2320

ORDINANCE NO. 2019 - __

AN ORDINANCE AMENDING TITLE 18, ENTITLED "ZONING," OF THE VILLAGE OF WESTCHESTER MUNICIPAL CODE, TO REGULATE ADULT-USE CANNABIS BUSINESS ESTABLISHMENTS

PASSED AND APPROVED BY
THE PRESIDENT AND BOARD OF TRUSTEES
THE 17th DAY OF DECEMBER, 2019

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WHEREAS, the President and Board of Trustees of the Village of Westchester (the "Village") have determined that it is advisable, necessary, and in the best interest of the Village to amend Section 18.04.080 and Chapters 18.28, 18.32, 18.36, 18.38, 18.40 and 18.44 of the Zoning Ordinance of the Village of Westchester (the "Zoning Ordinance") to add definitions of cannabis and cannabis-related terms and to regulate adult-use cannabis business establishments; and

WHEREAS, said application for text amendments filed by the Village of Westchester was duly filed and was considered by the Plan and Zoning Commission, pursuant to a duly noticed public hearing held on December 9, 2019, in accordance with the Zoning Ordinance; and

WHEREAS, the Plan and Zoning Commission has recommended the approval of the proposed text amendments, with the recommendation that Adult-Use Cannabis Dispensing Organizations be permitted as a special use in additional business districts, and that the number of special use permits not be limited to one.

NOW, THEREFORE, BE IT ORDAINED by the President and the Board of Trustees of the Village of Westchester, Cook County, Illinois, as follows:

Section 1: The facts and statements contained in the preambles to this ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2: Section 18.04.080, entitled "Definitions," of Chapter 18.04, entitled "General Provisions," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as

amended, is hereby further amended by adding the following definitions in their proper alphabetical order, as follows:

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure 2 and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire 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, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder. A facility that only acquires and dispenses medical cannabis to registered medical cannabis patients shall be considered a Medical Cannabis Dispensing Organization, as defined herein.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER: An organization or business that is licensed by the Illinois 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, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

CANNABIS: means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

CANNABIS CONCENTRATE: means a product derived from cannabis that is produced by extracting cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO2, ethanol, or isopropanol. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.

CANNABIS-INFUSED PRODUCT: means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

MEDICAL CANNABIS DISPENSING ORGANIZATION: means a facility operated by an organization or business that is registered by the 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, individuals with a provisional registration for qualifying patient cardholder status, or an Opioid Alternative Pilot Program participant.

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

Section 3: Chapter 18.28, entitled "B1 Office Business District," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby further amended to add Section 18.28.050, entitled "Prohibited Uses," as follows:

Section 18.28.050 - Prohibited uses.

Adult-Use Cannabis Business Establishments
Adult-Use Cannabis Craft Growers
Adult-Use Cannabis Cultivation Centers
Adult-Use Cannabis Dispensing Organizations
Adult-Use Cannabis Infuser Organization or Infusers
Adult-Use Cannabis Processing Organization or Processors
Adult-Use Cannabis Transporting Organization or Transporters

Section 4: Chapter 18.32, entitled "B2 Restricted Business District," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby further amended to add Section 18.32.050, entitled "Prohibited Uses," as follows:

Section 18.32.050 - Prohibited uses.

Adult-Use Cannabis Business Establishments
Adult-Use Cannabis Craft Growers
Adult-Use Cannabis Cultivation Centers
Adult-Use Cannabis Dispensing Organizations
Adult-Use Cannabis Infuser Organization or Infusers
Adult-Use Cannabis Processing Organization or Processors
Adult-Use Cannabis Transporting Organization or Transporters

Section 5: Chapter 18.36, entitled "B3 General Business District," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby further amended to add Section 18.36.050, entitled "Prohibited Uses," as follows:

Section 18.36.050 - Prohibited uses.

Adult-Use Cannabis Business Establishments
Adult-Use Cannabis Craft Growers
Adult-Use Cannabis Cultivation Centers
Adult-Use Cannabis Dispensing Organizations
Adult-Use Cannabis Infuser Organization or Infusers
Adult-Use Cannabis Processing Organization or Processors
Adult-Use Cannabis Transporting Organization or Transporters

Section 6: Chapter 18.38, entitled "B4 Restricted Business District," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby further amended to add Section 18.38.050, entitled "Prohibited Uses," as follows:

Section 18.38.050 - Prohibited uses.

Adult-Use Cannabis Business Establishments
Adult-Use Cannabis Craft Growers
Adult-Use Cannabis Cultivation Centers
Adult-Use Cannabis Dispensing Organizations
Adult-Use Cannabis Infuser Organization or Infusers
Adult-Use Cannabis Processing Organization or Processors
Adult-Use Cannabis Transporting Organization or Transporters

Section 7: Section 18.40.010, entitled "Permitted Uses," of Chapter 18.40, entitled "I Industrial District," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby amended as follows:

18.40.010 - Permitted uses.

The following uses of land or buildings are permitted:

Industrial and light manufacturing uses, storage yards for fuel, building materials, petroleum products, contractors' equipment, trucks and buses; and wholesale bakeries, laundries, cleaning, printing and other similar shops and businesses. Specifically excluded are junking and auto wrecking establishments, glue factories and uses which are especially detrimental to the value of property or to the health or safety of persons beyond the district by reason of noise, vibrations, or the emission of odor, light flashes, dust, gas fumes, smoke, or other waste material.

Also, any use permitted in the business districts is permitted, except the following uses, which are specifically prohibited:

Amusement establishments—Bowling alleys, pool halls, dancehalls, skating rinks and other similar places of recreation;
Adult-Use Cannabis Craft Growers;
Adult-Use Cannabis Cultivation Centers;
Adult-Use Cannabis Infuser Organization or Infusers;
Adult-Use Cannabis Processing Organization or Processors;
Adult-Use Cannabis Transporting Organization or Transporters;
Art galleries;
Auction rooms;

Catering establishments;
Funeral homes;
Hotels and motels, including restaurants and meeting rooms;
Meeting halls;
Physical culture and health services;
Private clubs and lodges of fraternal and religious organizations, when either operated for profit or not for profit;
Public libraries;
Public or private preschool, elementary or secondary school or day care center, day care home, group day care home or part day child care facility;
Schools—Art, dancing, vocational, professional and business;
Theaters, indoor.

Section 8: Section 18.40.020, entitled "Special Uses," of Chapter 18.40, entitled "I Industrial District," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby amended as follows:

18.40.020 - Special uses.

The following uses may be allowed as special uses in an I Industrial District by the plan and zoning commission in accordance with the requirements and procedures in Chapter 18.48.

(1) Adult-Use Cannabis Dispensing Organizations (on-site cannabis consumption prohibited)

(2) Planned unit developments;

(3) Medical Cannabis Cultivation Centers;

(4) Medical Cannabis Dispensing Organizations

Section 9: Section 18.44.170, entitled "Schedule of Parking Requirements," of Chapter 18.44, entitled "Off-Street Parking and Loading," of Title 18, entitled "Zoning," of the Westchester Municipal Code, as amended, is hereby amended as follows:

18.44.170 - Schedule of parking requirements.

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

(1) RESIDENTIAL USES, AS FOLLOWS:

(A) ONE FAMILY DWELLINGS AND TWO FAMILY DWELLINGS: Two parking spaces shall be provided for each dwelling unit,

(B) MULTIPLE FAMILY DWELLINGS (INCLUDING APARTMENT HOTELS): Three parking spaces shall be provided for every two dwelling units. For lodging rooms located in an apartment hotel, one parking space shall be provided for each two lodging rooms,

(C) TOURIST COURTS, TOURIST HOMES, MOTELS, AND MOTOR HOTELS: One parking space shall be provided for each dwelling unit or lodging room,

(D) HOTELS, TRANSIENT: One parking space for each dwelling unit and one parking space for each two lodging rooms shall be provided,

(E) PRIVATE CLUBS OR LODGES: One parking space shall be provided for each two lodging rooms plus one parking space for each one hundred square feet of floor area (exclusive of lodging room capacity) of such club or lodge;

(2) RETAIL AND SERVICE USES, AS FOLLOWS:

(A) RETAIL STORES AND BANKS: One parking space shall be provided for each two hundred square feet of floor area in excess of one thousand square feet, plus one parking space for each two employees. Drive-in banks or other similar drive-in establishments shall provide three stacking spaces per teller or customer service window,

(B) AUTOMOBILE SERVICE STATIONS: One parking space shall be provided for each two employees,

(C) AUTOMOBILE LAUNDRY: Twenty stacking spaces shall be provided for each wash rack, plus one parking space for each four employees,

(D) BOWLING ALLEYS: Three parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses—bars, restaurants and the like,

(E) ESTABLISHMENTS DISPENSING FOOD OR BEVERAGES FOR CONSUMPTION ON THE PREMISES: One parking space shall be provided for each two hundred square feet of floor area,

(F) FURNITURE AND APPLIANCE STORES, HOUSEHOLD EQUIPMENT OR FURNITURE REPAIR SHOPS: One parking space shall be provided for each six hundred square feet of floor area in excess of one thousand square feet,

(G) MOTOR VEHICLE SALES AND MACHINERY SALES: One parking space shall be provided for each three hundred square feet of floor area,

(H) THEATERS (INDOOR): One parking space shall be provided for each five seats,

(I) UNDERTAKING ESTABLISHMENTS, FUNERAL PARLORS: Six parking spaces shall be provided for each chapel or par-lam, plus one parking space for each funeral vehicle kept on the premises;

(J) ADULT-USE CANNABIS DISPENSING ORGANIZATIONS: One parking space shall be provided for each two hundred square feet of floor area in excess of one thousand square feet, plus one parking space for each two employees;

(K) MEDICAL CANNABIS DISPENSING ORGANIZATIONS: One parking space shall be provided for each two hundred square feet of floor area in excess of one thousand square feet, plus one parking space for each two employees.

(3) OFFICES—BUSINESS, PROFESSIONAL AND GOVERNMENTAL: One parking space shall be provided for each two hundred square feet of floor area;

(4) WHOLESALE ESTABLISHMENTS (BUT NOT INCLUDING WARE-HOUSES AND STORAGE BUILDINGS OTHER THAN ACCESSORY): One parking space shall be provided for each six hundred square feet of floor area in excess of four thousand square feet;

(5) ESTABLISHMENTS ENGAGED IN PRODUCTION, PROCESSING, CLEANING, SERVICING, TESTING OR REPAIR OF MATERIALS, GOODS OR PRODUCTS: One parking space shall be provided for each two employees, plus one parking space for each vehicle used in the conduct of the enterprise;

(6) WAREHOUSES AND STORAGE BUILDINGS: One parking space shall be provided for each two employees, plus one space for each vehicle used in the conduct of the enterprise;

(7) COMMUNITY SERVICE USES, as follows:

(A) CHURCH, SCHOOL, COLLEGE AND OTHER INSTITUTIONAL AUDITORIUMS: One parking space shall be provided for each five auditorium seats. Adequate space shall also be provided for buses used in connection with the activities of the institution and all loading and unloading of passengers shall take place upon the premises,

(B) COLLEGES, UNIVERSITIES AND BUSINESS, PROFESSIONAL AND TRADE SCHOOLS: One parking space shall be provided for each three employees, and one parking space shall be provided for each four students based on the maximum number of students attending classes on the premises at any one time during any twenty-four-hour period,

(C) HEALTH CENTERS, GOVERNMENT-OPERATED: Three parking spaces shall be provided for each staff and visiting doctor,

(D) HOSPITALS: One parking space shall be provided for each two hospital beds, plus one parking space for each two employees (other than staff doctors), plus one parking space for each doctor assigned to the staff,

(E) LIBRARIES, ART GALLERIES, AND MUSEUMS—PUBLIC: One parking space shall be provided for each one thousand square feet of gross floor area,

(F) MUNICIPAL RECREATION BUILDINGS OR COMMUNITY CENTERS: One parking space shall be provided for each two employees, plus spaces adequate in number, as determined by the enforcing officer of this title, to serve the visiting public,

(G) PUBLIC UTILITY AND PUBLIC SERVICE USES: One parking space shall be provided for each three employees, plus spaces adequate in number, as determined by the enforcing officer of this title, to serve the public,

(H) SCHOOLS—NURSERY, ELEMENTARY: One parking space shall be provided for each employee,

(I) SCHOOLS—HIGH: One parking space shall be provided for each eight students, plus one space for each three employees;

(8) PLACES OF ASSEMBLY, as follows: AUDITORIUMS (OTHER THAN CHURCH, COLLEGE OR INSTITUTIONAL SCHOOL), DANCE HALLS, EXHIBITION HALLS, SKATING AND OTHER SIMILAR PLACES OF ASSEMBLY: Parking space equal in number to twenty-five percent of the capacity in persons shall be provided;

(9) MISCELLANEOUS USES, as follows:

(A) REST HOMES OR NURSING HOMES: One parking space shall be provided for each four beds, plus one parking space for each two employees (other than staff doctors), plus one parking space for each doctor assigned to the staff,

(B) SANITARIUMS, CONVALESCENT HOMES, OR INSTITUTIONS FOR THE AGED OR FOR CHILDREN: One parking space shall be provided for each four beds, plus one parking space for each two employees (other than staff doctors), plus one parking space for each doctor assigned to the staff,

(C) For the following uses, parking spaces shall be provided in adequate number, as determined by the enforcing officer of this title, to serve persons employed or residing on the premises as well as the visiting public:

(i) Convents and monasteries,
(ii) Religious institutions,
(iii) Outdoor amusement establishments—fair-grounds, permanent carnivals, kiddie parks, and other similar amusement centers,
(iv) Rectories and parish houses,
(v) Swimming pools,

(D) MEDICAL CANNABIS CULTIVATION CENTERS: One parking space shall be provided for each two employees, plus one space for each vehicle used in the conduct of the enterprise.

(10) MIXED USES: When two or more uses are located on the same lot or parcel of land within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the plan and zoning commission;

(11) OTHER USES: For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use.

(12) EXCEPTIONS: All commercial or business uses in operation, as of July 31, 2007, shall be exempt from the parking schedule requirements set forth in this section. Any commercial or business use that has been modified, enhanced or intensified shall not be exempt from the parking schedule requirements.

Section 10: The corporate authorities of the Village intend that this Ordinance will be made part of the Zoning Ordinance and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section," "Article," Chapter" or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors can be corrected with the authorization of the Village Attorney, or his or her designee.

Section 11: All parts of the Village Code in conflict with the terms or provisions of this Ordinance shall be and the same are hereby amended or repealed to the extent of such conflict, and said Westchester Municipal Code and all other existing ordinances shall otherwise remain in full force and effect.

Section 12: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The corporate authorities hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

Section 13: This Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

ADOPTED this 17th day of December, 2019, pursuant to a roll call vote as follows:

Angelo A. Calcagno	A	Frank Perry	A
Cathy Kuratko	A	Nick Steker	A
Tracy Hart Markey	A		

President Gattuso _____

APPROVED this 17th day of December, 2019.

Paul Gattuso, Village President

ATTEST:

Stanley V. Kolodziej, Village Clerk