

# VILLAGE OF HAMPSHIRE ZONING BOARD OF APPEALS

Tuesday, December 10, 2019

7:00 p.m.

Hampshire Village Hall  
234 South State Street

## AGENDA

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Minutes – September 24, 2019
- E. New Business:
  - 1. Public Hearing and consideration of findings of fact and recommendation regarding Petition of Village for Zoning Text Amendment to allow, as a special use, in the B-2 Community Business Zoning District and the HC Highway Commercial Zoning District - Adult-Use Cannabis Dispensing Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code; and in the M-1 Restricted Industrial Zoning District, M-2 General Industrial Zoning District, M-3 Industrial District, and O-M Office Manufacturing Zoning District -- Adult-Use Cannabis Craft Grower Facility, Adult-Use Cannabis Craft Grower Facility when combined with an Adult-Use Cannabis Dispensing Facility or an Adult-Use Cannabis Processing Facility, Adult-Use Cannabis Cultivation Center Facility; Adult-Use Cannabis Infuser Facility, Adult-Use Cannabis Processing Facility, and Adult-Use Cannabis Transporting Facility, each as allowed by law and subject to the provisions of Section 4-25-1 et seq. of the Village Code, together with certain pertinent definitions and regulations.
  - 2. Consideration of authorizing Chair to execute and deliver to Board of Trustees appropriate Findings of Fact and Recommendation regarding Item #1 above.
- F. Old Business:
  - 1. Consideration of findings of fact and recommendation regarding the Petition of the Village for Zoning Text Amendment to modify §6-8-2(B) of the Village Code to allow beer gardens as a permitted use in the B-1 Central Business District.
  - 2. Consideration of authorizing Chair to execute and deliver to Board of Trustees appropriate Findings of Fact and Recommendation regarding Item #1 under Old Business.
- G. Public Comment:
- H. Announcements: Next meeting date – TBA
- I. Adjournment

**VILLAGE OF HAMPSHIRE  
ZONING BOARD OF APPEALS**

**MINUTES  
September 24, 2019**

A meeting of the Hampshire Zoning Board of Appeals was called to order at 7:00 p.m.. Members present: Chair C. Christensen, W. Albert, F. Frillman, and H. Hoffman. Member(s) Absent: J. Schaul. Also present was Village Attorney M. Schuster. W. Albert was named to act as temporary secretary for the meeting.

On motion made by H. Hoffman, seconded by R. Frillman, to approve the minutes of the meeting of the Zoning Board of Appeals held on August 13, 2019, the vote to approve was unanimous. Motion passed.

The first order of business was to convene a public hearing for the Petition filed by Montemayor Construction, Inc. for a zoning amendment on certain property which will be designated at Lot 1 of Hampshire Woods Business Park, Unit 2 upon the owner filing a Plat of Subdivision for the property. The owner is Wayne Hummer Trust No. LFT-1745.

The public hearing was opened at 7:04 p.m.

Michael Gazzola of Entre Commercial Realty, LLC appeared on behalf of and together with the applicant, Joseph Montemayor of Montemayor Construction, Inc., prospective purchaser of the property in question (and his attorney, James Bolz). Mr. Gazzola summarized the elements of the application for the Board. The purchaser intends to build an office/warehouse type building on the premises, which would be allowed under the M-2 General Industrial Zoning District regulations. Access to the Subject Property would be from Flannigan Road at the southern boundary of the property; the temporary cul-de-sac there would be improved and made permanent. The existing easement for extension of Flannigan Road to the north would be vacated; the existing village utility easements currently located within the roadway easement would remain. Land at the north end of the Subject Property would be deeded or dedicated to the village; the land could be used for future re-alignment of Higgins Road. Gazzola also identified the surrounding land uses in the Business Park, some of which remain classified in the O-M Office-Manufacturing Zoning District and others which have been amended to M-2 General Industrial Zoning District.

No members of the public commented on the Petition.

Chairman Christensen reiterated that some of the properties in this Business Park remain classified in the O-M Office-Manufacturing Zoning District and some have been amended for inclusion in the M-2 General Industrial Zoning District.

The public hearing was closed at 7:10 p.m..

On motion by W. Albert, seconded by H. Hoffman, to recommend approval of the Petition

for Zoning Amendment, to amend the zoning classification of the property legally described in the Petition and to be designated as Lot 1 in Hampshire Woods Business Park, Unit 2, from O-M Office Manufacturing Zoning District to M-2 General Industrial Zoning District, the vote was 4 aye – 0 nay. Motion passed.

The second order of business was to convene a public hearing for the Petition filed by Montemayor Construction, Inc. as prospective purchaser, for a zoning amendment on Lot 9 of Hampshire Woods Business Park, Unit 1, property owned by Wayne Hummer Trust No. LFT-1745.

The public hearing was opened at 7:11 p.m.

Michael Gazzola of Entre Commercial Realty, LLC appeared on behalf of and together with the applicant, Joseph Montemayor of Montemayor Construction, Inc., prospective purchaser of the property in question (and his attorney, James Bolz). Mr. Gazzola summarized the elements of the application for the Board. The purchaser intends to build an office/warehouse type building on the premises, which would be allowed under the M-2 General Industrial Zoning District regulations. Access to the Subject Property would be from Flannigan Road

No members of the public commented on the Petition.

The public hearing was closed at 7:14 p.m..

The Village Attorney recited that notice of the public hearing for both petitions had been published in the Daily Herald newspaper on September 3,, 2019, and that a Certificate of Publication was on file with the Village Clerk. Attorney Bolz presented mailing certificates for notices sent to adjacent property owners.

On motion by H. Hoffman, seconded by R. Frillman, to recommend approval of the Petition for Zoning Amendment, to amend the zoning classification of Lot 9 in Hampshire Woods Business Park Unit 1, from O-M Office Manufacturing Zoning District to M-2 General Industrial Zoning District, the vote was 4 aye – 0 nay. Motion passed.

The third order of business was to convene the Public Hearing for the Petition filed by the Village for Text Amendment to allow for residential uses above the ground floor level on any parcel on which is located a permitted or allowed special use in the B-1 Central Business District, the B-2 Community Business Zoning District, and the B-3 Service Business Zoning District

The public hearing was opened at 7:15 p.m.

The Village Attorney recited that notice of the public hearing had been published in the Daily Herald newspaper on September 6, 2019, and that a Certificate of Publication was on file with the Village Clerk. He noted the Petition for Text Amendment, explaining that the Village may wish to allow residential uses above the ground floor for businesses operating in the B-1 Central Business District; and noted that several such uses currently exist. Moreover, such uses

are allowed in the B-2 Community Business Zoning District and in the B-3 Service Business Zoning District, for the owner of record and his immediate family.

No members of the public commented on the Petition.

W. Albert questioned why this petition had been filed, and which properties would be affected by such a change in classification. He requested that a Village representative appear at the meeting to further explain the Petition.

On motion by W. Albert, seconded by H. Hoffman, to recess the public hearing and to table consideration of the matter until the ZBA meeting planned for October 22, 2019, the vote was 4 aye, 0 nay. Motion passed.

The fourth order of business was to remove from the table consideration of the Petition filed by the Village for Text Amendment to allow for beer gardens in the B-1 Central Business District in the Village.

The public hearing on this matter was re-opened at 7:21 p.m.

On motion by H. Hoffman, seconded by R. Frillman, to recess the public hearing to to table consideration of this matter until the ZBA meeting planned for October 22, 2019, the vote was 4 aye, 0 nay. Motion passed.

On motion by H. Hoffman, seconded by W. Albert, to authorize the Chairman to execute and deliver to the Board of Trustees, on behalf of the Zoning Board of Appeals, written Findings of Fact and Recommendation on Agenda Items #1 and #2, consistent with these actions, the vote was 4 aye, 0 nay. Motion passed.

On motion duly made and seconded, the meeting was adjourned at 7:26 p.m.

Respectfully submitted,

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William Albert  
Temporary Secretary

**MEMORANDUM**

**TO:** Zoning Board of Appeals  
**FROM:** December 10, 2019  
**RE:** Adult-Use Cannabis Business Establishments

**Background**

The Illinois Cannabis Regulations and Tax Act took effect on June 25, 2019; and will authorize the issuance of initial licenses for new adult-use cannabis business establishments commencing January 1, 2020 (and additional licenses at a later date).

Local governments are authorized by the Act to create regulations governing the “time, place, manner and number” of adult-use cannabis business establishments within their borders, including minimum distance limitations between cannabis business establishments and locations the local government may deem sensitive; and may establish civil penalties for violations of its regulations. §55-25.

The Act also authorizes a municipality to assess a sales tax of up to 3% on sales made by such adult-use cannabis business establishments.

The Act provides for six (6) different types of adult-use cannabis business establishments, as follows:

- |                          |                          |
|--------------------------|--------------------------|
| 1. Dispensing Facility   | 4. Infuser Facility      |
| 2. Craft Grower Facility | 5. Processing Facility   |
| 3. Cultivation Facility  | 6. Transporting Facility |

**Question Presented**

What is the recommendation of the Zoning Board of Appeals to the Board of Trustees in regard to the proposed amendments to the Zoning Regulations (including also the options presented in the underlying Business Regulations) regarding Adult-Use Cannabis Business Establishments in the Village?

**Discussion**

Attached are the following:

- A. Zoning: Proposed Amendments to the Village’s Zoning Regulations to create a special use for the various types of adult-use cannabis business establishments which might be allowed to locate in the Village.

**Bazos, Freeman, Schuster & Pope, LLC**  
*Attorneys at Law*

- These draft regulations call for consideration of the various zoning districts in which the different types of adult-use cannabis business establishments might be located throughout the Village.

The Planning & Zoning Committee of the Board of Trustees has recommended that the draft Zoning Regulations attached here be submitted to public hearing before the Zoning Board of Appeals.<sup>1</sup>

B. Supporting Regulations: These regulations will be presented to the Board of Trustees for approval, together with any amendment(s) to the Village Zoning Regulations:

1. Business Regulations > Proposed Amendments to the Village's Business Regulations, governing adult-use cannabis business establishments.

- These regulations allow for certain discretionary choices to be made regarding location of adult-use business establishments, for example, regarding distances from residences and/or schools, day care facilities, libraries, and parks.
- The Illinois Cannabis Regulation and Tax Act allows for the Village consider whether or not to allow on-site smoking or ingestion of cannabis and cannabis-infused products in an adult-use cannabis dispensing facility. The Planning & Zoning Committee recommended against this.

2. Police Regulations > Proposed Amendments to the Village's Police Regulations, governing possession and use of cannabis and cannabis-infused products in the Village.

3. Tax Regulations > Proposed Amendments to establish a Village Local Retailer's Occupation Tax for sale by adult-use cannabis dispensing facilities in the Village.

Please note that the Illinois Cannabis Regulation and Tax Act prescribes the following rules:

- Any adult-use cannabis business establishment must be not less than 1,500 feet from any other such establishment;
- The hours of operation of a dispensing facility shall not exceed 6:00 a.m. until 10:00 p.m.
- A dispensing facility may not have vending machines or a drive-through window.
- A dispensing facility must have at least two (2) employees present at all times.
- A dispensing facility must have a real-time, web-based point-of-sale and inventory control system (accessible by the IDOR).
- A resident 21 years of older may possess up to i) 30 grams of cannabis; ii) 500 milligrams of THC in cannabis-infused products; and iii) 5 grams of cannabis concentrate.
- It is unlawful for any parent to allow use of his/her residence for unlawful use of cannabis.

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<sup>1</sup> The Plan Commission will render a recommendation to the Zoning Board of Appeals regarding any proposed amendment to the text of the Village's Zoning Regulations following its 11-25-19 meeting.

**Bazos, Freeman, Schuster & Pope, LLC**  
**Attorneys at Law**

If the amendment is approved, then the special use process will allow the Zoning Board of Appeals to consider and the Board of Trustees to approve Adult-Use Cannabis Dispensing Facilities after specifically reviewing the following factors (see proposed Business Regulations) for any particular application:

- A. Compliance with all requirements of the Business Regulations.
- B. Impact of the proposed facility on existing or planned uses in the vicinity of the subject property.
- C. Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations / security plan, and compliance with the requirements of all applicable building codes.
- D. Hours of operation.
- E. Anticipated number of customers and employees.
- F. Anticipated parking demand, together with available parking supply.
- G. Anticipated traffic generation in the context of adjacent roadway capacity and access to and from such roadways.
- H. Site design, including access points and internal site circulation.
- I. Proposed signage plan.
- J. Other criteria determined to be necessary or advisable to assess compliance with §6-14-3(H) of the Village Code.

**Action(s) Needed**

1. Consider the proposed amendments to the Zoning Regulations to create a category of special use for the various Adult-Use Cannabis Business Establishments which might be allowed in the Village.
  - The Adult-Use Cannabis Dispensing Facilities would be allowed in certain business districts (B-2 and HC); and
  - The other Adult-Use Cannabis Business Establishments would be allowed in the industrial districts (M-1, M-2, M-3 and O-M).
2. Consider the options called for in the underlying Business Regulations, regarding
  - a) minimum distance of the various Cannabis Establishments from schools, day care facilities, libraries
  - b) minimum distance of the various Cannabis Establishments from residential uses; and
  - c) whether or not to allow on-site smoking of cannabis .

**PETITION  
FOR ZONING TEXT AMENDMENT**

TO: President and Board of Trustees  
Village of Hampshire, Kane County, Illinois

1. Please consider the following request for amendment of the existing Village Zoning Regulations, Hampshire Municipal Code, Title 6: Zoning Regulations, to modify the Zoning Regulations to add provisions allowing for certain Adult Use Cannabis Business Establishments as a special use in various zoning districts in the Village, consistent with the requirements and allowances of the Illinois Adult-Use Cannabis Use and Tax Act, effective June 25, 2019, as follows:


See attached (proposed) Zoning Text  
Amendments for Chapter 6: Zoning Regulations

2. These amendments ought to be considered together with appropriate amendments to the Village's business regulations and the Village's police regulations to fully govern and regulate adult-use cannabis in the Village. A draft of such further amendments, for further consideration, is attached hereto and incorporated herein by this reference.

3. Please schedule a public hearing before the Village Zoning Board of Appeals, for comment on, and review and consideration of, this proposed amendment to the text of the Village Zoning Regulations as soon as practicable.

Dated: November 15, 2019.

Respectfully submitted:

  
\_\_\_\_\_  
Jeffrey R. Magnussen  
Village of Hampshire



**VILLAGE OF HAMPSHIRE  
ZONING REGULATIONS**

<b>CHAPTER 6</b>	<b>ZONING</b>
<b>ARTICLE II</b>	<b>RULES AND DEFINITIONS</b>
<b>SECTION 6-2-2</b>	<b>DEFINITIONS</b>

Act means the Illinois Adult-Use Cannabis Regulation and Tax Act (PA 101-0027), as originally enacted effective June 25, 2019 and has thereafter may be amended from time to time.

Adult-Use Cannabis Business Establishment means a cultivation center facility, craft grower facility, processing facility, dispensing facility, or transporting facility as defined herein.

Adult-Use Cannabis Craft Grower Facility means a facility operated by an Adult-Use Cannabis Craft Grower Organization 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, including the following provisions:

Adult-Use Cannabis Craft Grower Organization means an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to operate a Adult-Use Cannabis Craft Grower Facility.

Adult-Use Cannabis Cultivation Center Facility means a facility operated by an Adult-Use Cannabis Cultivation Organization 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.

Adult-Use Cannabis Cultivation Organization means an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to operate a Adult-Use Cannabis Cultivation Center Facility.

Adult-Use Cannabis Dispensing Facility means a facility operated by an Adult-Use Cannabis Dispensing Organization for the purpose of acquiring cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, in accordance with the provisions of the Illinois Cannabis Regulation and Tax Act, as enacted and as it may be amended from time-to-time thereafter, and any regulations promulgated thereunder

Adult-Use Cannabis Dispensing Organization means 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.

Adult-Use Cannabis Infuser Facility (or, “infuser”) means a facility operated by an Adult-Use Cannabis Infuser Organization to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

Adult Use Cannabis Infuser Organization means an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to operate a Adult-Use Cannabis Infuser Facility.

Adult-Use Cannabis Processing Facility (or, “processor”) means a facility operated by an Adult-Use Cannabis Processing Organization 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.

Adult-Use Cannabis Processing Organization means an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to operate a Adult-Use Cannabis Processing Facility.

Adult-Use Cannabis Transporting Facility means a facility operated by an Adult-Use Transporting Organization to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

Adult-Use Cannabis Transporting Organization means an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to operate a Adult-Use Cannabis Transporting Facility.

Adult-Use Cannabis Dispensary means a facility operated by a dispensing organization at which activities licensed by this Act may occur.

**CHAPTER 6**

**ZONING**

**ARTICLE VIII**

**BUSINESS DISTRICTS**

**SECTION 6-8-3**

**B-2 COMMUNITY BUSINESS  
ZONING DISTRICT**

C. In the B-2 Community Business Zoning District, the following special uses shall be allowed:

\* \* \*





-- Adult-Use Cannabis Craft Grower Facility, when combined with an Adult-Use Cannabis Dispensing Facility and/or an Adult-Use Cannabis Processing Facility, as allowed by law and subject to the provisions of Section 4-25-1 et seq. of the Village Code

-- Adult-Use Cannabis Cultivation Center Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Infuser Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Processing Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Transporting Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

## **ARTICLE IX**

## **INDUSTRIAL DISTRICTS**

### **SECTION 6-9-5:**

### **O-M OFFICE MANUFACTURING ZONING DISTRICT**

D. Special Uses: In an O-M Office Manufacturing Zoning District, the only special uses shall be as follows:

\* \* \*

-- Adult-Use Cannabis Craft Grower Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Craft Grower Facility, when combined with an Adult-Use Cannabis Dispensing Facility and/or an Adult-Use Cannabis Processing Facility, as allowed by law and subject to the provisions of Section 4-25-1 et seq. of the Village Code

-- Adult-Use Cannabis Cultivation Center Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Infuser Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Processing Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

-- Adult-Use Cannabis Transporting Facility, subject to the provisions of Section 4-25-1 et seq. of the Village Code.

**VILLAGE OF HAMPSHIRE  
BUSINESS REGULATIONS**

**CHAPTER 3            BUSINESS REGULATIONS**

**ARTICLE XXV        ADULT-USE CANNABIS**

4-25-1. **PURPOSE AND APPLICABILITY:** It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the corporate limits of the Village .

- A. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027) (Act), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below.
- B. In the event that the Act is amended at any time after the effective date of this Ordinance, the more restrictive of the state or local regulations shall apply.
- C. The definitions contained in Chapter 6: Zoning Regulations, shall apply to the provisions of this Article.

4-25-2. **SPECIAL USE:** Adult-Use Cannabis Business Establishments shall be a special use in the respective zoning districts in which they may be located in the Village, and shall be considered for approval pursuant to Section 6-14-3(H) of the Zoning Regulations and the provisions of this Article.

4-25-3. **ADULT-USE CANNABIS BUSINESS ESTABLISHMENT FACTORS:** In reviewing an application for special use for an Adult-Use Cannabis Business Establishment, the following components of an Adult-Use Business Establishment shall be evaluated based on the entirety of the circumstances affecting the particular property on which it is proposed to be located, together with the context of the existing and intended future use of other properties in the vicinity of the proposed use and any other requirements of this Article:

- A. Compliance with all requirements of this Ordinance, as applicable.
- B. Impact of the proposed facility on existing or planned uses in the vicinity of the subject property.
- C. Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations / security plan, and compliance with the requirements of all applicable building codes.
- D. Hours of operation.
- E. Anticipated number of customers and employees.
- F. Anticipated parking demand based on Section 6-10-1 of this Code, together with available parking supply.

- G. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
- H. Site design, including access points and internal site circulation.
- I. Proposed signage plan.
- J. Other criteria determined to be necessary to assess compliance with Section 6-14-3(H) of the Village Code.

4-25-4. ADULT-USE CANNABIS CRAFT GROWER FACILITY: In those zoning districts in which an Adult-Use Cannabis Craft Grower Facility may be located, the proposed facility must comply with the following:

- A. The Facility may not be located *within* \_\_\_\_\_ [*suggested distance = 1,000*] feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- B. The Facility may not be located *within* \_\_\_\_\_ [*no suggestion as to distance*] feet of the property line of a pre-existing property zoned or used for residential purposes.
- C. The Facility may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state; provided also, the Facility may be authorized by the Illinois Department of Agriculture to increase or decrease the space devoted to plants in the flowering stage 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.
- D. For purposes of determining required parking, an Adult-Use Cannabis Craft Grower Facility shall be classified as "Manufacturing, fabricating and processing plants not engaged in retail sales" for purposes of per Section 6-11-2 of the Village Zoning Regulations provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such use.

4-25-5. ADULT-USE CANNABIS CULTIVATION CENTER FACILITY: In those zoning districts in which an Adult-Use Cannabis Cultivation Center Facility may be located, the proposed facility must comply with the following:

- A. Facility may not be located *within* \_\_\_\_\_ [*suggested distance = 1,000*] feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- B. Facility may not be located *within* \_\_\_\_\_ [*no suggestion as to distance*] feet of the property line of a pre-existing property zoned or used for residential purposes. Facility

may not conduct any sales or distribution of cannabis other than as authorized by the Act.

- C. For purposes of determining required parking, an Adult-Use Cannabis Cultivation Center shall be classified as “manufacturing, processing and fabrication plants not engaged in retail sales” for purposes of Section 6-11-2 of the Village Zoning Regulations, provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such use.

4-25-6. ADULT-USE CANNABIS DISPENSING FACILITY: In those zoning districts in which an Adult-Use Cannabis Dispensing Facility may be located, the proposed facility must comply with the following:

- A. The Facility may not be located *within \_\_\_\_\_ [suggested distance = 1,000] feet* of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- B. The Facility may not be located in a dwelling unit or *within \_\_\_\_\_ [no suggestion as to distance] feet* of the property line of a pre-existing property zoned or used for residential purposes.
- C. At least 75% of the floor area of any tenant space occupied by a Dispensing Facility shall be devoted to the activities of the Dispensing Facility as authorized by the Act, and no Dispensing Facility shall also sell food for consumption on the premises other than as authorized in Section E below in the same tenant space.
- ~~D. The Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the Dispensing Facility and smoke from the Facility does not migrate into any enclosed area where smoking is prohibited.
  - ~~1. The security plan for the facility required by Section 4-25-10 shall also reflect adequate provisions to respond to disruptive conduct and over-consumption.~~
  - ~~2. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Section \_\_\_\_\_ of the Village Code.~~~~
- D. For purposes of determining required parking, such Facility shall be classified as “Retail Store” for purposes of Section 6-11-2 of the Village Zoning Regulations; provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such use.
- E. The Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

4-25-7. ADULT-USE CANNABIS INFUSER FACILITY: In those zoning districts in which an Adult-Use Cannabis Infuser Facility may be located, the proposed facility must comply with the following:



- A. The Facility may not be located *within* \_\_\_\_\_ [*suggested distance = 1,000*] *feet* of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- B. The Facility may not be located in a dwelling unit or *within* \_\_\_\_\_ [*no suggestion as to distance*] *feet* of the property line of a pre-existing property zoned or used for residential purposes. At least 75% of the floor area of any tenant space occupied by an infusing Facility shall be devoted to the activities of the infusing Facility as authorized by the Act.
- C. The Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- D. For purposes of determining required parking, said facilities shall be classified as “Manufacturing, processing and fabricating plant not engaged in retail sales” for purposes of Section 6-11-2 of the Village Zoning Regulations, provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such use.

4-25-8. ADULT-USE CANNABIS PROCESSING FACILITY: In those zoning districts in which an Adult-Use Cannabis Processing Facility may be located, the proposed facility must comply with the following:

- A. Facility may not be located *within* \_\_\_\_\_ [*suggested distance = 1,000*] *feet* of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- B. Facility may not be located in a dwelling unit or *within* \_\_\_\_\_ [*no suggestion as to distance*] *feet* of the property line of a pre-existing property zoned or used for residential purposes.
- C. At least 75% of the floor area of any tenant space occupied by a processing Facility shall be devoted to the activities of the processing Facility as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- D. For purposes of determining required parking, said facilities shall be classified as “manufacturing, processing and fabricating plant not engaged in retail sales” for purposes of Section 6-11-2 of the Village Zoning Regulations, provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such use.

4-25-9. ADULT-USE CANNABIS TRANSPORTING FACILITY: In those zoning districts in which an Adult-Use Transporting Facility may be located, the proposed facility must comply with the following:

- A. Facility may not be located *within* \_\_\_\_\_ [*suggested distance = 1,000*] feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- B. Facility may not be located in a dwelling unit or *within* \_\_\_\_\_ [*no suggestion as to distance*] feet of the property line of a pre-existing property zoned or used for residential purposes.
- C. The transporting Facility shall be the sole use of the tenant space in which it is located. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- D. For purposes of determining required parking, said facilities shall be classified as “Other Use” for purposes of Section 6-11-2 of the Village Zoning Regulations, provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such use.

4-25-10. ADDITIONAL REQUIREMENTS: The Village may require, and Petitioner shall construct or install, building or site enhancements, such as security cameras, lighting, or other improvements, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined by the Village in its sole discretion based on the the specific characteristics of the floor plan for a proposed Adult-Use Cannabis Business Establishment and of the site plan for the property on which it is located, consistent with the requirements of the Act.

4-25-11. CO-LOCATION OF CANNABIS BUSINESS ESTABLISHMENTS. The Village may approve the co-location of an Adult-Use Cannabis Craft Grower Facility with either or both of an Adult-Use Cannabis Dispensing Facility and Adult-Use Cannabis Processing Facility, subject to the provisions of the Act and the conditional use criteria of the Village Code, including but not limited to the following:

- A. If more than one licensed organization is involved, then either all organizations sharing a vault on the premises shall also share more than 50% of the same ownership; or each organization shall store its currency and inventory of cannabis and cannabis-infused products in a separate vault in which the other organization does not have access.
- B. The Dispensing Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- C. The floor space requirements of Section 4-25-3 shall not apply, but the co-located establishments shall be the sole use of the tenant space.
- D. Any such use may be classified as “Other Use” for purposes of Section 6-11-2 of the Village Zoning Regulations, provided, however, that the Village may reasonably require that additional parking be provided at any particular location proposed for such collocated use.

**VILLAGE OF HAMPSHIRE  
POLICE REGULATIONS**

**CHAPTER 2**

**POLICE REGULATIONS**

**ARTICLE XXIII**

**CANNABIS; DRUG PARAPHERNALIA**

2-23-1: Cannabis

A. Definitions: For purposes of this Article,

1. "Cannabis" shall have the meaning defined as in 720 Illinois Compiled Statutes 550/3(a), as amended; and shall include but not be limited to marijuana, hashish, and other substances which 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 such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produce cannabinol derivatives, whether produce directly or indirectly by extraction; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

2. The Compassionate Use of Medical Cannabis Pilot Program shall mean the act codified at 410 ILCS 130/1 et seq.. as enacted and as shall from time to time be amended by the Illinois General Assembly.

3. The Community College Vocational Pilot program shall mean the program described at 410 ILCS 705-25-1 et seq., and as shall from time to time be amended by the Illinois General Assembly.

4. The Illinois Cannabis Regulations and Tax Act shall mean P.A. 101-0027, as enacted and as shall from time to time be amended by the Illinois General Assembly.

B. Possession, Use Prohibited; Other Prohibitions:

1. It shall be unlawful for any person under the age of 21 years to purchase, possess, use, process, transport, grow, or consume cannabis, except as otherwise authorized by the Compassionate Use of Medical Cannabis Pilot Program or by the Community College Vocational Pilot program.

2. Notwithstanding any other provisions of law authorizing the possession of medical cannabis, no person under the age of 21 years shall possess cannabis.

3. It shall be unlawful for any person who is 21 years of age or older to possess cannabis in violation of the possession limit(s) established by the Illinois Cannabis Regulations and Tax Act.

4. It shall be unlawful for any person to use, inject, ingest, inhale or otherwise introduce into the human body cannabis, or to be under the influence of cannabis within the corporate limits of the Village, in violation of the Cannabis Regulations and Tax Act (P.A. 101-0027). Provided, however, notwithstanding the foregoing, it shall not be unlawful for any individual to possess or use cannabis consistent with the Compassionate Use of Medical Cannabis Pilot Program Act.

5. It shall be unlawful for any person to transfer cannabis to any person under 21 years of age, with or without remuneration.

6. It is unlawful for any parent or guardian to knowingly permit his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under 21 years of age at the time, in any manner which constitutes a violation of the Illinois Cannabis Regulations and Tax Act.

7. It is unlawful for any person to engage in any of the the following conduct:

a. Possessing cannabis in or at any of the following locations:

- i) in a vehicle not open to the public, unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving;
- ii) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
- iii) on the grounds of any pre-school or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
- iv) in any correctional facility; or
- v) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

b. Using cannabis in or at any of the following locations or under the following circumstances:

- i) in any motor vehicle;

- ii) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
- iii) on the grounds of any pre-school or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
- iv) in any correctional facility;
- v) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
- vi) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act; or
- vii) in any public place.

c. Smoking cannabis in or at any place where smoking is prohibited under the Smoke Free Illinois Act.

d. Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis, in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code.

e. Facilitating the use of cannabis by any person who is not allowed to use cannabis under the Cannabis Regulations and Tax Act or the Compassionate Use of Medical Cannabis Pilot Program Act.

f. Transferring cannabis to any person contrary to the Cannabis Regulations and Tax Act or the Compassionate Use of Medical Cannabis Pilot Program Act.

g. While on duty:

a) In the position of a law enforcement officer, corrections officer, probation officer, or firefighter.

b). In the position of any person who has a school bus permit or a Commercial Driver's License.

F. For purposes of this Section, the term "public place":

1. Shall mean any place where a person could reasonably be expected to be observed by others, including but not limited to all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government; and also, any park space or open space in the Village; and any street, avenue, alleyway, sidewalk, or parking area open to the public.

2. Shall not include a private residence, unless the private residence is used to provide licensed childcare, foster care, or other similar social service care on the premises.

G. Nothing in this Section shall be construed to prevent the arrest or prosecution of a person for reckless driving or driving under the influence of cannabis if probable cause exists.

2-24-2: Penalty. Any person who violates this Section shall be subject to penalty in accordance with §1-4-1 of this Code. Such person shall also pay all applicable court costs and assessments. Each day that a violation continues shall be considered a separate offense.

No. 19- \_\_\_\_

**AN ORDINANCE  
AMENDING THE VILLAGE CODE TO IMPOSE A  
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

WHEREAS, the State of Illinois has enacted the Cannabis Regulations and Tax Act, effective June 25, 2019; and

WHEREAS, in conjunction with Cannabis Regulation and Tax Act, the State of Illinois has enacted Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/11-8-22 *et seq.* (Act); and

WHEREAS, the Act authorizes the Village to impose a retailer's occupation tax at a rate not to exceed 3% on sales of cannabis and cannabis-infused products and

WHEREAS, this Ordinance is adopted pursuant to the provisions of said Act; and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a municipal cannabis retailers' occupation tax which to be collected by the Illinois Department of Revenue and remitted to the Village from time to time.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF HAMPSHIRE, KANE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. The Hampshire Municipal Code of 1885, as previously amended, shall be and is hereby further amended to provide for the imposition of a local retailer's occupation tax for adult use cannabis business establishments, in words and figures as follows:

CHAPTER 4

BUSINESS REGULATIONS

ARTICLE 26

MUNICIPAL CANNABIS RETAILERS'  
OCCUPATION TAX.

4-26-1. 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 those sales made in the course of such 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).

4-26-2. COLLECTION OF TAX BY RETAILERS.

A. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Each qualifying retailer may reimburse itself for such retailer's liability hereunder by stating and collecting the tax as an additional charge; provided, such charge may be stated in combination, in a single amount, with any State tax that the retailer is 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 Department.

C. The Department shall have full power to administer and enforce the provisions of this Article.

Section 2. The Village Clerk shall certify and deliver to the Illinois Department of Revenue a copy of this ordinance upon its passage and approval in accordance with law.

Section 3. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 4. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of September, 2020.

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019, pursuant to roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_



ABSENT: \_\_\_\_\_

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Jeffrey R. Magnussen  
Village President

ATTEST:

\_\_\_\_\_  
Linda Vasquez  
Village Clerk

**CERTIFICATE OF PUBLICATION**  
(Pamphlet Form)

I, Linda Vasquez, certify that I am the duly appointed and acting Clerk of the Village of Hampshire, Kane County, Illinois.

I further certify that on \_\_\_\_\_, 2019, the Corporate Authorities of the Village of Hampshire passed and approved Ordinance No. 19 - \_\_\_\_\_, entitled:

**AN ORDINANCE  
AMENDING THE VILLAGE CODE TO IMPOSE A  
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

Said Ordinance provided by its terms that it should be published in pamphlet form, in accordance with law.

The pamphlet form of Ordinance No. 19 - \_\_\_\_\_, was prepared in the office of the Village Clerk, and a copy of same was posted in the Village Hall, commencing on \_\_\_\_\_, 2019, and continuing for at least ten days thereafter.

Copies of the Ordinance were also available from and after said date for inspection by members of the public, upon request, in the Office of the Village Clerk.

This Certificate dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Linda Vasquez  
Village Clerk