

2019-ZO-_____

**AN ORDINANCE AMENDING SECTIONS 155.002, 155.022, 155.043, 155.047 AND
THE ZONING USE TABLE OF CHAPTER 155 OF TITLE XV OF THE
WAUCONDA CODE OF ORDINANCES REGARDING CANNABIS BUSINESS
ESTABLISHMENTS
(Zoning Ordinance)**

WHEREAS, pursuant to 65 ILCS 5/11-13-1 et seq., the Village of Wauconda (“Village”) has enacted zoning regulations that have been codified in Title XV of the Village Code and known as the Wauconda Zoning Code (“Zoning Code”); and,

WHEREAS, the enactment of Public Act 101-0027 created the Cannabis Regulation and Tax Act (the “Act”), regulating the cultivation, sale, possession, and consumption of cannabis in Illinois; and,

WHEREAS, the Act authorizes the sale and consumption of cannabis for recreational purposes throughout the State of Illinois; and,

WHEREAS, the Act provides the Village and other local governments with the power to regulate cannabis businesses, such as dispensaries, cultivation centers, infusers, transporters, processors, and craft growers (collectively, “Cannabis Business Establishments”); and,

WHEREAS, the Act authorizes the Village to enact reasonable zoning ordinances or resolutions regulating cannabis business establishments as long as such regulations are not in conflict with the Act (410 ILCS 705/55-25(1)); and,

WHEREAS, the Act allows the Village to enact ordinances governing the time, place, manner, and number of cannabis business establishments, including minimum distance limitations between cannabis business establishments and locations the Village deems sensitive (410 ILCS 705/55-25(2)); and,

WHEREAS, the Act expressly authorizes the Village to regulate cannabis business establishments through the use of conditional use permits (410 ILCS 705/55-25(2)); and,

WHEREAS, the President and the Board of Trustees of the Village have determined that it is the best interest of the health, safety, and welfare of the Village and its residents to amend the Zoning Code to establish regulations for cannabis business establishments as

authorized by the Act (the “Proposed Amendment”); and,

WHEREAS, in accordance with Section 155.095(b) of the Zoning Code, the Proposed Amendment to the Zoning Code was referred to the Wauconda Plan Commission/ Zoning Board of Appeals/ (“PC/ZBA”) for a public hearing and recommendation; and,

WHEREAS, public notice was published in the Daily Herald Newspaper, on _____, 2019 providing legal notice of said public hearing and the date, time and place of the hearing thereon; and

WHEREAS, pursuant to said public notice, on _____, 2019, a public hearing was commenced on _____, 2019 before a joint meeting of the PC/ZBA, said hearing being in compliance with the laws of the State of Illinois and the ordinances of the Village of Wauconda; and

WHEREAS, the PC/ZBA has issued its written Findings of Fact and Recommendation on the Proposed Amendment; and

WHEREAS, the President and Board of Trustees concurs with the said Findings of Fact and Recommendation, a true copy of which is attached hereto and incorporated herein as “Exhibit A”.

NOW, THEREFORE, be it ordained by the President and the Board of Trustees of the Village of Wauconda, Lake County, Illinois as follows:

SECTION I: That Section 155.002 entitled “Definitions” of Chapter 155 of Title XV of the Wauconda Code of Ordinances is hereby amended to provide as follows, where double underline (underline) indicates added text and strikethrough (~~strikethrough~~) indicates deletion of text:

CANNABIS: Shall have the same definition as “cannabis” set forth in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

CANNABIS BUSINESS ESTABLISHMENT: Means a “cultivation center”, “craft grower”, “processing organization”, “dispensing organization”, or “transporting organization” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended, and such other cannabis business establishments authorized under the Act, as amended.

CANNABIS CULTIVATION CENTER: Means “cultivation center” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

CANNABIS CRAFT GROWER: Means “craft grower” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

CANNABIS DISPENSARY: Means “dispensing organization” and “dispensary” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

CANNABIS INFUSER: Means “infuser organization” or “infuser” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

CANNABIS PROCESSER: Means “processing organization” or “processer” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

CANNABIS TRANSPORTER: Means “transporting organization” or “transporter” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

ON-PREMISES CANNABIS CONSUMPTION ESTABLISHMENT: Means a cannabis business establishment or other entity that is authorized or permitted to allow the on-premises consumption of cannabis.

[...]

~~MEDICAL CANNABIS CULTIVATION CENTER OR CULTIVATION CENTER: A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.~~

~~MEDICAL CANNABIS DISPENSING ORGANIZATION, OR DISPENSING ORGANIZATION, OR DISPENSARY ORGANIZATION OR DISPENSARY: A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered-qualifying patients.~~

~~MEDICAL CANNABIS FACILITY: A medical cannabis cultivation center or a medical cannabis dispensary.~~

SECTION II: That Table 1 located within Section 155.022 entitled “Principal Permitted, Conditional and Temporary Uses” of Chapter 155 of Title XV of the Wauconda Code of Ordinances is hereby amended to provide as follows, where double underline (underline) indicates added text and strikethrough (~~strikethrough~~) indicates deletion of text:

Table 1: Principal Permitted, Conditional and Temporary Uses
x = permitted c = conditional use t = temporary

<i>Use</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>RSH</i>	<i>CR</i>	<i>CB</i>	<i>RB</i>	<i>GB</i>	<i>LI</i>	<i>AG</i>	<i>OR</i>

<u>Cannabis cultivation center</u>											<u>c</u>	<u>c</u>	
<u>Cannabis craft grower</u>											<u>c</u>		
<u>Cannabis dispensary</u>									<u>c</u>	<u>c</u>			
<u>Cannabis infuser</u>											<u>c</u>		
<u>Cannabis processor</u>											<u>c</u>		
<u>Cannabis transporter</u>											<u>c</u>		

Medical Cannabis Cultivation Center and Medical Cannabis Dispensary Organization											e		

SECTION III: That Section 155.043 entitled “Specific Uses, Requirements” of Chapter 155 of Title XV of the Wauconda Code of Ordinances is hereby amended to provide as follows, where double underline (underline) indicates added text and strikethrough (~~strikethrough~~) indicates deletion of text:

(1) ~~Medical cannabis facilities~~ Cannabis business establishments. All cannabis business establishments must comply with the requirements of this Chapter.

~~(1) Definitions. The following definitions shall govern the administration of this section.~~

~~Cardholder. A qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card by the Department of Public Health.~~

~~Designated caregiver. A person who:~~

- ~~1. Is at least 21 years of age;~~
- ~~2. Has agreed to assist with a patient's medical use of cannabis;~~
- ~~3. Has not been convicted of an excluded offense; and~~
- ~~4. Assists no more than one registered qualifying patient with his or her medical use of cannabis.~~

~~Enclosed, locked facility. A room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cultivation center's agents or a dispensing organization's agent working for the registered cultivation center or the registered dispensing organization to cultivate, store, and distribute cannabis for registered qualifying patients.~~

~~Medical cannabis container. A sealed, traceable, food-compliant, tamper-resistant, tamper-evident container, or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization.~~

~~Medical cannabis infused product. Food, oils, ointments, or other products containing usable cannabis that are not smoked.~~

~~Statute governing statute. The Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122), or any successor legislation.~~

~~(21) Compliance with state regulations and rules. All facilities shall comply with all rules and regulations adopted in accordance with the state governing statute. All cannabis business establishments must comply with all applicable state and local laws, including the Cannabis Regulation and Tax Act, as amended, the Compassionate Use of Medical Cannabis Program Act, as amended, and applicable administrative rules.~~

~~(32) Submittal requirements. After a pre-application meeting with the Zoning Enforcement Officer, an applicant for a conditional use shall be required to submit plans and documents as deemed necessary, including, but not limited to, a plat of survey, a site plan, engineering plan, architectural plans and elevations, building material samples, lighting plan, signage plan, business and operational plan, security plan, traffic impact statement, ~~community deleterious prevention plan~~, and any document required for a state license submittal application.~~

~~(43) Minimum setbacks from incompatible land uses. As measured from a ~~medical cannabis facility's~~ cannabis business establishment's property lines, the following minimum setbacks from incompatible uses shall apply:~~

~~a. A cannabis dispensary may not be located within a ~~1,000~~ 500 feet of the property line of a ~~public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility, place of religious worship, cemetery, public or private park, forest preserve, or substance abuse treatment clinic or center.~~ of any~~

sensitive places, which shall include: schools, parks, churches (house of worship), and child care facilities.

~~b. A dispensary may not be located within 500 feet of a property of any property in an AG, R-1, R-2, R-3, R-4, R-5, or RSH District or any property zoned for residential use.~~

~~b. A cultivation center may not be located within a 2,500 feet of the property line of a public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility, place of religious worship, cemetery, public or private park, forest preserve, substance abuse treatment clinic or center, any property in an AG, R-1, R-2, R-3, R-4, R-5, or RSH District, or any property zoned for residential use.~~

~~db. A medical cannabis facility dispensary may not be located within a 2,5001,500 feet of the property line of any another medical cannabis facility dispensary.~~

(54) Parking and loading.

a. ~~Medical e~~Cannabis dispensary:

1. A minimum of 400 25 parking spaces or as many spaces as determined by the Village Board to meet the parking demand of the facility.
2. A minimum of one fully enclosed delivery bay capable of accommodating delivery vehicles to drive completely into the facility.

b. ~~Medical e~~Cannabis cultivation center, cannabis craft growers, cannabis processors, cannabis infusers, and cannabis transporters:

1. One space per employee plus as many additional spaces as determined by the Village Board to meet the parking demand of the facility.
2. A minimum of one fully enclosed delivery bay capable of accommodating delivery vehicles to drive completely into the facility.

c. Parking areas shall be located in an area which is visible from a public road or a private road that is accessible to the public.

d. Parking areas shall be well lit and monitored by video surveillance equipment whose live images can be viewed by cannabis business establishment ~~cultivation or dispensary~~ staff and continually recorded in a tamper proof format.

~~(65) Traffic impact. A Traffic Impact Statement shall be provided with any application submittal that analyzes items such as, but not limited to, peak traffic trip generation, access arrangements, existing and proposed area roadway condition, automobile queuing and stacking, and parking. The Traffic Impact Statement will provide estimates of costs to improve roadway infrastructure to accommodate any increase in demand on the area roadway network. The Board of Trustees may require a cannabis business establishment to submit a traffic study, if the proposed use is expected to substantially increase traffic on local streets. The Board of Trustees may deny a conditional use permit for a cannabis business establishment if a traffic study shows the proposed use would reduce the Highway Capacity Manual level of service grade to D, E or, F for any street within 250 feet of the property.~~

~~(7) Building requirements.~~

~~a. A medical cannabis facility shall be the sole use of a single lot, parcel, and/or property and located in a detached, single tenant building.~~

~~b. The exterior of any medical cannabis facility building shall be of brick, stone, or similar masonry product construction and adequately reinforced to prevent forced entry.~~

~~(8) Landscaping.~~

~~a. Minimum landscape yards are as follows:~~

~~1. Along any property line abutting a roadway or a railroad right-of-way line a minimum 25-foot deep landscape yard with plantings is required.~~

~~2. Along any property line abutting an adjacent property line a minimum 15-foot deep landscape yard with plantings is required.~~

3. ~~Planting material shall be provided at a rate of two shade trees, two ornamental trees, and ten shrubs (or their equivalent) per each 100 lineal feet.~~

~~b. Minimum interior site landscape areas as follows:~~

~~1. One planting island of at least 100 square feet in area for each ten parking spaces provided.~~

~~2. Planting material shall be provided at a rate of one shade tree per each 100 square feet of planting area.~~

~~(86) Exterior display. No medical cannabis facility cannabis business establishment shall be maintained or operated in a manner that causes, creates or allows the public viewing of medical cannabis, medical cannabis infused products or cannabis paraphernalia or similar products from any sidewalk, public or private right-of-way or any property other than the lot on which the dispensary is located. No portion of the exterior of the dispensary shall utilize or contain any flashing lights, search lights or spot lights or any similar lighting system.~~

~~(97) Signage and advertising.~~

~~a. Signage shall comply with the standards of the underlying zoning district and the advertising provisions of the Cannabis Regulation and Tax Act, as amended.~~

~~b. Electronic message boards and temporary signs are not permitted.~~

~~c. Signage should not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth, or language referencing marijuana or cannabis, other than "marijuana" or "cannabis".~~

~~d. A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Only cardholders, designated caregivers, and staff may enter these premises. Persons under the age of 18 are prohibited from entering." The required text shall be no larger than one inch in height.~~

~~(108) Age and access limitations. It shall be unlawful for any medical cannabis facility to allow any person who is not at least 18 years of age on the premises.~~

~~Dispensaries shall not employ anyone under the age of 18. Access shall be limited exclusively to medical cannabis facility staff, cardholders, designated caregivers, local and state officials, and those specifically authorized under the state governing statute. Age limitations shall be set forth per the Cannabis Regulation and Tax Act, as amended, the Compassionate Use of Medical Cannabis Program Act, as amended, and applicable administrative rules.~~

~~(119) Hours of operation. A dispensary shall operate only between 8:00 a.m. and 6:00 p.m. Unless otherwise prescribed by state law, the Board of Trustees may impose hours of operation for a cannabis business establishment as a condition of any conditional use permit to reduce conflicts with surrounding land uses.~~

~~(1210) Drive-through windows. A medical facility cannabis business establishment shall not have a drive-through service.~~

~~(14) Security and video surveillance. Facilities shall provide to the village a security plan that at a minimum provides that:~~

~~a. The medical cannabis facility shall be an enclosed locked facility and shall provide and maintain adequate security on the premises, including lighting, video surveillance and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft;~~

~~b. The parking area, client entrance, sales area, back room, storage areas and delivery bay and entrance shall be monitored by video surveillance equipment whose live images can be viewed by dispensary staff, continually recorded in a tamper proof format;~~

~~c. A sign shall be posted in a prominent location which includes the following language "This area is under live/recorded video surveillance to aid in the prosecution of any crimes committed against this facility or its patrons";~~

~~d. The local law enforcement officials shall review and approve prior to the issuance of a conditional use permit the adequacy of lighting, security and video surveillance installations;~~

~~e. A medical cannabis facility shall report all criminal activities to local law enforcement officials immediately upon discovery; and~~

f. Deliveries shall occur during normal business hours within a secure enclosed delivery bay, no delivery shall be visible from the exterior of the building.

(15) Conduct on site.

a. Loitering is prohibited on a medical cannabis facility property.

b. It shall be prohibited to smoke, inhale or consume cannabis products in or anywhere on the property occupied by the medical cannabis facility beyond what is allowed under the state governing statute. A sign, at least 8.5 by 11 inches, shall be posted inside the medical cannabis facility building in a conspicuous place and visible to employees and clients and shall include the following language: "Smoking, eating, drinking or other forms of consumption of cannabis products is prohibited on dispensary property."

(11) State License. Before issuance of a conditional use permit, certificate of occupancy or otherwise opening to the public, cannabis business establishments must file a copy of all required state licenses to operate as a cannabis business establishment with the Zoning Enforcement Officer.

(12) Number. The maximum number of each type of cannabis business establishment authorized to operate within the Village corporate limits at any one time is two (2).

(13) Co-Location. The Board of Trustees may approve the co-location of a cannabis dispensary with a cannabis craft grower or a cannabis infuser, or both, subject to the provisions of state law, and compliance with the underlying district regulations and the conditions required by this Article.

SECTION IV: That Section 155.047 entitled "Off Street Parking and Loading" of Chapter 155 of Title XV of the Wauconda Code of Ordinances is hereby amended to provide as follows, where double underline (underline) indicates added text and strikethrough (~~strikethrough~~) indicates deletion of text:

Medical Cannabis dispensary	A minimum of one hundred <u>twenty-five (10025)</u> parking spaces or as many spaces as determined by the Village Board to meet the parking demand of the facility. A minimum of one (1) fully enclosed delivery bay capable of accommodating delivery vehicles.

<p>Medical Cannabis cultivation center, cannabis <u>craft grower</u>, <u>cannabis processor</u>, <u>cannabis infuser</u>, and <u>cannabis transporter</u></p>	<p>One (1) space per employee plus as many additional spaces as determined by the Village Board to meet the parking demand of the facility. A minimum of one (1) fully enclosed delivery bay capable of accommodating delivery vehicles.</p>
	<p>***</p>

SECTION V: Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action arising, acquired or existing under any act or ordinance or portion thereof hereby repealed or amended by this ordinance; nor shall any just or legal right, claim, penalty or remedy of any character of the corporate authority existing on the effective date hereof be lost, impaired or affected by this Ordinance.

SECTION VI: All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

SECTION VII: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the Corporate Authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

Passed this ____ day of _____, 2019

	Ayes:	Nays:	Absent/Abstain:
Chuck Black	_____	_____	_____
Tim Howe	_____	_____	_____
Adam Schlick	_____	_____	_____

Richard G. Marino
Tom Shaw
Jeff A. Sode

APPROVED:

By: _____ Date: _____
LINCOLN F. KNIGHT, Mayor

ATTEST:

By: _____
CHERYL FALK-NOVAK, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on _____, 2019.

CHERYL FALK-NOVAK, Village Clerk