

MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Michael G. Dzugan, City Manager *md*

DATE: August 1, 2019

SUBJECT: **Resolution – Zoning Ordinance Text Amendment/Cannabis Business**

Please find attached, a resolution and draft ordinance related to a text amendment to the zoning ordinance prohibiting cannabis business establishments in any zoning district.

The attached resolution establishes that the City Council will act as the hearing body for a public hearing to consider the zoning ordinance text amendment. The resolution sets August 26 as the Public Hearing date to consider the attached ordinance amending the text of the zoning ordinance.

Attachment



RESOLUTION NO. R-2019-

**A RESOLUTION DESIGNATING THE WHEATON CITY COUNCIL AS A COMMITTEE
FOR PURPOSES OF CONDUCTING A PUBLIC HEARING TO CONSIDER A TEXT AMENDMENT
TO THE WHEATON ZONING ORDINANCE
PROHIBITING CANNABIS BUSINESS ESTABLISHMENTS
WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF WHEATON**

WHEREAS, text amendments to the Wheaton Zoning Ordinance require a public hearing before the Planning and Zoning Board or a “Committee” designated by the City Council; and

WHEREAS, the City Council hereby designates itself as a Committee to conduct a public hearing to consider a text amendment to the Wheaton Zoning Ordinance prohibiting “Cannabis Business Establishments” as defined in the Cannabis Regulation and Tax Act (House Bill 1438) (“the Act”) signed by Governor Pritzker on June 25, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its Home Rule Authority, hereby resolves:

1. That pursuant to Section 5.6 (A), “Amendments”, of Section 5, “Administration and Enforcement” of the Wheaton Zoning Ordinance, the Wheaton City Council shall act as a Committee to conduct a public hearing on August 26, 2019 to consider a proposed text amendment to the Wheaton Zoning Ordinance prohibiting cannabis business establishments within the City of Wheaton; and
2. Staff is hereby directed to publish the necessary notices of the public hearing as required by law; and
3. A copy of the proposed text amendment is attached hereto and incorporated herein as if fully set forth as Exhibit 1.

ADOPTED this 5th day of August 2019.

Mayor

ATTEST:

City Clerk

Roll Call Vote:

Ayes:

Nays:

Absent:

ORDINANCE NO. O-2019-

**AN ORDINANCE ADOPTING A TEXT AMENDMENT
TO THE CITY OF WHEATON ZONING ORDINANCE
PROHIBITING CANNABIS BUSINESS ESTABLISHMENTS IN THE CITY OF WHEATON**

WHEREAS, the Cannabis Regulation and Tax Act (hereinafter “Act”) was signed into law by Governor Pritzker on June 25, 2019; and

WHEREAS, the Act becomes effective January 1, 2020; and

WHEREAS, the Act defines “Cannabis Business Establishment” as a “cultivation center, craft grower, processing organization, dispensing organization, or transporting organization”; and

WHEREAS, the Act defines each type of Cannabis Business Establishment described above, and those definitions are adopted herein by reference as if fully set forth; and

WHEREAS, Article 55, Section 55-25(5) of the Act provides:

“(5) A unit of local government, including a home rule unit or any non-home rule county within the unincorporated territory of the county, may enact ordinances to prohibit or significantly limit a cannabis business establishment’s location.”

WHEREAS, The Act requires the prohibition to be made through a zoning ordinance;
and

WHEREAS, the Corporate Authorities of the City of Wheaton deem it in the best interest of the public health, safety, and welfare that any and all “Cannabis Business Enterprises,” as defined in the Act, or as may be defined in future amendments of the Act, be prohibited uses in all zoning districts within the corporate boundaries of the City of Wheaton; and

WHEREAS, the Wheaton City Council conducted a public hearing on August 26, 2019 to consider a text amendment to the Wheaton Zoning Ordinance to prohibit “Cannabis Business Establishments” within any zoning district of the City of Wheaton; and

WHEREAS, this amendment shall not constitute precedent that “prohibited uses” under the Wheaton Zoning Ordinance must be enumerated in the ordinance, but only a recognition that this is what the Illinois legislature has required in this specific instance; and

WHEREAS, prohibited uses under the Wheaton Zoning, except as to Cannabis Business Establishments, shall continue to be any use not enumerated in the Wheaton Zoning Ordinance as a permitted or special use; and

WHEREAS, Article XXI, Section 21.1(9) of the Wheaton Zoning Ordinance establishes “Cultivation Centers and Dispensing Organizations, as defined and regulated by the State of Illinois Compassionate Use of Medical Cannabis Pilot Program Act,” as permitted uses in the M1 Zoning District; and

WHEREAS, because Cultivation Centers and Dispensing Organizations as defined and regulated by the State of Illinois Compassionate Use of Medical Cannabis Pilot Program Act are authorized under the Cannabis Regulation and Tax Act to file applications to operate Cannabis Business Enterprises, as defined in the Act, and have priority standing to secure such licenses, it is necessary to clarify their zoning status under the Wheaton Zoning Ordinance; and

WHEREAS, the Corporate Authorities of the City of Wheaton have determined that it is in the best interest of the public health, safety, and welfare that “Cannabis Business Enterprises,” as defined in the Cannabis Regulation and Tax Act, should not be operated within the City of Wheaton by any Cultivation Center or Dispensing Organizations as defined and regulated by the State of Illinois Compassionate Use of Medical Cannabis Pilot Program Act.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, pursuant to the authority set forth in the Cannabis Regulation and Tax Act (House Bill 1438) that:

SECTION 1: Article III (Zoning Districts and General Regulations) of the Wheaton Zoning Ordinance is hereby amended by the addition of a new Section 3.5 to be entitled “Cannabis Business Enterprises Prohibited” which shall read as follows:

3.5 Cannabis Business Enterprises Prohibited.

That cannabis business enterprises as defined in the Cannabis Regulation and Tax Act (House Bill 1438)(hereinafter “Cannabis Act”), as of the date of the adoption of this Ordinance, which currently includes cultivation centers, craft growers, processing organizations, dispensing organizations, and transporting organizations, and any future amendments to the definition of cannabis business establishments under the Cannabis Act, are hereby prohibited uses in any and all zoning districts within the corporate boundaries of the City of Wheaton.

SECTION 2: That Article XXI, Section 21.1(9) of the City Zoning Ordinance is hereby

repealed and rescinded in its entirety and replaced with a new sub-section (9) of Section 21.1, which shall read:

(9) Cultivation Centers and Dispensing Organizations, as defined by the State of Illinois Compassionate Use of Medical Cannabis Pilot Program Act, subject to the condition that those Cultivation Centers and Dispensing Organizations shall be prohibited from also conducting business as a Cannabis Business Enterprise as defined in the Cannabis Regulation and Tax Act (House Bill 1438).

SECTION 3: If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

SECTION 4: Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

SECTION 5: This Ordinance shall become effective upon passage, execution by the Mayor and publication as required by law.

SECTION 6: That this ordinance shall be in full force and effect commencing _____ day of _____, 2019, and upon publication in accordance with the law.

Mayor

ATTEST:

City Clerk

Roll Call Vote:

Ayes:

Nays:

Passed:

Published: