chart of Off-Street Parking Requirements) of the Johnsborg Zoning Ordinance, provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 11.11-4 herein.

E. Petitioner shall file an affidavit with the Village affirming compliance with Section 11.11 as provided herein and all other requirements of the Act.

**11.11-4.6 Adult-Use Cannabis Transporting Organization:** In those zoning districts in which an Adult-Use Transporting Organization may be located as a permitted use (or alternatively as a conditional use), the proposed facility must comply with the following:

- A. Facility may not be located within 1,500 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 250 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. For purposes of determining required parking, said facilities shall be classified as "Industry" per Section 8 (Chart of Off-Street Parking Requirements) of the Johnsborg Zoning Ordinance, provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 11.-4 herein.
- E. Petitioner shall file an affidavit with the Village affirming compliance with Section 16.6 as provided herein and all other requirements of the Act.

**11.11-5 ADDITIONAL REQUIREMENTS:** Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the conditional 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.

**11.11-6 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 Johnsborg Zoning Ordinance. In a co-location, the floor space requirements of Section 11.11-4.4 and 11.11-4.5 shall not apply, but such co-located cannabis business establishments shall be the sole use of the tenant space.

**SECTION 3:** That the Use Chart as provided in Section 11, Business Districts, shall be amended to add:

Adult-Use Cannabis Dispensing Organization as a permitted use in the B-3 and C-1 zoning districts;

Adult Use Cannabis Craft Grower Organization, Adult Use Cannabis Cultivation Organization, Adult Use Cannabis Infuser Organization, Adult Use Cannabis Processing



Organization and Adult Use Cannabis Transporting Organization as a permitted use in the C-1, I-1 and I-2 zoning district.

**SECTION 4: Severability.** If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

**SECTION 5: Effective Date.** This Ordinance shall be in full force and effect upon its passage and approval as required by law.

ADOPTED THIS 10<sup>th</sup> day of December, 2019.

AYES: Trustees Foreman, Curry, Frost, Hagen and Klemstein

NAYS: None

ABSTENTIONS: None

ABSENT: Trustee McEvoy



Edwin P. Hettermann, Village President

ATTEST:



Claudett E. Sofiakis, Village Clerk

Passed: December 10, 2019

Approved: December 10, 2019

Published: December 10, 2019

## CERTIFICATION

I, CLAUDETT E. SOFIAKIS, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of Johnsburg, McHenry County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village of Johnsburg.

I do further certify that at a regular meeting of the President and Board of Trustees of the Village of Johnsburg, held on the 10th day of December, 2019 the foregoing Ordinance entitled *An Ordinance Amending Section 11 of the Johnsburg Zoning Ordinance adding Section 11.11 Regulating Cannabis Business Establishments* was duly passed by the President and Board of Trustees of the Village of Johnsburg.

The pamphlet form of Ordinance No. 2019-20-40, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was available in the Village Hall, commencing on the 10<sup>th</sup> day of December 2019, and will continue for at least 10 days thereafter. Copies of such Ordinance are also available for public inspection upon request in the office of the Village Clerk.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

Given under my hand and seal of the Village of Johnsburg, this 10th day of December, 2019.



Claudett E. Sofiakis, Village Clerk  
Village of Johnsburg,  
McHenry County, Illinois

(SEAL)