

ORDINANCE NO. MC-9-2019

**AN ORDINANCE AMENDING THE WINNETKA ZONING ORDINANCE
TO FURTHER PROHIBIT CANNABIS
BUSINESS ESTABLISHMENTS IN THE VILLAGE**

WHEREAS, on June 25, 2019, the Governor signed into law Public Act 101-0027 (“*Act*”) legalizing the sale, possession, and use of cannabis for recreational purposes by persons over the age of 21 in Illinois beginning on January 1, 2020; and

WHEREAS, pursuant to Section 55-25 of the *Act*, units of local government may enact ordinances to prohibit cannabis businesses within their boundaries; and

WHEREAS, the “Winnetka Zoning Ordinance,” as amended (“*Zoning Ordinance*”), establishes, among other things, zoning districts and permitted land uses within those zoning districts; and

WHEREAS, pursuant to Sections 17.12.020, 17.16.020, 17.20.020, 17.24.020, 17.28.020, 17.32.010, 17.36.010, 17.40.020, 17.44.020, and 17.48.010 of the Zoning Ordinance, no building or lot may be used in a zoning district for any purpose other than those set forth in the aforementioned sections as permitted or special uses; and

WHEREAS, recreational cannabis businesses are not permitted or special uses in any of the Village’s zoning districts and, thus, prohibited in the Village; and

WHEREAS, on-premises and on-site consumption of cannabis is prohibited in the Village in all places deemed a public place within the meaning of the Smoke Free Illinois Act because the Village has not authorized or permitted on-premises and on-site consumption; and

WHEREAS, on July 7, 2019, the Village adopted Resolution No. R-65-2019 further affirming that recreational cannabis businesses are not permitted in any zoning district in the Village; and

WHEREAS, the Village Council has determined that it is prudent to continue to prohibit recreational cannabis businesses in the Village and make the prohibition more explicit to avoid any ambiguity or confusion (“*Proposed Amendments*”); and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village Council has jurisdiction to conduct public hearings and adopt amendments to the Zoning Ordinance; and

WHEREAS, the Village Council, pursuant to proper notice, conducted a public hearing to consider the Proposed Amendments on September 17, 2019; and

WHEREAS, the Village Council has determined that adoption of the Proposed Amendments as set forth in this Ordinance is in the best interests of the Village;

Additions are bold and double-underlined; deletions are struck through

NOW, THEREFORE, the Council of the Village of Winnetka does ordain as follows:

SECTION 1: RECITALS. The foregoing recitals are hereby incorporated into this Section as the findings of the Village Council, as if fully set forth herein.

SECTION 2: AMENDMENT TO SECTION 17.04.030 OF THE ZONING ORDINANCE. Section 17.04.030, titled "Definitions," of Chapter 17.04, titled "Introductory Provisions and Definitions," of the Zoning Ordinance shall be amended to read as follows:

"Section 17.04.030 Definitions.

For the purpose of this title, certain terms and words are defined as follows:

* * *

C.

1. Cannabis. "Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

2. Cannabis Business Establishment. "Cannabis business establishment" means a cannabis cultivation center, craft grower, infusing organization, processing organization, dispensing organization, transporting organization, or any other form or type of business classified as a "Cannabis Business Establishment" in the Illinois Cannabis Regulation and Tax Act of 2019 (P.A. 101-0027), as the same may be amended from time to time.

13. Carport. "Carport" means an open-sided roofed shelter for motor vehicles, boats or trailers, usually formed by extension of the roof from the side of

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a building.

4.14 Co-Working Space. "Co-working space" means office space (i) used in a hoteling model, (ii) used by individuals who are telecommuters, freelancers, self-employed or small businesses, and generally not employed by the same organization, (iii) used by individuals who subscribe to a membership to use such space, (iv) and is equipped with workspaces and facilities which allow for interaction and collaboration in groups or as a community. Co-working spaces may host classes or network events which are open either to the public or to current and prospective members.

4.55. Coach House. "Coach House" means an accessory structure that contains no more than two accessory dwelling units, as defined in this section.

26. Commercial. "Commercial" means relating to a business, see "Business."

37. Commercial Building. "Commercial building" means a building used in whole or in part for commercial purposes.

48. Commercial Half-Story. See "Half-story, Commercial," below.

59. "Common ownership" means direct or indirect legal or beneficial ownership of more than one lot or parcel of land by the same person or persons. For this purpose, ownership by the spouse of a person shall be considered the same as ownership by the person himself or herself.

610. "Corner lot" means a lot situated at the junction of two or more streets.

711. "Corner lot line" means the longest street line of a corner lot.

812. "Corner yard" means a yard extending along the full length of a corner lot line and back to a line drawn parallel to the corner lot line, at a distance equal to the distance between the corner lot line and the nearest point of the building including, where applicable, the average front setback, but excluding any area included within a front yard.

913. Court, Outer. See "Outer Court," below.

1014. "Courtyard" means an area of open, unoccupied space, three sides of which are formed by buildings located on the same zoning lot and the entire fourth side of which abuts and is open and accessible to a public street.

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SECTION 3: SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 4: EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

PASSED this ____ of _____, 2019, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2019.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of _____, 2019.

Introduced: _____, 2019

Passed and Approved: _____, 2019

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