

VILLAGE OF DEERFIELD

ORDINANCE NO. 2019-    O-19-35    

AN ORDINANCE AMENDING "THE DEERFIELD ZONING ORDINANCE OF 1978,"  
AS AMENDED, TO PERMIT AS A SPECIAL USE AND REGULATE  
CANNABIS BUSINESS ESTABLISHMENTS

WHEREAS, the Village is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, on June 25, 2019, the Governor of the State of Illinois signed into law Public Act 101-0027, establishing the Cannabis Regulation and Tax Act ("**Act**"); and

WHEREAS, the Act legalizes the possession and use of cannabis for recreational purposes by adults over the age of 21, authorizes the sale of recreational cannabis at dispensaries, permits the expansion of cultivation centers previously only authorized to supply medical cannabis sales, and authorizes new types of cannabis businesses, such as craft growers, infusers, and processors; and,

WHEREAS, under the Act, "cannabis dispensing organizations," as that term is defined by the Act ("**Recreational Dispensaries**"), will be authorized to sell cannabis to eligible medical card holders and all adults over the age of 21 starting January 1, 2020; and

WHEREAS, under the Act, "cultivation centers," as defined by the Act ("**Cultivation Centers**"), will be authorized to grow, harvest, and distribute cannabis; and

WHEREAS, under the Act, "infusers," as that term is defined by the Act ("**Infusers**"), will be authorized to manufacture cannabis-infused products; and

WHEREAS, under the Act, "processors," as that term is defined by the Act ("**Processors**"), will be authorized to extract chemicals or compounds to produce cannabis concentrate; and

WHEREAS, under the Act, "craft growers," as that term is defined by the Act ("**Craft Growers**"), will be authorized to cultivate, dry, cure, and package cannabis in smaller volumes than existing Cultivation Centers; and

WHEREAS, the Act provides that municipalities may enact reasonable zoning regulations concerning the cannabis businesses described above, including, without limitation, prohibiting certain of the cannabis businesses described above; and

WHEREAS, the Act permits the on-premises consumption of cannabis only as authorized by municipalities; and

WHEREAS, pursuant to Section 2.00-A of the "Deerfield Zoning Ordinance 1978," as amended ("**Zoning Ordinance**"), Cultivation Centers, Recreational Dispensaries, Infusers, Additions are bold and double-underlined; ~~deletions are struck through.~~

Processors, Craft Growers, and businesses that permit on-premises consumption of cannabis are currently not allowed in the Village because they are not permitted or special uses in any of the Village's zoning districts; and

**WHEREAS**, on July 1, 2019, the Board of Trustees adopted Resolution R-19-15, which directed the Village Plan Commission to hold a public hearing and make recommendations to the Mayor and Board of Trustees on the questions of whether any of the above-listed cannabis businesses should be permitted in the Village, and if so, what regulations and other operational conditions should be imposed; and

**WHEREAS**, pursuant to notice duly published in the *Deerfield Review* on August 1, 2019, the Village Plan Commission conducted a public hearing on August 22 and September 12, 2019, to consider proposed amendments to the Zoning Ordinance; and

**WHEREAS**, at the conclusion of the public hearing, the Plan Commission made findings and recommended that the Mayor and Board of Trustees adopt Zoning Ordinance amendments to: (i) allow Recreational Dispensaries in the C-2 Outlying Commercial District and I-2 Limited Industrial District as a special use pursuant to strict regulations; (ii) to continue to prohibit all cannabis businesses in the Village other than Recreational Dispensaries and medical cannabis dispensaries; and (iii) continue to prohibit all on-premises consumption in the Village ("**Proposed Amendment**"); and

**WHEREAS**, the Mayor and Village Board have considered the standards for amendments set forth in Section 13.10 of the Zoning Ordinance; and

**WHEREAS**, the Village Board has determined that it will serve and be in the best interest of the Village to adopt the Proposed Amendments, as set forth in this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS**, as follows:

**SECTION ONE: RECITALS.** The foregoing recitals are incorporated into, and made a part of, this Ordinance as findings of the Village Board.

**SECTION TWO: AMENDMENTS TO SECTION 14.02.** Section 14.02, titled "Definitions," of Article 14, titled "Rules and Definitions," of the Zoning Ordinance is hereby amended further to add the following definitions in alphabetical order:

**"CANNABIS: 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,**

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

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.

\* \* \*

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, use at a processing organization, or recreational cannabis dispensary.

\* \* \*

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 other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments or dispensaries.

\* \* \*

DISPENSARY: The physical premises from which a dispensing organization or recreational cannabis dispensary will dispense cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act, 401 ILCS 130/1 *et seq.*, or customers pursuant to the Cannabis Regulation and Tax Act, Public Act 101-0027, as each may be amended.

\* \* \*

DISPENSING ORGANIZATION: means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Compassionate Use of Medical Cannabis Pilot Program Act, 401 ILCS 130/1 *et seq.*, to purchasers or to qualified registered medical cannabis patients and caregivers.

\* \* \*

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.

\* \* \*

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.

\* \* \*

RECREATIONAL CANNABIS DISPENSARY: The physical premises from which a cannabis, paraphernalia, or related supplies and educational materials are sold or dispensed to customers pursuant to the Cannabis Regulation and Tax Act, Public Act 101-0027, as may be amended.

\* \* \*

TRANSPORTING ORGANIZATION: An organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business, dispensary, or a community college licensed under the Community College Cannabis Vocational Training Program.”

SECTION THREE: AMENDMENTS TO SECTION 5.02-C. Section 5.02-C, titled “Special Uses,” of Article 5, titled “Commercial Districts,” of the Zoning Ordinance is hereby amended further, and shall read as follows:

“5.02-C Special Uses

The following special uses are permitted in the C-2 Outlying Commercial District when authorized in accordance with the provisions of Article 13, Administration and Enforcement.

\* \* \*

15. Recreational Cannabis Dispensary

A recreational cannabis dispensary, operated by a registered dispensing organization as a distribution facility under the “Cannabis Regulation and Tax Act.”

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

**SECTION FOUR: AMENDMENTS TO SECTION 6.02-C.** Section 6.02-C, titled “Special Uses,” of Article 6, titled “Industrial Districts,” of the Zoning Ordinance is hereby amended further, and shall read as follows:

“6.02-C Special Uses

The following uses are permitted in the I-2 Limited Industrial District when authorized in accordance with the procedures for Special Uses as set forth in Article 13, Administration and Enforcement:

\* \* \*

**21. Recreational Cannabis Dispensary**

**A recreational cannabis dispensary, operated by a registered dispensing organization as a distribution facility under the “Cannabis Regulation and Tax Act.”**

**SECTION FIVE: AMENDMENTS TO SECTION 2.13.** Article 2, titled “General Provisions,” of the Zoning Ordinance is hereby amended to add a new Section 2.13, which shall read as follows:

**“2.13 Additional Regulations for Recreational Cannabis Dispensary Businesses**

**(1) Application for Special Use. In addition to the requirements set forth in Article 13 of this Ordinance relating to applications for a special use, the application for a special use for a recreational cannabis dispensary must include all of the following information and documents:**

- a. The legal name and trade name, if applicable, for the proposed recreational cannabis dispensary;**
- b. The legal name of the applicant, if different than the proposed recreational cannabis dispensary;**
- c. The address of the proposed recreational cannabis dispensary;**
- d. The (i) address, telephone number and e-mail address of the proposed recreational cannabis dispensary and applicant, if different; and (ii) the principal place of business, if different than the common address of the proposed recreational cannabis dispensary or applicant. A post office box may not be submitted as the address of the proposed recreational cannabis dispensary’s or applicant's principal place of business;**

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

- e. The legal names, addresses, telephone numbers, e-mail addresses, dates of birth, and a detailed statement of their qualifications and experience related to the operation of a recreational cannabis dispensary or similar occupation for: (i) all persons or business entities with a financial interest in the proposed recreational cannabis dispensary; and (ii) all officers, directors, partners, managers, and owners of the proposed recreational cannabis dispensary. A post office box may not be submitted as the address of any of the entities or individuals listed herein;
- f. The proposed hours of operation for the proposed recreational cannabis dispensary;
- g. If the proposed recreational cannabis dispensary is a business entity other than a sole proprietorship, the following information regarding the proposed recreational cannabis dispensary:
  - i. The type of business entity, the date of formation, and proof that the organization is authorized to conduct the business of a recreational cannabis dispensary in the State of Illinois;
  - ii. If a limited liability company or a corporation, a copy of its certificate of good standing issued by the Secretary of State no more than seven days prior to the date the application for a special use is filed with the Village; and
  - iii. If the limited liability company or corporation uses an assumed name, a copy of the company's or corporation's assumed name registration issued by the Secretary of State;
- h. A description of any training and education that will be provided to the proposed recreational cannabis dispensary's employees;
- i. A copy of a business plan for the proposed recreational cannabis dispensary that includes, without limitation, a description of the products and services that will be offered;
- j. A security plan that describes how the proposed recreational cannabis dispensary will provide security for its inventory, customers, and employees,

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which shall be submitted to the Chief of Police for review and recommendation. Without limitation, the security plan must include the following information:

- i. A description of the procedures that the proposed recreational cannabis dispensary will implement to prevent the diversion, theft, or loss of cannabis during the delivery to the proposed recreational cannabis dispensary, including, without limitation, the use of delivery manifests;
- ii. A description of the procedures to: (i) monitor the activities conducted within the proposed recreational cannabis dispensary; (ii) secure the recreational cannabis dispensary, including, without limitation, its employees, cannabis, and currency; and (iii) prevent the diversion, theft or loss of cannabis; and
- iii. A description of the procedures that the proposed recreational cannabis dispensary will implement to restrict access to limited access areas and restricted access areas;
- k. Proof that the applicant owns the property on which it proposes to operate the recreational cannabis dispensary or, if the applicant does not own the property, a written statement from the property owner certifying the owner's consent to the use of the property for a recreational cannabis dispensary;
- l. A map of the area surrounding proposed recreational cannabis dispensary: (a) showing that no part of the property on which the proposed dispensary is located within 1,000 feet, measured from property line to property line, of any existing public or private preschool, elementary school, middle school, high school, day care center, day care home, group day care home, or part-day child care facility; (b) showing that no part of the property on which the recreational cannabis dispensary is located within 500 feet, measured from property line to property line, of any public park or property used for a residential use; (c) showing that the proposed location for the recreational cannabis dispensary is not zoned for residential use; and (d) identifying the businesses, and the nature of each business, located within 1,000 feet of any part of the property line of the proposed

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recreational cannabis dispensary in existence at the time that the application of a special use permit is filed with the Village;

m. Floor plans and elevations of the proposed recreational cannabis dispensary building that includes, without limitation, the following information:

i. The location, layout, floor area, and function of each room, including, without limitation, restricted access areas, limited access areas, rooms in which cannabis will be stored when the proposed recreational cannabis dispensary is open for business, and rooms in which cannabis will be stored when the proposed recreational cannabis dispensary is not open for business;

ii. The total floor area of the proposed recreational cannabis dispensary building;

iii. The doorways or pathways between rooms;

iv. The means of ingress and egress to and from the building of the proposed recreational cannabis dispensary, including, without limitation, fire exits;

v. The location of all safes or vaults that will be used to store cannabis, cannabis products, and currency;

vi. The locations of any bullet-proof glass;

vii. The location of each toilet facility;

viii. An attestation that the proposed recreational cannabis dispensary will have video cameras for security purposes;

ix. An attestation that the proposed recreational cannabis dispensary will have panic button(s) for security purposes;

x. The location of each natural and artificial lighting source; and

xi. The location of enclosed and secured loading and trash handling and disposal facilities;

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- n. A description of how the proposed recreational cannabis dispensary will comply with any applicable provisions of the Americans with Disabilities Act and other similar state and local laws and regulations;
- o. A plan to prevent customer overflow in the recreational cannabis dispensary;
- p. An attestation that the proposed recreational cannabis dispensary will have safes or vaults with sufficient capacity to safely store the anticipated quantities of cannabis and currency on the premises;
- q. Evidence acceptable to the Village's Principal Planner that the proposed dispensary building complies with all applicable State and local building and fire regulations, and all other applicable local ordinances and regulations;
- r. A sign plan for the proposed recreational cannabis dispensary that describes and depicts all proposed signs related to the proposed recreational cannabis dispensary, including, without limitation, the type of each proposed sign, the sign area and sign height of each proposed sign, the content of each proposed sign, the location of each proposed sign, and the illumination of each proposed sign, if any;
- s. A comprehensive site plan drawn to scale of the proposed recreational cannabis dispensary, which site plan must depict the following features, if applicable and without limitation: streets, traffic direction, sidewalks, trees, alleys, property lines, buildings, parking areas, handicapped parking spaces, fences, exterior walled areas, garages, vehicle delivery access doors, hangars, security features, garbage enclosure areas, and outdoor areas;
- t. A demonstration that the proposed location is suitable for public access, the layout promotes safe dispensing of cannabis, it is sufficient in size, power allocation, lighting, parking, handicapped accessible parking spaces, ADA-accessible entry and exits, product handling, and storage;
- u. Information sufficient to demonstrate that the proposed recreational cannabis dispensary complies with all applicable State laws and regulations, as such laws and regulations may be adopted or amended from time to

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time; and

v. Any other information or document that the Village's Principal Planner determines is reasonably necessary to consider the application for a special use permit.

(2) Limitation on Number of Special Uses. Not more than one special use shall be issued or outstanding at any one time for recreational cannabis dispensaries to be located in the Village.

(3) Operational Standards. The establishment, development, and operation of a recreational cannabis dispensary must comply with the conditions and restrictions set forth below, as well as any additional conditions set forth in the ordinance granting the special use:

a. No recreational cannabis dispensary, measured from property line to property line, may be located within: (i) 1,000 feet of any existing public or private preschool, elementary school, middle school, high school, day care center, day care home, group day care home, or part-day child care facility; (ii) 500 feet of any public park or property used for a residential use; and (iii) 1,500 feet of another dispensary;

b. No recreational cannabis dispensary shall be more than 5,000 gross square feet in area;

c. A recreational cannabis dispensary must comply with all applicable State laws and regulations, as such laws and regulations may be adopted or amended from time to time;

d. A recreational cannabis dispensary must have and maintain all required State licenses for the property, and a copy of such State licenses shall be framed and displayed in a place on the property that is conspicuous and open to the public;

e. No consumption of cannabis may be permitted on the premises of any recreational cannabis dispensary;

f. Signage and advertising:

i. A recreational cannabis dispensary shall be limited to: (a) one flat wall sign that does not exceed 10 square feet in area; and (b) one identifying sign that does not exceed two square

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feet in area, which identifying sign may include only the dispensary's address. Such signs shall not: (x) be directly illuminated; or (y) obstruct the entrance or windows of the recreational cannabis dispensaries;

ii. A recreational cannabis dispensary shall not have an electronic message board or any temporary signs on the exterior of the property;

iii. No signage on the exterior of a recreational cannabis dispensary may contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth, or any language terms referencing cannabis, or any slang or street terms commonly associated with cannabis;

iv. Notwithstanding anything to the contrary in Section 2.13(3)(e)(i), a recreational cannabis dispensary must post a sign with text that is clearly legible and conspicuous immediately adjacent to all entrances that includes the following language: "Persons under the age of 21 are prohibited from entering unless a qualifying patient with a prescription issued under the Compassionate Use of Medical Cannabis Program Act."; and

v. The exterior of all bags, sacks, totes or boxes provided to customers to carry cannabis out of the recreational cannabis dispensary must be opaque and without text or graphics advertising or identifying the contents of the products contained within;

g. Recreational cannabis dispensaries that display or sell drug paraphernalia shall do so in compliance with the Illinois Drug Paraphernalia Control Act (720 ILCS 600/1 et seq.) and the Cannabis Regulation and Tax Act.

h. Recreational cannabis dispensaries may not have a drive-through service window;

i. Any cannabis, cannabis-infused products, or cannabis waste on the premises of a recreational cannabis dispensary must be stored within secure refuse containers located within a restricted access area at all times prior to the destruction and disposal thereof,

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which destruction and disposal must be performed pursuant to all applicable State laws and regulations, as may be amended from time to time;

- j. All waste other than cannabis waste must be stored within dumpsters or garbage cans located within areas of a fully enclosed building, with operable doors closed at all times other than during loading and unloading;
- k. All recreational cannabis dispensaries must be equipped with a secure unloading space for the reception of deliveries of recreational cannabis and recreational cannabis infused products, which space must be: (a) located within an enclosed area of the principal structure in which the recreational cannabis dispensaries operates; (b) secured by doors that are closed and locked during all times that deliveries of recreational cannabis or recreational cannabis infused products are unloaded; and (c) a restricted access area. A recreational cannabis dispensary may only have cannabis unloaded, and accept deliveries of cannabis and cannabis infused products in, the secure unloading space;
- l. Recreational cannabis dispensaries must comply and timely pay all State and local taxes, including, without limitation, the Village's cannabis retailers' occupation tax and municipal retailers' occupation tax; and
- m. All personnel working at a recreational cannabis dispensary shall: (i) be at least 21 years of age; and (ii) meet any applicable training and certification requirements required by the State. ”

**SECTION SIX: 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 SEVEN: PUBLICATION.** The Village Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

**SECTION EIGHT: EFFECTIVE DATE.** This Ordinance will be in full force and effect from and after the occurrence of both of the following:

- A. Its passage and approval in the manner provided by law; and

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- B. The date that is 60 days after date on which both (1) the Illinois Department of Financial and Professional Regulation adopts administrative rules pursuant to and in furtherance of the Cannabis Regulation and Tax Act (“IDFPR Rules”) and (2) the Illinois Department of Agriculture adopts regulations regarding the permitted potency and THC levels allowed in cannabis products (“IDOA Rules”); provided that:
- (i) within such 60 day period the Board of Trustees shall have the right but not the obligation, in its sole and absolute discretion, to declare this Ordinance null and void and of no force or effect, which declaration may be made by a resolution duly adopted by the Board of Trustees without any further process or action; or
  - (ii) in the event that neither the IDFPR Rules nor the IDOA Rules is adopted prior to July 1, 2020, the Board of Trustees shall have the right but not the obligation, in its sole and absolute discretion, to declare this Ordinance null and void and of no force or effect, at any time prior to August 1, 2020 by a resolution duly adopted by the Board of Trustees without any further process or action. In the event that such declaration is not made prior to August 1, 2020, this Ordinance will be in full force and effect from and after August 1, 2020.

[SIGNATURE PAGE FOLLOWS]

AYES: Benton, Jester, Oppenheim, Struthers

NAYS: Seiden

ABSTAIN: None

ABSENT: Shapiro

PASSED: November 4, 2019

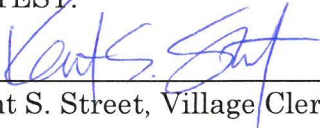
APPROVED: November 5, 2019

ORDINANCE NO. O-19-34



Harriet Rosenthal, Mayor

ATTEST:



Kent S. Street, Village Clerk