

INCORPORATED VILLAGE OF VALLEY STREAM

LOCAL LAW 3 – 2023

A LOCAL LAW TO AMEND THE CODE OF THE INCORPORATED VILLAGE OF VALLEY STREAM CHAPTER 99 ENTITLED “ZONING” TO ADD A NEW ARTICLE XXXIIIA ENTITLED “MEDICAL CANNABIS” TO ESTABLISH REGULATIONS FOR MEDICAL CANNABIS DISPENSARIES AND RELATED USES IN ACCORDANCE WITH ARTICLE 3 OF THE NEW YORK STATE CANNABIS LAW AND PART 113 OF TITLE 9 OF THE NEW YORK CODES, RULES AND REGULATIONS.

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Valley Stream as follow:

SECTION 1. Chapter 99, entitled “ZONING” is hereby amended to include the following:

ARTICLE XXX111A Medical Cannabis

§ 99-33A.01. Legislative intent.

- A. It is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics to the community. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.
- B. It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Village of Valley Stream.
- C. These special regulations are itemized in this article to accomplish the primary purposes of preventing a concentration of these uses in any one area, preventing adverse secondary impacts of such uses on surrounding neighborhoods and restricting their accessibility to minors.

§ 99-33A.02. Prohibitions.

- A. No building, structure or premises approved or used as a medical cannabis dispensary pursuant to Article 3 of the New York State Cannabis Law and/or Part 113 of Title 9 of the New York Codes, Rules and Regulations may be used as a cannabis retail store, dispensary, or on-site consumption site for recreational cannabis use.
- B. No building, structure or premises within any use district in the Incorporated Village of Valley Stream may be used as a cannabis retail store, dispensary, or on-site consumption site for the sale, distribution or consumption of cannabis or cannabis products for nonmedical use. The sale, distribution or offer for consumption of cannabis and/or cannabis products as prohibited in this section shall be prohibited regardless of whether products in addition to cannabis products are offered for sale, distribution or consumption at the

building, structure or premises and regardless of the amount of cannabis or cannabis products available for sale, distribution or offer for consumption at the building, structure or premises in comparison to other products offered for sale, use or consumption at the building, structure or premises.

§ 99-33A.03. Medical cannabis dispensaries.

- A. Notwithstanding any other provision of this chapter, a building, structure or premises may only be used as a medical cannabis dispensary in a C-3 Zone provided, however, that a medical cannabis dispensary may only be located within a building having at least one office in use by a doctor or doctors and other medical staff in the provision of medical services, care and consultation:
- B. No medical cannabis dispensary shall be approved by the Building Department Code Enforcement unless the owner or operator of the medical cannabis dispensary has received authorization to operate the medical cannabis dispensary from the New York State Office of Cannabis Management with Article 33 of the New York Public Health Law, Article 3 of the New York State Cannabis Law and/or Part 113 of Title 9 of the New York Codes, Rules and Regulations.
- C. No more than two medical cannabis dispensaries may be located within the Incorporated Village of Valley Stream at any time.
- D. Prohibited locations.
 - (1) A medical cannabis dispensary may not be located within 1,000 feet of any of the following:
 - (a) A school; or
 - (b) A child day-care center; or
 - (c) A park; or
 - (d) A place of worship, regardless of denomination.
 - (2) A medical cannabis dispensary may not be located within 500 feet of a Incorporated Village of Valley Stream zoning district (R-1 R-2 R-A C-A C-X) permitting any residential use.
 - (3) As used in this § XXXIII A, the terms "school," "Nursery School" and "park" shall have the meanings ascribed to them by § 99-202, 56-3 of The Code of the Incorporated Village of Valley Stream
 - (4) The required minimum distances stated in this Subsection D shall be measured from “ANY” outside wall of the medical cannabis dispensary nearest to the nearest lot or zone boundary of the location away from which the medical cannabis dispensary is to be located.
- E. Use regulations. All medical cannabis dispensaries shall comply with the following regulations:
 - (1) Medical cannabis dispensaries shall be restricted to hours of operation between 9:00 a.m. and 6:00 p.m.

- (2) Use or consumption of cannabis or any cannabis product at any time is not permitted on the premises of any medical cannabis dispensary, regardless of whether the use or consumption is indoors or outdoors. This provision shall not be deemed to prohibit the demonstration of the use of medical cannabis to a patient or caregiver in accordance with Article 33 of the New York Public Health Law, Article 3 of the New York State Cannabis Law and/or Part 113 of Title 9 of the New York Codes, Rules and Regulations.
- (3) Persons under the age of 18 years of age are not permitted to be on the premises of any medical cannabis dispensary at any time unless they are a patient or caregiver or are accompanied by a parent or guardian.
- (4) Outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to a medical cannabis dispensary, including, but not limited to, prerecorded or live music sounds, are prohibited.

§ 99-33A.04. Advertising provisions.

Medical cannabis dispensaries shall comply with the advertising and marketing regulations contained in Part 113 of Title 9 of the New York Codes, Rules and Regulations, as the regulations may be amended from time to time, which shall include, but not be limited to, the following:

- A. All physical structures owned, leased or otherwise utilized by a registered organization, including any dispensing facility, shall:
 - (1) Not advertise medical cannabis brand names or utilize graphics related to cannabis or paraphernalia associated with cannabis on the exterior of the physical structures; and
 - (2) Not display medical cannabis products and paraphernalia associated with cannabis so as to be clearly visible from the exterior of a physical structure.
- B. All restrictions listed in Subsection A of this section shall apply to any item located on any real property on which a medical cannabis dispensary's physical structure or structures is or are located.
- C. All restrictions listed in Subsection A of this section shall apply to all vehicles owned, leased or utilized by medical cannabis dispensary or its owner or operator.
- D. An advertisement for any cannabis product shall not contain:
 - (1) depict medical cannabis not otherwise permitted by section 113.12 of Title 9 of the New York Codes, Rules and Regulations or paraphernalia;
 - (2) use or display images designed in any manner to be attractive to individuals under 21;
 - (3) use audio that may be attractive to individuals under 21, including but not limited to using children's voices or cartoon voices;
 - (4) be on or in the form of a billboard;

- (5) use or display colloquial references to marijuana and cannabis or depictions or digital images or icons, whether animated or static, of cannabis, cannabis products, medical cannabis products, paraphernalia, or the imagery or action of smoking or vaping including but not limited to stoner, chronic, weed, pot, or sticky buds;
- (6) assert that medical cannabis or medical cannabis products are safe or effective because they are regulated by the Cannabis Control Board or Office of Cannabis Management;
- (7) permit the use of their trademarks, brands, names, locations, or other distinguishing characteristics for third-party use on advertising in a manner that does not comply with this Part or any other statute, rule or regulation;
- (8) contain any statement, design, representation, picture or illustration relate to the safety or efficacy of medical cannabis, unless supported by substantial evidence or substantial clinical data which shall be referenced in the advertisement and provided to the office upon request;
- (9) contain favorable information or opinions about a medical cannabis product previously regarded as valid but which have been rendered invalid by contrary and more credible recent information;
- (10) use a quote or paraphrase out of context or without citing conflicting information from the same source, to convey false or misleading idea;
- (11) contain favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for such information or conclusions;
- (12) use data favorable to a medical cannabis product derived from patients treated with a different product or form;
- (13) disparage cannabis or medical cannabis products from another registered organization or licensed entity;
- (14) fail to provide adequate emphasis for the fact that two or more facing pages are part of the same advertisement when only one page contains information, relating to side effects, consequences and contraindications;
- (15) disseminate any advertisement if the registered organization has received information that has not been widely publicized in medical literature that the use of any medical cannabis product may cause fatalities or serious damage to patient;
- (16) correct false or misleading information in any part of the advertisement by including a true statement in another distinct part of the advertisement;
- (17) use the term organic;
- (18) contain any statement, design, representation, picture or illustration that encourages or represents the use of medical cannabis that does not comport with article 3 of the Cannabis Law or promotes overconsumption;

- (19) falsely portray medical cannabis or cannabis products as being in compliance with articles 4 and 5 of the Cannabis Law;
- (20) contain any statement that indicates or implies that the product or entity in the advertisement has been approved or endorsed by any Village of Valley Stream or New York State employee or any person or entity associated with the Village of Valley Stream or New York State provided that this shall not preclude a factual statement that an entity is a registered organization;
- (21) encourage the transportation of medical cannabis across state lines or otherwise encourage illegal activity;
- (22) contain an offer or a prize, award or inducement to a certified patient, designated caregiver or practitioner related to the purchase of a medical cannabis product or a certification for the use of medical cannabis, provided, however, that, this shall not be construed as to prohibit a registered organization from offering discounts or a discount program to certified patients and designated caregivers, for the purchase of medical cannabis products;
- (23) advertise through marketing of free promotional items including, but not limited to, gifts, giveaways, except for the provision of branded exit packages or items that assist with public safety efforts, such as a lock box or safety storage bag which may be provided by a registered organization for the benefit of certified patients;
- (24) produce any item for sale or promotional gifts, such as T-shirts or novelty items, bearing a symbol of or references to medical cannabis. This prohibition shall not pertain to cannabis paraphernalia sold to certified patients or designated caregivers;
- (25) depict a child or other person under the age of 21 or reasonably appears to be under the age of 21. Talent portrayed in medical cannabis advertising should be a minimum of 25 years old, substantiated by proper identification, and an actual certified patient, designated caregiver or health care practitioner and not a model or actor;
- (26) contain any obscene or indecent statement, design, or representation, picture, or illustration;
- (27) be within or be readily observed within 500 feet of an elementary or secondary school grounds as defined in the Education Law, recreation center or facility, childcare center, playground, public park, or library;
- (28) be on or through handbills that are passed out in public areas including but not limited to parking lot and publicly owned property;
- (29) utilize unsolicited pop-up or banner advertising on the internet other than on age-restricted websites for people 21 and over who consent to view cannabis-related material notwithstanding a certified patient or designated caregiver who is at least 18 years of age and visiting the website to purchase medical cannabis;
- (30) cooperate, directly or indirectly, in any advertising if such advertising has the purpose or effect of steering or influencing patient or caregiver choice with regard to the

selection of a practitioner. Nothing contained within this section prevents a registered organization from educating practitioners about medical cannabis products offered by the registered organization; or

(31) violates any additional prohibitions determined by the Board of Trustees, Board of Zoning Appeals and/or Building Department, Code Enforcement .

§ 99-33A.05. Other regulations.

The provisions of this Article XXXIII A do not waive or modify any other provision of this chapter with which medical cannabis dispensaries are required to comply. Nothing in this Article XXXIII A is intended to authorize, legalize or permit the establishment, operation or maintenance of any facility, buildings or use, which violates the provisions of this chapter, any other chapter of the Village Code or any provisions of applicable law.

§ 99-33A.06. Penalties for offenses.

- A. Any person or entity that violates any provision of this article shall be guilty of a violation and subject to a fine not less than \$500 and not more than \$1,000 for a first violation and not less than \$1,000 and not more than \$5,000 for each violation committed within three years of the first violation.
- B. In addition to any of the penalties stated in this section, the Village Board may revoke any certificate of occupancy and or compliance granted to an owner or operator of a medical cannabis dispensary upon acquiring information that the medical cannabis dispensary is being occupied in violation of the provisions of this article. The penalties stated in this section are also in addition to any penalties provided by state laws or regulations pertaining to medical cannabis dispensaries.
- C. These fines may hereafter be amended by resolution of the Board of Trustees of the Village of Valley Stream.

§99-33A.07. Severability.

If any section, paragraph, subdivision or provision of this local law shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this local law as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 2: Full Force and Effect.

Except as hereinabove repealed and/or amended, the remainder of Chapter 99 shall remain in full force and effect.

SECTION 3: Repealer.

All ordinances, local laws or resolutions, or parts of ordinances, local laws or resolutions of the Incorporated Village of Valley Stream inconsistent with the provisions of this local law are hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this local law shall be in addition to other legislation regulating and governing the subject matter covered by this local law.

SECTION 4: When Effective.

The foregoing provisions shall take effect immediately upon filing with the Secretary of State.