

**ORDINANCE NO. 2019-O-63**

**AN ORDINANCE AMENDING CANNABIS REGULATIONS AND CREATING  
A TAX FOR THE RETAIL SALE OF CANNABIS; AMENDING THE ZONING  
CODE TO INCLUDE CANNABIS BUSINESS ESTABLISHMENTS; AND  
ESTABLISHING A MORATORIUM ON CANNABIS BUSINESS  
ESTABLISHMENTS**

**WHEREAS**, the Village of Wilmette, Cook County, Illinois (hereinafter the “Village”), is a home rule municipal corporation as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois and, pursuant to said constitutional authority, may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, pursuant to the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et. seq.*)(“Act”), which is set to take effect on January 1, 2020, individuals over the age of 21 will be allowed to lawfully possess and consume cannabis; and

**WHEREAS**, pursuant to the Act, there are specific limitations upon the consumption of cannabis; and

**WHEREAS**, pursuant to the Act, the Village may regulate the consumption of cannabis in public places; and

**WHEREAS**, the amendments to the Village Code provided for by this Ordinance are necessary technical amendments to clarify what activity shall remain unlawful; and

**WHEREAS**, the creation of a tax for cannabis retail sales is adopted pursuant to the provisions of the Illinois Municipal Cannabis Retailers’ Occupation Tax Law, 65 ILCS 5/11-8-22 *et seq.* (“Tax Act”); and

**WHEREAS**, this ordinance is intended to impose the tax authorized by the Tax Act providing for a municipal cannabis retailers’ occupation tax which will be collected by the Illinois Department of Revenue; and

**WHEREAS**, pursuant to the Act, the Village may allow, prohibit or otherwise limit, the location of Cannabis Business Establishments and Infusers (collectively “Cannabis Business Establishments”) within the Village’s corporate boundaries; and

**WHEREAS**, this ordinance is intended to make technical changes to the Village of Wilmette Zoning Ordinance (“Zoning Ordinance”) by specifically including the definitions of the Cannabis Business Establishments expressly provided for in the Act; and

**WHEREAS**, the Act requires various state agencies to adopt administrative rules for the registration and oversight of Cannabis Business Establishments; and

**WHEREAS**, those administrative rules have yet to be adopted; and

**WHEREAS**, the Village President and Board of Trustees (collectively “Village Board”) has determined that the zoning of any Cannabis Business Establishments before the adoption of the state’s administrative rules may result in conflicts between such rules and local ordinances, which reasonably regulate the cultivation, dispensing, processing, transporting and infusing of recreational cannabis within the Village; and

**WHEREAS**, the Village Board desires to carefully review and consider the impacts that recreational cannabis-related uses have on the public health, safety, comfort, morals and welfare; and

**WHEREAS**, the Village’s evaluation process requires public input; and

**WHEREAS**, the Village Board has determined that an advisory referendum to be placed on the November 2020 election ballot will be one effective method for obtaining public input; and

**WHEREAS**, the Village staff is directed to place a resolution authorizing such an advisory referendum, in compliance with the Illinois Election Code, at the appropriate Village Board

meeting to ensure the placement of the proposed referendum upon the ballot at the November 2020 election; and

**WHEREAS**, to preserve the status quo while the Village obtains the public input necessary for its evaluation process, the Village Board desires to enforce a moratorium on Cannabis Business Establishments which is not expected to last past the date of June 30, 2021; and

**WHEREAS**, nothing in this ordinance shall be deemed to conflict with or in any way impede or impact the provisions set forth in the Wilmette Village Code pertaining to any provisions enacted pursuant to Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et. seq.*); and

**WHEREAS**, the Judiciary Committee sitting as a Special Zoning Committee, after giving due and proper notice as required by law, held a public hearing on October 18, 2019 to discuss technical amendments of the Zoning Ordinance in relation to Cannabis Business Establishments and the proposed moratorium of the same, thereafter filed with the President and Board of Trustees of the Village a report accompanied by findings of fact specifying the reasons for amending the Zoning Ordinance to make the amendments; and

**WHEREAS**, the Village Board finds that the below amendments to the Zoning Ordinance improve the effectiveness of the Zoning Ordinance, are in keeping with the spirit of the Zoning Ordinance, meet the standards for amendments and promote the public health, safety, morals and welfare, and are otherwise in the public interest.

**WHEREAS**, the Village Board finds that the below amendments and the moratorium promote the public health, safety, morals and welfare, and are otherwise in the public interest.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Wilmette, Cook County, Illinois, in the exercise of its home rule power as follows:

**SECTION 1:** The foregoing findings and recitals, and each of them, are hereby adopted as Section 1 of this Ordinance and are incorporated by reference as if set forth verbatim herein.

**SECTION 2:** The Wilmette Village Code, as amended, is further amended in Chapter 12, Article XIII, Marijuana and Drug Paraphernalia by deleting the text of said Article XIII shown in strikethrough type below and inserting the new text shown in underlined bold type below in the manner and form shown below so that said Article XIII shall hereafter read as follows:

**ARTICLE XIII. - MARIJUANA AND DRUG PARAPHERNALIA**

**Sec. 12-350. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cannabis shall have the meaning ascribed to it in **the Cannabis Regulation and Tax Act** ~~section 3 of the Cannabis Control Act (ILCS ch. 720, act 550, § 1 et seq.)~~ as if that definition were incorporated herein.

Controlled substance shall have the meaning ascribed to it in section 102 of the Illinois Controlled Substances Act as if that definition were incorporated herein (ILCS ch. 720, act 570, § 101 et seq.).

Deliver or delivery means the actual, constructive or attempted transfer of possession of cannabis or a controlled substance, with or without consideration, whether or not there is an agency relationship.

Drug paraphernalia means all equipment, products and materials of any kind which are peculiar to and marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the Cannabis Control Act or the Illinois Controlled Substances Act. It includes, but is not limited to:

- (1) Kits peculiar to and marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

- (2) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which contains cannabis or a controlled substance;
- (3) Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (4) Diluents and adulterants peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
- (5) Objects peculiar to and marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil or other controlled substances into the human body including, where applicable, the following items:
  - a. Water pipes;
  - b. Carburetion tubes and devices;
  - c. Smoking and carburetion masks;
  - d. Miniature cocaine spoons and cocaine vials;
  - e. Carburetor pipes;
  - f. Electric pipes;
  - g. Air-driven pipes;
  - h. Chillums;
  - i. Bonges;
  - j. Ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller, is for use in violation of this article.

Methamphetamine shall have the meaning ascribed to it in section 10 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/10).

Sec. 12-351. - Offense.

(a) It shall be unlawful for any person to grow, possess, sell, give away, barter, deliver, exchange, distribute, or administer any marijuana in the village, **except when the growth, possession, sale, delivery or distribution of cannabis is done so in compliance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et. seq or when the home growth of cannabis is performed pursuant to Section 10-5 (b) of the Cannabis Regulation and Tax Act, 410 ILCS 705/10-5(b), or possession of cannabis is done so in compliance with the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1 et. seq.**

(b) **It shall be unlawful for any retail establishment or similar use, even when licensed by the State of the Illinois under the Cannabis Regulation and Tax Act 410 ILCS 705/1-1 et. seq., to sell Cannabis at retail in the village.**

~~This section shall not apply when the growth, possession, sale, delivery or distribution of cannabis is done so in compliance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et. seq.~~

Sec. 12-352. - Penalty.

Any person who violates section 12-351 shall be fined **in the manner provided for in Section 2-1305** not less than \$200.00 nor more than \$750.00.

**SECTION 3:** The Wilmette Village Code, as amended, is further amended in Chapter 12, Article XIV, Prohibition and Penalty by deleting the text of said Article XIV shown in strikethrough type below and inserting the new text shown in underlined bold type below in the manner and form shown below so that said Article XIV shall hereafter read as follows:

ARTICLE XIV. - PROHIBITION AND PENALTY

Sec. 12-378. - Offense.

(a) Any person who keeps for sale, offers for sale, sells or delivers for any commercial consideration any item which that person knows, or under all of the circumstances reasonably should have known, to be drug paraphernalia, commits a violation of this Code ~~for which a fine of not less than \$250.00 and not more than \$1,000.00 shall be imposed for each such item.~~

(b) Any person who possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis, a controlled substance, or methamphetamine into the human body, or under all of the circumstances reasonably should have known, to be drug paraphernalia, commits a violation of this Code ~~for which a fine of not less than \$50.00 and not more than \$750.00 shall be imposed for each such item.~~

**(c) A person, corporation, partnership, association or other entity who violates this article shall be fined in the manner provided for in Section 2-1305.**

~~(1) This section does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.~~

~~(e) This section shall not apply when the possession, sale, delivery or distribution of paraphernalia is done so in compliance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et seq.~~

Sec. 12-379. - Public nuisance.

Any store, place or premises from which or in which any item of drug paraphernalia is kept for sale, offered for sale, sold or delivered for any commercial consideration is declared to be a public nuisance, **except when such sale is done in compliance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et seq. It shall be unlawful for any retail establishment or similar use, even when licensed by the State of the Illinois**

**under the Cannabis Regulation and Tax Act 410 ILCS 705/1-1 et. seq., to sell drug paraphernalia at retail in the village.**

Sec. 12-380. - Enforcement.

~~(a) The Corporation Counsel of the village may commence an action to abate a public nuisance as described in this section in the name of the People of the Village of Wilmette in the Circuit Court.~~

~~(b) Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may, without notice or bond, issue a temporary injunction to enjoin any defendant from maintaining such nuisance and may issue an order restraining any defendant from removing or interfering with any property used in connection with the public nuisance.~~

~~(c) If during the proceedings and hearing upon the merits the existence of the nuisance is established, and it is established that such nuisance was maintained with the intentional, knowing, reckless or negligent permission of the owner, or an agent of the owner managing the premises, the court shall enter an order restraining all persons from maintaining or permitting such nuisance and from using the premises for a period of one year thereafter. However, an owner, lessee or other occupant thereof may use such premises if the owner gives bond with sufficient security or surety, in an amount between \$5,000.00 and \$10,000.00 approved by the court, payable to the People of the Village of Wilmette. Such bond shall include a condition that no offense specified in this article shall be committed at, in or upon the property described, and a condition that the principal obligor and surety assume responsibility for any fine, costs or damages incurred by any person resulting from such an offense.~~

Sec. 12-381. - Exemptions.

(a) This article shall not apply to:

(1) Items marketed for use in the preparation, compounding, packaging, labeling or other use of cannabis or a controlled substance as an incident to lawful research, teaching or chemical analysis and not for sale; or

(2) Items marketed for, or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(3) Items listed in section 12-351 which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this article.

**(4) A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.**

**(5) When the, possession, sale, delivery, or distribution of paraphernalia is done so in compliance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et seq or the possession of paraphernalia is done so in compliance with the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1 et. seq.**

~~(b) In determining whether or not a particular item is exempt under this subsection, the trier of fact should consider, in addition to all other logically relevant factors, the following:~~

~~(1) The nature, design, mechanics and any peculiar or unusual characteristic of the device involved;~~

~~(2) The general, usual, customary and historical use to which the item involved has been put;~~

~~(3) Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;~~

~~(4) Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;~~

~~(5) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;~~

~~(6) Any newspaper or magazine article, or national or local advertising, concerning the design, purpose or use of the item involved, and the entire context in which such article or advertising occurs;~~

~~(7) The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;~~

~~(8) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;~~

~~(9) The existence and scope of legitimate uses for the object in the community.~~

~~Sec. 12-382. Penalties.~~

~~(a) All drug paraphernalia is subject to forfeiture.~~

~~(b) Property subject to forfeiture under this article may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Seizure by a peace officer without process may be made:~~

~~(1) If the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal proceeding or in an injunction or forfeiture proceeding based upon this article;~~

~~(2) If there is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or~~

~~(3) In accordance with the Code of Criminal Procedure, as amended.~~

~~(c) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement department or agency employing the seizing officer, subject only to the order and judgments of the Circuit Court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the chief administrative officer of the seizing department or agency may place the property under seal, or remove the property to a place designated by him.~~

~~(d) No disposition may be made of property under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court.~~

~~(e) When property is forfeited under this chapter, the chief administrative officer of the seizing department or agency may retain it for official use, or forward it to the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency, for disposition.~~

Secs. 12-382~~3~~—12-407. - Reserved.

**SECTION 4:** The Wilmette Village Code, as amended, is further amended in Chapter 12, Article XIX, Smoking Regulations in Public Places and Places of Employment by deleting the text of said Article XIX shown in strikethrough type below and inserting the new text shown in underlined bold type below in the manner and form shown below so that said Article XIX shall hereafter read as follows:

ARTICLE XIX. - SMOKING REGULATIONS IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Sec. 12-515. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than ten percent of its gross revenue from the sale of food consumed on the premises. The term "bar" includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

**Cannabis shall have the meaning ascribed to it in the Section 1-10 of the Cannabis Regulation and Tax Act (410 ILCS 705/1-10).**

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his services for a non-profit entity.

Employer means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity, that employs the services of one or more individual persons.

Enclosed area means all space between a floor and a ceiling that is enclosed or partially enclosed with:

- (1) Solid walls or windows, exclusive of doorways; or
- (2) Solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

Enclosed or partially enclosed sports arena means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

Gaming equipment or supplies means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

Gaming facility means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

Healthcare facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. The term "healthcare facility" means and includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

Place of employment means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to, entrances and exits to places of employment, including a minimum distance, as set forth in windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

Private club means:

- (1) A not-for-profit association that:
  - a. Has been in active and continuous existence for at least three years prior to the effective date of the amendatory Act of the 95th General Assembly, whether incorporated or not; and
  - b. Is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times; and
  - c. Is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain; and
  - d. Only sells alcoholic beverages incidental to its operation.
  
- (2) An organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 USC 501.

Private residence means the part of a structure used as a dwelling, including, without limitation means a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

Public place means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in section 12-516, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. The term "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. The term "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the State or state subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75 percent of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

Restaurant means:

- (1) An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees; and
- (2) A kitchen or catering facility in which food is prepared on the premises for serving elsewhere; and
- (3) A bar area within a restaurant.

Retail tobacco store means a retail establishment that derives more than 80 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. The term "retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

Smoke or smoking means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, **cannabis**, or any other lighted smoking equipment. The term "smoke" or "smoking" also means the use of vaporizers which are intended to simulate smoking tobacco, electronic cigarettes (a/k/a e-cigs or e-cigarettes), or any electronic nicotine delivery system typically, but not necessarily battery powered, which produce an aerosol which delivers nicotine to the user by means of inhalation.

Sec. 12-516. - Smoking prohibited in public places and places of employment and government vehicles.

- (a) It shall be unlawful for any person to smoke in any public place or place of employment, or to smoke within 15 feet of any entrance to a public place or place of employment.
- (b) It shall be unlawful for any person to smoke anywhere within a distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this section, so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.
- (c) It shall be unlawful for any person to smoke in any place designated as a "No Smoking Area," as provided in section 12-518.
- (d) It shall be unlawful for any person to smoke in any vehicle owned, leased or operated by the State or any political subdivision of the State, including, but not limited to, the village.
- (e) It shall be unlawful for any person to smoke in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies, and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.
- (f) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area in any place of employment in violation of subsections (a), (b) or (c) of this section.

(g) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of a public place to knowingly permit smoking in any enclosed area in said public place in violation of subsections (a), (b) or (c) of this section.

(h) It shall be unlawful for an employer or for the owner, occupant or lessee, as the case may be, in control of a public place to fail to post any required signs or fail to remove ash trays, as provided in section 12-519.

**(i) It shall be unlawful for any person to smoke or otherwise consume or use cannabis in any Public Place.**

**“Public Place,” for purposes of cannabis consumption, shall also have the same meaning as defined by the Cannabis Regulation and Tax Act, which means any place where a person could reasonably be expected to be observed by others. “Public place” includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. “Public Place” shall also include a Retail Tobacco Store or Cannabis business establishments. “Public place” shall also mean any place or location also defined as a “Public Place” in this Article.**

**“Public place” does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.**

Sec. 12-517. - Exemptions.

Notwithstanding any other provision of this article and the sections thereof, smoking is allowed in the following areas:

(1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public. **A landlord may restrict the use of cannabis pursuant to the Cannabis Regulation and Tax Act.**

(2) Retail tobacco stores as defined in section 12-515 in operation prior to January 1, 2008. Any retail tobacco store that begins operation after January 1, 2008 may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited. In order to maintain an exemption under this section, a retail tobacco store shall annually file with the village's Department of Law no later than February 15 a copy of the affidavit filed by the retail tobacco store by January 31 of that same calendar year with the Illinois Department of Public Health pursuant to section 35 of the Smoke Free Illinois Act (P.A. 95-17, § 35; as amended) stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories.

(3) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers **of the same product**, and have requested in writing to be placed or to remain in a room where smoking **of the specific agreed upon product**, is permitted and the smoke shall not infiltrate other areas of the nursing home.

(4) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

Sec. 12-518. - Designation of other no smoking areas.

Notwithstanding any other provisions of this article, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, as an area where smoking is also prohibited, provided that such employer, owner, occupant, lessee, operator, manager or other person in control shall conspicuously post signs prohibiting smoking in the manner described in section 12-519.

Sec. 12-519. - Posting of signs and removal of ash trays.

(a) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this article by the owner, operator, manager, or other person in control of that place.

(b) Each public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) All ashtrays shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager, or other person having control of the area.

Sec. 12-520. - Violations and penalties.

(a) A person, corporation, partnership, association or other entity who violates **this article** shall be fined **in the manner provided for in Section 2-1305.** ~~pursuant to this section. Each day that a violation occurs is a separate violation.~~

~~(b) A person who smokes in an area where smoking is prohibited under sections 12-516(a) through (e) shall be fined in an amount that is not less than \$100.00 and not more than \$250.00.~~

~~(c) A person who owns, operates, or otherwise controls a public place or place of employment that violates sections 12-516(f) through (h) shall be fined:~~

~~(1) Not less than \$250.00 for the first violation;~~

~~(2) Not less than \$500.00 for the second violation within one year after the first violation; and~~

~~(3) Not less than \$2,500.00 for each additional violation within one year after the first violation.~~

~~(d) In addition to any other penalty provided in this section, the village may apply to any court of competent jurisdiction for injunctive relief to require compliance with, or cease violations of, the provisions of this article.~~

Sec. 12-521. - Inconsistency with Fire Prevention Code.

No portion of this article shall be deemed to supersede any portion of chapter 9, section 7, the Fire Prevention Code of the village, as adopted. In the event of any inconsistency between the provisions of this article and any of the provisions of section 9-7, the provisions of section 9-7 shall control.

Sec. 12-522. - Inconsistency with Smoke Free Illinois Act.

No portion of this article shall be interpreted to regulate smoking in public places and places of employment in a manner that is less restrictive than that provided in the Smoke Free Illinois Act, P.A. 95-17, eff. Jan. 1, 2008, now or hereafter amended.

Sec. 12-523. - Responsibility of owner or occupant of any premises for unlawful assembly by minors.

It shall be unlawful for any person who has ownership or control of any motor vehicle, conveyance, vessel, house, apartment, room, hotel room, shed, yard, premises, or other area to suffer, permit or allow two or more persons under the age of 21 years to assemble or be assembled thereon when said person knows, or reasonably should know, that said persons under the age of 21 years located in such motor vehicle, conveyance, vessel, house, apartment, room, hotel room, shed, yard, premises, or other area are:

(1) In possession of any ~~cannabis~~ or controlled substance prohibited by state statute or village ordinance; or

(2) In possession of any alcoholic beverages, except that a person under the age of 21 years may be in possession of or consume alcoholic beverages in the performance of a bona fide religious service or ceremony.

**(3) In possession of cannabis, except if said person under the age of 21 are lawfully allowed to consume cannabis pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et. seq.**

Secs. 12-524—12-554. - Reserved.

**SECTION 5:** The Wilmette Village Code, as amended, is further amended in Chapter 6, Finance, by adding new Article XVIII, Business Taxes; Cannabis Retailers' Occupation Tax in the manner and form shown below so that said Article XVIII shall hereafter read as follows and existing Article XVIII Administration and Enforcement of Municipal Tax shall be renumbered to immediately follow the new Article XVIII:

Sec 6-469. Tax imposed; Rate.

(a) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village at the rate of 3% of the gross receipts from these sales made in the course of that business.

(b) The imposition of this tax is in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

Sec 6-470 Collection of tax by retailers.

(a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Illinois Department of Revenue shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this article.

**SECTION 6:** The Wilmette Village Code, as amended, is further amended in Appendix A Zoning Ordinance, Article 2, Section 30-2.4, DEFINITIONS, by adding the following definition, to be placed in alphabetical order, in the manner and form shown below, by deleting the text shown in strikethrough and inserting the new text shown in underlined, bold type below, so that Section 30-2.4 shall hereafter provide for this additional definition as follows:

30-2.4 DEFINITIONS

\*\*\*

“Cannabis business establishment” means a cultivation center, craft grower, processing organization, dispensing organization, infusers, or transporting organization.

\*\*\*

“Craft grower” means a facility operated by an organization or business that is licensed by the 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. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

\*\*\*

“Cultivation center” means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by this Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

\*\*\*

“Dispensary” means a facility operated by a dispensing organization at which activities licensed by this Act may occur.

\*\*\*

“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 this Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Act, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

\*\*\*

“Infuser organization” or “infuser” means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate

cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

\*\*\*

“Processing organization” or “processor” means a facility operated by an organization or business that is licensed by the 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.

\*\*\*

“Transporting organization” or “transporter” means an organization or business that is licensed by the 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.

\*\*\*

**SECTION 7:** “Cannabis Business Establishments” are not authorized as permitted or special uses within the Village of Wilmette pursuant to this Ordinance.

**SECTION 8:** Until June 30, 2021, or until new ordinances are adopted, whichever comes first, no new applications for the operation of any Cannabis Business Establishments shall be considered or issued by the Village or heard for any hearing before any Village Commission or Committee.

**SECTION 9:** The prohibitions provided for in Village Code in Chapter 12, Article XIII and Article XIV, as amended in this ordinance in regards to the sale of cannabis and drug paraphernalia, shall remain in place until the expiration of this moratorium or until a new ordinances adopted in regards to the sale of cannabis at retail are adopted.

**SECTION 10:** Codifier’s Authority. The Village’s codifier is authorized and hereby directed, to adjust section and paragraph numbering as may be necessary to render this ordinance consistent with the numbering of the Village Code.

**SECTION 11:** This Ordinance shall be in full force and effect from its passage, approval and publication as provided by law. This Ordinance shall be published in pamphlet form.

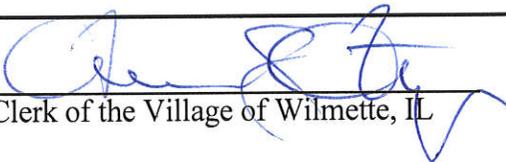
**PASSED** by the President and Board of Trustees of the Village of Wilmette, Illinois, on the 22<sup>nd</sup> day of **October, 2019**, according to the following roll call vote:

**AYES:** Trustees Sullivan, Kennedy, Dodd, Kurzman, Barrow, Plunkett and President Bielinski.

**NAYS:** None.

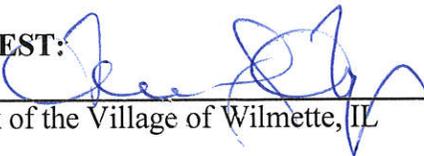
**ABSTAIN:** None.

**ABSENT:** None.

  
Clerk of the Village of Wilmette, IL

**APPROVED** by the President of the Village of Wilmette, Illinois, this 22<sup>nd</sup> day of **October, 2019.**

  
President of the Village of Wilmette, IL

**ATTEST:**   
Clerk of the Village of Wilmette, IL

**Published in pamphlet form October 23, 2019.**