
**VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 19 - 25

**AN ORDINANCE AMENDING THE VILLAGE OF HARWOOD HEIGHTS CODE TO
REGULATE CANNABIS IN A MANNER CONSISTENT WITH STATE LAW**

Passed by the Board of Trustees, December 12, 2019

Printed and Published, December 12, 2019

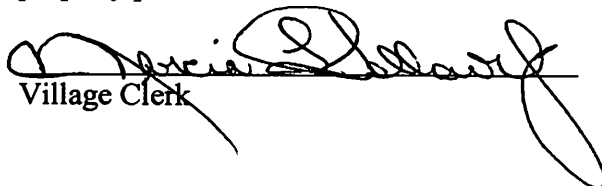
Printed and Published in Pamphlet Form
By Authority of the Village Board of Trustees

VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS

ARLENE C. JEZIERNY, MAYOR
MARCIA L. POLLOWY, VILLAGE CLERK

ANNETTE BRZEZNIAK-VOLPE
ANNA BRZOWSKI-WEGRECKI
ZBIGNIEW LEWANDOWSKI
THERESE SCHUEPFER
LAWRENCE STEINER
GIUSEPPE "JOE" ZERILLO

I hereby certify that this document was
properly published on the date stated above.


Village Clerk

VILLAGE OF HARWOOD HEIGHTS

ORDINANCE NO. 19 - 25

AN ORDINANCE AMENDING THE VILLAGE OF HARWOOD HEIGHTS CODE TO REGULATE CANNABIS IN A MANNER CONSISTENT WITH STATE LAW

WHEREAS, the Village of Harwood Heights (the “Village”) is an Illinois municipal corporation organized and operating pursuant to authority granted by the Constitution and Laws of the State of Illinois;

WHEREAS, the Village is a home rule unit of government pursuant to Section 6(a), Article VII of the 1970 Illinois Constitution;

WHEREAS, pursuant to its home rule power, the Village may exercise any power and perform any function relating to its government and affairs;

WHEREAS, the Cannabis Regulation and Tax Act (the “Act”), 410 ILCS 705/1-1, *et seq.* regulates the adult use of cannabis in Illinois; and

WHEREAS, the Village may not regulate or license the activities described in the Cannabis Regulation and Tax Act, except as otherwise provided in the Act, 410 ILCS 705/55-90; and

WHEREAS, the Act provides the Village may not prohibit home cultivation by registered medical cannabis patients or unreasonably prohibit use of cannabis authorized by the Act, 410 ILCS 705/55-25(1); and

WHEREAS, the Act does not affect Village ordinances governing personal use of cannabis by persons under 21 years of age, 410 ILCS 705/10-5(a); and

WHEREAS, the Village may impose fines upon cannabis other than as defined in the Cannabis Control Act, 720 ILCS 550/17.5; and

WHEREAS, the Village may pass and enforce all necessary police ordinances, 65 ILCS

5/11-1-1; make all necessary or expedient regulations for the promotion of health, 65 ILCS 5/11-20-5; and define, prevent, and abate nuisances, 65 ILCS 5/11-60-2; and

WHEREAS, the Village declares the unauthorized possession, use of cannabis to be a public nuisance, and desires to adopt this ordinance to regulate cannabis in accordance with its home rule powers and state law.

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

SECTION 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

SECTION 2. Amendment.

Title 9 (“Public Peace and Safety”), Chapter 9.04 (“Offenses Against Public Peace and Safety”), Section 9.04.021 (“Possession of Cannabis”) of the Harwood Heights Village Code of Ordinances, shall be, and hereby is, repealed in its entirety and replaced with the following:

Section 9.04.021. Cannabis Control.

A. Personal Use of Cannabis.

1. Beginning January 1, 2020, except as otherwise provided in the Cannabis Regulation and Tax Act (the “Act”), the following acts are prohibited in the Village:
 - (a) possession, consumption, use, purchase, obtaining, or transporting an amount of cannabis for personal use that exceeds the possession limit under Section 10-10 of the Act or otherwise not in accordance with the requirements of the Act;
 - (b) cultivation of cannabis for personal use not in accordance with the

requirements of the Act; and

(c) controlling property if actions that are authorized by the Act occur on the property not in accordance with the Act.

2. Except as otherwise provided in the Cannabis Regulation and Tax Act, it is unlawful for any person knowingly to possess cannabis.
3. Except as otherwise provided in the Cannabis Regulation and Tax Act, it is unlawful for any person knowingly to manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis.

B. Personal Use of Cannabis; Restrictions on Cultivation; Penalties.

1. Any person other than a registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act who cultivates cannabis plants is liable for penalties provided by this ordinance.
2. Any registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act who:
 - (a) cultivates cannabis plants in violation of Section 10-5 of the Cannabis Regulation and Tax Act;
 - (b) cultivates more than the allowable number of cannabis plants; or
 - (c) sells or gives away cannabis plants, cannabis, or cannabis-infused products produced under Section 10-5 of the Cannabis Regulation and Tax Act,

is liable for penalties as provided by this ordinance.

C. Persons Under 21 Years of Age.

1. The transfer of cannabis, with or without remuneration, to a person under 21 years of age, or allowing a person under 21 years of age to purchase, possess, use, process, transport, grow, or consume cannabis except where authorized by the Compassionate Use of Medical Cannabis Pilot Program Act or by the Community College Cannabis Vocational Pilot Program is prohibited.
2. It is unlawful for any person under 21 years of age knowingly to possess cannabis, except under provisions of law authorizing the possession of medical cannabis.
3. 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 the age of 21, in a manner that constitutes a violation of this Section. A parent or guardian is deemed to have knowingly permitted 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 in violation of this Section if he or she knowingly authorizes or permits consumption of cannabis by underage invitees. In this subsection, where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

D. Prohibited Conduct.

1. No person may engage in the following conduct:

(a) possessing cannabis:

i. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

ii. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

iii. in any correctional facility;

iv. 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; 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:

i. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

ii. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

- iii. in any correctional facility;
 - iv. in any motor vehicle;
 - 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. in any public place; or
 - vii. 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 Program Act;
- (c) smoking cannabis in 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 this Act or the Compassionate Use of Medical Cannabis Pilot Program Act;
 - (f) transferring cannabis to any person contrary to the Act or the Compassionate Use of Medical Cannabis Program Act;
 - (g) the use of cannabis by a law enforcement officer, corrections officer, probation officer, or firefighter while on duty; or
 - (h) the use of cannabis by a person who has a school bus permit or a Commercial Driver's License while on duty.

As used in this Section, “public place” means any place where a person could reasonably be expected to be observed by others. “Public place” includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. “Public place” does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

E. Cannabis Waste.

- .1 Any recyclable waste generated by a cultivator for personal use must be recycled per applicable state and local laws, ordinances, and rules.
- 2. Any cultivator for personal use must store, secure, and manage all

recyclables and waste, including organic waste composed of or containing finished cannabis and cannabis products, in accordance with applicable State and local laws, ordinances, and rules.

3. Cannabis and cannabis-infused product waste must be destroyed by rendering it unusable following the methods set forth in this Section. The allowable method to render cannabis waste unusable is by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume. Material used to grind with the cannabis falls into two categories, compostable waste and non-compostable waste.

(a) Compostable Mixed Waste: Cannabis waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

i. Food waste;

ii. Yard waste; or

iii. Other approved wastes (e.g., agricultural material, biodegradable products and paper, clean wood, fruits and vegetables, plant matter).

(b) Non-compostable Mixed Waste: Cannabis waste to be disposed in a landfill or by another disposal method may be mixed with the following types of waste materials:

i. Paper waste;

ii. Cardboard waste;

iii. Plastic waste;

iv. Soil; or

v. Other approved wastes (e.g., non-recyclable plastic, broken glass, leather).

4. Cannabis waste rendered unusable following the methods described in this Section can be disposed. Disposal of the cannabis waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(a) Compostable Mixed Waste: Compost, anaerobic digester or other

facility with approval of the jurisdictional health department.

- (b) Non-compostable Mixed Waste: Landfill, incinerator or other facility with approval of the jurisdictional health department.

F. Cannabis Advertising.

1. No cannabis business establishment nor any other person or entity shall engage in advertising that contains any statement or illustration that:
 - (a) is false or misleading;
 - (b) promotes overconsumption of cannabis or cannabis products;
 - (c) depicts the actual consumption of cannabis or cannabis products;
 - (d) depicts a person under 21 years of age consuming cannabis;
 - (e) makes any health, medicinal, or therapeutic claims about cannabis or cannabis-infused products;
 - (f) includes the image of a cannabis leaf or bud; or
 - (g) includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that is designed in any manner to be appealing to or encourage consumption by persons under 21 years of age.
2. No cannabis business establishment nor any other person or entity shall place or maintain, or cause to be placed or maintained, an advertisement of cannabis or a cannabis-infused product in any form or through any medium:
 - (a) within 1,000 feet of the perimeter of school grounds, a playground, a recreation center or facility, a child care center, a public park or public library, or a game arcade to which admission is not restricted to persons 21 years of age or older;
 - (b) on or in a public transit vehicle or public transit shelter;
 - (c) on or in publicly owned or publicly operated property; or
 - (d) that contains information that:
 - i. is false or misleading;

- ii. promotes excessive consumption;
- iii. depicts a person under 21 years of age consuming cannabis;
- iv. includes the image of a cannabis leaf; or
- v. includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any imitation of candy packaging or labeling, or that promotes consumption of cannabis.

- 3. Subsections 1 and 2 do not apply to an educational message.
- 4. Sales promotions. No cannabis business establishment nor any other person or entity may encourage the sale of cannabis or cannabis products by giving away cannabis or cannabis products, by conducting games or competitions related to the consumption of cannabis or cannabis products, or by providing promotional materials or activities of a manner or type that would be appealing to children.

G. Preemption.

- 1. This Section should not be construed to regulate or license the activities described in the Cannabis Regulations and Tax Act, except as otherwise provided in the Act.
- 2. This Section should not be construed to regulate the activities described in paragraphs (1), (2), or (3) of section 55-25 of the Cannabis Regulation and Tax Act in a manner more restrictive than the regulation of those activities by the State under the Act.
- 2. In the event of a conflict between this Section, and the Act and its administrative rules, the Act and its rules will prevail.

H. Penalties.

- 1. Except as otherwise provided, any person who shall violate Section 9.04.021 or any of its subparts shall, on conviction thereof, be punished by a fine of two hundred fifty (\$250.00) upon conviction for the first violation, five hundred dollars (\$500.00) for a second conviction within one year of the initial violation and seven hundred fifty dollars (\$750.00) for the third and each subsequent conviction stemming from a violation within one year of the initial violation.

2. Violation of Section 9.04.021(E) or (F) shall, on conviction thereof, be punished by a fine of seven hundred fifty dollars (\$750.00). The Village may also abate violations of Section 9.04.021(E) or (F) as public nuisances following written notice to the violator and may seek injunctive relief.
3. Each day any violation of any provision of this code or any ordinance continues shall constitute a separate offense, and a separate fine shall be assessed for each day, or part thereof, that the violation continues.

SECTION 3. Amendment. Title 9 (“Public Peace and Safety”), Chapter 9.04 (“Offenses Against Public Peace and Safety”), Section 9.04.022 (“Possession of Small Amount of Cannabis”) of the Harwood Heights Village Code of Ordinances, shall be, and hereby is, repealed in its entirety and replaced with the following:

9.04.022. Drug Paraphernalia.

A. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

CANNABIS: Shall have the meaning ascribed to it in Section 1-10 of the Cannabis Regulation and Tax Act (the “Act”), 410 ILCS 705/1-10.

CONTROLLED SUBSTANCE: Shall have the meaning ascribed to it in the Illinois Controlled Substance Act, 720 ILCS 570/100, et seq., as amended.

DELIVER OR DELIVERY: Shall have the meaning ascribed to it in Section 2(d) of the Drug Paraphernalia Control Act, 720 ILCS 600/2(c), as amended.

DRUG PARAPHERNALIA: Shall have the meaning ascribed to it in Section 2(d) of the Drug Paraphernalia Control Act, 720 ILCS 600/2(d), as amended.

B. Unlawful Possession of Drug Paraphernalia:

1. It shall be unlawful for a person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use. This prohibition shall not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act or anyone who is in lawful possession of paraphernalia as an authorized cardholder in accordance with the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.*, or a successor

statute or to the use of cannabis authorized by the Cannabis Regulation and Tax Act.

2. In determining intent under subsection 9.04.022(B)(1), the trier of fact may take into consideration, in addition to all other logically relevant factors, the proximity of the controlled substances to drug paraphernalia or the presence of a controlled substance on the drug paraphernalia, statements by any person in control of the object concerning its use, direct or circumstantial evidence of the intent of any person in control of the object, and the existence and scope of legitimate uses for the object.

C. Section 9.04.022(B) does not apply to:

1. Items used in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
2. Items historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance. Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.
3. Items which are used for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this section.
4. A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.
5. Items used in connection with the lawful use of cannabis authorized by the Cannabis Regulation and Tax Act and Compassionate Use of Medical Cannabis Program Act.

D. **Manufacture, Sale or Delivery of Drug Paraphernalia.** Except as otherwise provided in 410 ILCS 130/1 et seq., it is unlawful for any person to manufacture, sell, offer for sale, display, furnish, deliver, possess with intent to deliver, drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of 720 ILCS 570/100 et seq. The prohibition contained in this subsection shall not apply to conduct related to drug paraphernalia used or intended for use in connection with cannabis as authorized by the Cannabis Regulation and Tax Act and Compassionate Use of Medical Cannabis Program Act.

E. **Advertisement of Drug Paraphernalia.** Except as otherwise provided in 410 ILCS

130/1 et seq., it is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. The prohibition contained in this subsection shall not apply to advertising in connection with the use of cannabis authorized by the Cannabis Regulation and Tax Act and Compassionate Use of Medical Cannabis Program Act.

F. Penalties.

1. Any person who shall violate Section 9.04.022 or any of its subparts shall, on conviction thereof, be punished by a fine of two hundred fifty (\$250.00) upon conviction for the first violation, five hundred dollars (\$500.00) for a second conviction within one year of the initial violation and seven hundred fifty dollars (\$750.00) for the third and each subsequent conviction stemming from a violation within one year of the initial violation.
2. In addition to the fines established by this section, violation of Section 9.04.022(D) or (E) by a person or entity with a Village-issued business license may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
3. Each day any violation of any provision of this code or any ordinance continues shall constitute a separate offense, and a separate fine shall be assessed for each day, or part thereof, that the violation continues.

SECTION 4. Amendment. Title 10 (“Vehicles and Traffic”), Chapter 10.72 (“Seizure and Impoundment of Motor Vehicles”), Section 10.72.020 (“Violations Authorizing Motor Vehicle Seizure and Impoundment”) of the Harwood Heights Village Code of Ordinances, shall be, and hereby is, amended as follows (additions **underlined in bold font**, deletions marked with **~~bold-strikethrough~~**):

10.72.020 - Violations authorizing motor vehicle seizure and impoundment.

A motor vehicle operated with the permission, express or implied, of the owner of record, that is used in connection with (1) the commission or attempted commission of any felony offense; or used in connection with (2) the commission or attempted commission of a Class A misdemeanor, including but not limited to the acts or offenses enumerated in this section; or a motor vehicle operated in connection with (3) the commission or attempted commission of any lesser offenses (Class B or Class C misdemeanors or petty offenses), insofar as such lesser offenses are explicitly enumerated herein, shall be subject to seizure and impoundment by the village, and the owner of

record of said vehicle shall be liable to the village for an administrative fee in addition to any towing and storage fees as hereinafter provided:

- A. The possession or delivery of a controlled substance, drug paraphernalia or cannabis except as ~~otherwise provided in 410 ILCS 130/1 et seq.~~ **authorized by the Cannabis Regulation and Tax Act and Compassionate Use of Medical Cannabis Program Act;**
- B. Driving under the influence;
- C. Unlawful possession or transportation of alcohol;
- D. Driving while license, permit or privilege to operate a motor vehicle is suspended or revoked;
- E. Operation of a motor vehicle without a valid driver's license;
- F. The unlawful use of weapons;
- G. Solicitation of a sexual act;
- H. Solicitation for a prostitute;
- I. Disorderly conduct, including the commission of any act in such unreasonable manner as to provoke, make, or aid in making a breach of peace, any unreasonable or offensive act, utterance, gesture or display which, under the circumstances, creates a clear and present danger of a breach of peace or imminent threat of violence pursuant to Section 9.04.050 of the Village Code, 720 ILCS 5/26-1, or any similar state statute or local ordinance;
- J. Falsely representing one's self as a police officer in violation of 720 ILCS 5/32-5.1;
- K. Commits retail theft as defined in 720 ILCS 5/16A-3, regardless of the value of stolen merchandise;
- L. Operating a motor vehicle not covered by a liability insurance policy or without evidence of same in accordance with 625 ILCS 5/7-601 and 625 ILCS 5/7-602;
- M. Leaving the scene of a motor vehicle accident involving personal injury or death;
- N. Reckless homicide or vehicular homicide;
- O. Operating a motor vehicle by a person against whom a warrant has been issued by a circuit court in Illinois for failing to answer any charge covered by this section, whether specifically enumerated or not;
- P. Attempting to flee or elude police officers;
- Q. Driving twenty-six (26) miles per hour or more over the applicable maximum speed limit, as set forth in 625 ILCS 5/11-601.5;
- R. Possessing illegal fireworks in violation of Section 8.12.010 of the Village Code or 425 ILCS 35/2;
- S. Driving recklessly in violation of 625 ILCS 5/11-503;
- T. Drag racing in violation of 625 ILCS 5/11-504;
- U. Whenever towing or removal is necessary as an incident to arrest;

- V. Commission or attempted commission of any felony offense not enumerated herein; or
- W. Commission or attempted commission of any Class A misdemeanor not enumerated herein.

SECTION 5. RESOLUTION OF CONFLICTS. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. SAVING CLAUSE. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance, which are hereby declared to be separable.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective after its passage, approval, and publication in the manner provided by law.

VOTES

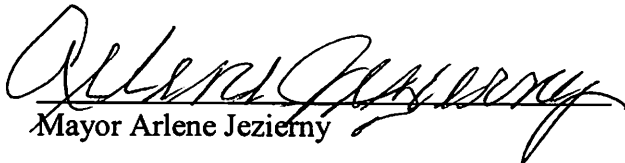
AYES: Trustee Schuepfer, Steiner, Brzezniak-Volpe, Brzozowski-Wegrecki, Zerillo, Lewandowski

NAYS:

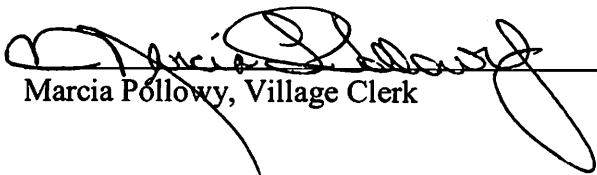
ABSENT:

ABSTAIN:

Passed and Approved this 12th day of December, 2019.


Mayor Arlene Jezierny

ATTEST:


Marcia Póllowy, Village Clerk

STATE OF ILLINOIS

COUNTY OF COOK

CERTIFICATION

I, Marcia L. Pollowy, do hereby certify that I am the duly elected and acting Clerk of the Village of Harwood Heights, County of Cook, State of Illinois.

I do further certify that the foregoing Ordinance 19-25 entitled:

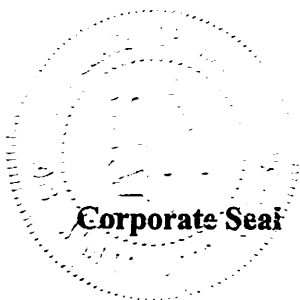
AN ORDINANCE AMENDING THE VILLAGE OF HARWOOD HEIGHTS CODE TO REGULATE CANNABIS IN A MANNER CONSISTENT WITH STATE LAW

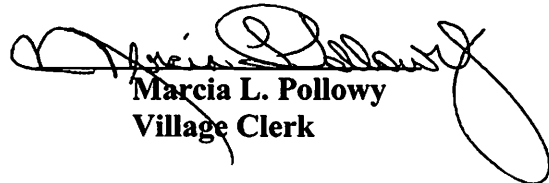
Is true and correct copy of an Ordinance adopted by the Board of Trustees of the Village of Harwood Heights at a meeting held on the 12th day of December, 2019.

I do further certify that the original of which the foregoing is a true copy is entrusted to my care and safekeeping, and that I am keeper of the same.

I do further certify that I am the keeper of the records, ordinances, and resolutions of said Village of Harwood Heights, Cook County, Illinois.

In witness whereof I have hereunto set my official hand and seal this 13th day of December, 2019.




Marcia L. Pollowy
Village Clerk

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STATE OF TEXAS

County of ... State of Texas

Know all men by these presents that ...

... of the County of ... State of Texas

... do hereby certify that ...

... of the County of ... State of Texas

... of the County of ... State of Texas

... of the County of ... State of Texas

[Handwritten Signature]

