

VILLAGE OF GILBERTS

ORDINANCE 19-2019

**AN ORDINANCE AMENDING THE VILLAGE'S UNIFIED DEVELOPMENT
ORDINANCE REGARDING CANNABIS BUSINESS ESTABLISHMENTS**

WHEREAS, on January 7, 2014, the Village Board of the Village of Gilberts (“*Village*”) adopted the Gilberts Unified Development Ordinance, as it has been and may be amended from time to time (“*UDO*”), which sets forth the zoning and development standards and procedures for the Village; 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 provides the Village 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 (special) use permits (410 ILCS 705/55-25(2); and

WHEREAS, the Village also has the authority to regulate the on-premises consumption of cannabis at or in a cannabis business establishment ((410 ILCS 705/55-25(3); and

WHEREAS, the Act further authorizes the Village to enact ordinances to prohibit or significantly limit cannabis business establishment’s location (410 ILCS 705/55-25(5); and

WHEREAS, the UDO does not currently address these new and unique uses authorized by the Act; 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 UDO to establish regulations for cannabis business establishments as authorized by the Act (the “*Proposed Amendment*”); and

WHEREAS, the Plan Commission conducted a public hearing, pursuant to notice published in accordance with Illinois state law, on the Proposed Amendment at its meeting held on November 13, 2019, at which time the Plan Commission recommended approval of the Proposed Amendment; and

WHEREAS, the Village Board of Trustees has considered the Plan Commission's recommendation and has determined that it is in the best interests of the Village to approve the Proposed Amendment as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS, as follows:

SECTION 1. RECITALS The recitals set forth above are incorporated into Section 1 as set forth herein.

SECTION 2. AMENDMENT TO SECTION 10-4-3 OF THE UDO. Section 10-4-3 of Chapter 6 of the UDO, entitled "Special Uses," is hereby amended as follows (deletions in ~~strikethrough~~, additions in **bold** and underline):

"10-4-3 SPECIAL USES

The following uses may be permitted in the C-1 District, subject to the issuance of a special use permit as provided in Section 10-11-11 of this code and subject to the additional standards set forth in this section:

* * *

10. Cannabis dispensaries, cannabis craft growers, and medical cannabis dispensaries, subject to section 10-8-10 of this code. All other cannabis business establishments are prohibited.

SECTION 3. AMENDMENT TO SECTION 10-6-3 OF THE UDO. Section 10-6-3 of Chapter 6 of the UDO, entitled "Special Uses," is hereby amended as follows (deletions in ~~strikethrough~~, additions in **bold** and underline):

"10-6-3 SPECIAL USES

The following uses may be permitted in the I-1 District, subject to the issuance of a special use permit as provided in Section 10-11-11 of this code and subject to the additional standards set forth in this section:

* * *

9. Cannabis dispensaries, cannabis craft growers, medical cannabis dispensaries, and medical cannabis cultivation centers, subject to section 10-8-10 of this code. All other cannabis business establishments are prohibited

SECTION 4. AMENDMENT TO CHAPTER 8 OF THE UDO. Chapter 8 of the UDO, entitled “General Use Regulations,” is hereby amended by adding a new Section 10-8-10 as follows”

“10-8-10: CANNABIS USES

- A. Special Use Permit Required. Cannabis dispensaries and cannabis craft growers, as defined in Section 10-13-13 of this UDO, shall only be allowed within the “C-1” General Commercial District and the “I-1” Industrial zoning district and only upon the issuance of a special use permit. No cannabis business establishments shall be allowed in any other zoning district in the Village.
- B. Requirements for Cannabis Business Establishments. In addition to the requirements for a special use permit under section 10-11-11 of this code, all cannabis business establishments must comply with the following requirements:
1. Location Restrictions. Unless otherwise prescribed by state law, a cannabis business establishment may not be located within 250 feet of the property line of a pre-existing public or private school, public park, public library, child care or instructional facility, or a property zoned R-1, R-2, R-3, R-4, or OT.
 2. Site Plan Review. All cannabis business establishments shall be subject to site plan review as required by Section 10-11-14 of this Code. Cannabis business establishments must submit a site plan as part of the special use permit application. The Village may impose additional setback, landscaping, screening, and buffering requirements on a cannabis business establishment to mitigate impacts on surrounding properties as conditions of any approval of a special use permit.
 3. State Licensing. Applicants seeking a special use permit for a cannabis business establishment must submit a complete copy of their license application and all plans submitted to the State of Illinois, or any agency thereof, as part of their special use permit application. Before issuance of a certificate of occupancy or otherwise opening to the public, cannabis business establishments must provide a copy of their license to operate as a cannabis business establishment from the respective state agency.
 4. Compliance with State Regulations and Rules. All cannabis business establishments shall comply with the Cannabis Regulation and Tax Act, as amended, or the Compassionate Use of Medical Cannabis Program Act, as amended, and all applicable administrative rules and regulations.

5. Odor Control. All cannabis business establishments must submit a plan for the control of cannabis odors from the subject property as part of the special use permit application.
6. Security. All cannabis business establishments must submit a security plan as part of the special use permit application.
7. Drive-Thru Windows. A cannabis dispensary may not have a drive-through service.
8. Cannabis Dispensary Parking. Cannabis dispensaries are required to have 6 parking spaces per 1,000 square feet of floor area.
9. Traffic Study. Cannabis business establishments may be required to submit a study showing the impact of the proposed business on traffic in the surrounding area as part of the special use application. The Village will select the professional to conduct the traffic study, and the applicant will be responsible for the cost of the study.
10. Random Inspections. Cannabis dispensaries are subject to random and unannounced inspections by local law enforcement to verify compliance with all applicable laws, rules and regulations.
11. Cannabis Waste. All cannabis business establishments must submit a plan for the recycling and destruction of cannabis waste as part of the special use permit application, and all cannabis business establishments must comply with all state, county, and Village regulations governing cannabis waste.
12. Hours of Operation. Unless otherwise prescribed by state law, the Village may impose limits on the hours of operations of cannabis business establishments as a condition of any special use permit approval.
13. On-Premises Consumption Prohibition. No cannabis business establishment may allow the smoking, inhalation, or consumption of cannabis on the premises in any form. A sign, at least 8.5 by 11 inches, shall be posted inside the cannabis business establishment in a conspicuous place and visible to patrons and shall include the following language: "Smoking, eating, drinking or other forms of consumption of cannabis products is prohibited on the premises of this establishment."
14. Number. The number of each type of cannabis business establishments allowed in the Village may be established by the Board of Trustees.

C. Prohibited Uses. On-premises cannabis consumption establishments are prohibited from locating anywhere in the Village.”

SECTION 5. AMENDMENT TO SECTION 10-13-13 OF THE UDO. Section 10-13-13 of Chapter 13 of the UDO is hereby amended to add the following new definitions in proper alphabetical order:

Cannabis: 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: A cannabis business establishment means a cannabis dispensary, cannabis cultivation center, cannabis craft grower, cannabis infuser, cannabis transporter, cannabis processor, and such other cannabis business establishments authorized under the Act, a medical cannabis dispensary, and a medical cannabis cultivation center.

Cannabis Dispensary: A cannabis dispensary means “dispensing organization” and “dispensary” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Cultivation Center: A cannabis cultivation center means “cultivation center” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Craft Grower: A cannabis craft grower means “craft grower” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Infuser: A cannabis infuser means “infuser organization” or “infuser” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Transporter: A cannabis transporter means “transporting organization” or “transporter” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Processor: A cannabis processor means “processing organization” or “processor” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Medical Cannabis Dispensary: A medical cannabis dispensary means “medical cannabis dispensing organization”, or “dispensing organization”, or “dispensary organization,” as defined in Section 10 of the Compassionate Use of Medical Cannabis Program Act, as amended.

Medical Cannabis Cultivation Center: A medical cannabis cultivation center means a “cultivation center” as defined in Section 10 of the Compassionate Use of Medical Cannabis Program Act, as amended.

On-Premises Cannabis Consumption Establishment: An 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.”

SECTION 6. AMENDMENT TO CHAPTER 13 OF THE UDO. Chapter 13 of the UDO, entitled “APPLICABILITY AND INTERPRETATION” is hereby amended by adding a new Section 10-13-14 as follows:

“10-13-14: UNLISTED USES.

Unlisted uses are prohibited by this code. The listing of a use as “prohibited” or “not permitted” in this Title shall not be construed to permit unlisted uses by inference.”

SECTION 7. SEVERABILITY. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this Ordinance is found to be invalid in any one or more of its several applications, all valid applications shall remain in effect.

SECTION 8. REPEAL AND SAVINGS CLAUSE. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however that nothing in this Ordinance shall affect any rights, actions, or causes of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

SECTION 9. EFFECTIVE DATE. This Ordinance shall only be effective upon the passage, approval, and publication in the manner required by law.

ADOPTED THIS 10 DAY OF December, 2019, pursuant to roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Dan Corbett	✓	_____	_____	_____
Trustee Elissa Kojzarek	✓	_____	_____	_____
Trustee Nancy Farrell	_____	✓	_____	_____
Trustee Jeanne Allen	✓	_____	_____	_____
Trustee Lou Hacker	_____	✓	_____	_____
Trustee Guy Zambetti	✓	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS 10 DAY OF Dec., 2019

[Signature]
Village President, Rick Zirk



Ordinance No. 19-2019

ATTEST: 
Village Clerk, Courtney Nicholas

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