



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 6a

Title:

Presentation on Recreational Cannabis – Impacts and Decisions

Presenter:

Mark Koenen, Rita Tungare, Chief Jim Keegan, Chief Joe Schelstreet, and Chris Minick

Meeting: Government Operations Committee

Date: August 5, 2019

Proposed Cost: \$ N/A

Budgeted Amount: \$ N/A

Not Budgeted:

Executive Summary *(if not budgeted please explain):*

The State of Illinois recently passed House Bill 1438, Cannabis Regulations and Tax Act (CRTA). This Committee meeting is the first opportunity the City of St. Charles has had for a public discussion on this law. **The focus of the discussion will be limited to the retail sale of cannabis within the corporate limits of the City.** We are **NOT** planning to discuss other cannabis regulations all a part of the State law at this meeting, for example: workplace rules, cultivation and transportation of cannabis, and cannabis infuser operations. The format for the Committee discussion provides for staff outlining the law using the lenses of primary departmental interests. Key departments presenting the outline include the Community & Economic Development Department, the Police Department, the Fire Department and the Finance Department. Attached is information relating to the departmental study of the cannabis law. I would suggest at the end of each departmental presentation that there be a question & answer session on the specific topic presented. At the end of all the presentations, I would ask the Council Members to discuss this topic in general and ask questions. I would then suggest opening the discussion to the public.

The central question we would request the Council offer guidance on is:

Will the City of St. Charles permit the sale of recreational cannabis beginning on January 1, 2020, based on Public Act 101-0027, Cannabis Regulation and Tax Act?

Attachments *(please list):*

- Memo from Mark Koenen
- Departmental Memos
- Fact Sheet (IML)
- Sample Ordinances (IML)

Recommendation/Suggested Action *(briefly explain):*

The Committee should NOT feel compelled at this meeting to recommend on the retail sale of cannabis in the City of St. Charles. If the Committee sees fit, this discussion could continue at the Government Operations Committee meeting on August 19, 2019.



Memo

Date: August 2, 2019
To: Mayor Rogina, Committee Chairwoman Lewis, and the Government Operations Committee Members
From: Mark Koenen, City Administrator
Re: August 5, 2019 Government Operations Committee Meeting – Recreational Cannabis

Introduction

Illinois House Bill 1438, Cannabis Regulation and Tax Act (CRTA) legalized the consumption and possession of cannabis for adults 21 and older in Illinois. This action is effective January 1, 2020. The City of St. Charles, a home-rule community, cannot ban or override the CRTA. For your information, attached is a two page “Fact Sheet” from the Illinois Municipal League (IML) (exhibit A) that offers a good overview of the new law. The State law does provide the City with regulatory ability focusing in part on the local sale of recreational cannabis. The City’s regulatory ability is listed below:

1. Choose to ban the selling of recreational cannabis;
2. Establish the number of recreational cannabis dispensaries;
3. Determine the hours of operation;
4. Dictate the location of retail cannabis establishments related to other sensitive sites;
5. Regulate the zoning districts where recreational cannabis is permitted.

Frequently asked question regarding recreational cannabis, I have been asked, are:

- a. ***Whether the City would license these establishments like we do for liquor, massage, video gaming, etc.?*** The State of Illinois, Department of Financial and Professional Regulation will lead this process. The City will not have a role in licensing.
- b. ***Will recreational cannabis consumption be permitted in public, for example, parks/ street right-of-ways/public lands including municipal parking lots, plazas, schools property, restaurants/ stores/etc.?*** The State law extends NO permission for the consumption of recreational cannabis in public.
- c. ***Where is the consumption of recreational cannabis permitted?*** The State law allows for the consumption of recreational cannabis on private property OR specifically permitted locations, for example, a cannabis lounge.

- d. ***Are their medical cannabis businesses located in the City today?*** Zen Leaf (part of the Verano family of companies) is current location at 3714 Illinois Avenue, St. Charles. This location is in the industrial park on the southeast side of the City.
- e. ***Have recreational cannabis business interests approached the City for guidance about opening a retail operation?*** Zen Leaf has approached the City regarding a recreational retail sales business.

Meeting Management

The Government Operations Committee meeting on August 5 is the first public discussion regarding the State's initiative to legalize recreational cannabis. Committee Chairwoman Lewis has met with Police Chief Keegan, Community Development Division Manager Russ Colby and me regarding how to best facilitate this important discussion. The meeting format is as follows:

- Staff members will present baseline information regarding recreational cannabis. The attached memorandums (exhibits B1 – B4) from departmental leaders discuss their particular disciplines. This would include:
 - Police Chief Keegan- impacts of legalized recreational cannabis on law enforcement. (exhibit B1)
 - Fire Chief Schelstreet- impacts of legalized recreational cannabis on ambulance services. (exhibit B2)
 - Director of Finance Minick- financial opportunities of legalized cannabis. (exhibit B3)
 - Community & Economic Development Director Tungare- cannabis choice and the means to allow not allow or limit cannabis businesses. (exhibit B4)
- Council Committee members would be encouraged to ask questions and offer comment, similar to how a development concept plan is generally facilitated at a Planning & Development Committee meeting.
- As required under State law and traditional at City meetings, we invite public comment (exhibit F- written public comment submitted as of August 2 (12:00 pm)).
- The cannabis conversation is continued to the August 19 Government Operations Committee.

This law is NEW to Illinois. Staff has prepared information, but we expect you or members of the public may inquire about areas of the law we have not studied or have anticipated. Please allow us the opportunity to follow up on these items at the August 19 meeting.

Additionally, the CRTA includes more than the sale of recreational cannabis. This law also discusses the transportation, cultivation and commercial injection of cannabis. We have chosen the focus for the August 5 Committee meeting discussion to be simply the retail sales of

recreational cannabis. If the Committee would like to discuss other aspects of the CRTA, for example, cultivation or commercial injection, that could be a future Committee meeting topic. Finally, the State law does allow municipalities to permit the “cannabis lounge”. This phase infers “...on-premises consumption of cannabis at or in a cannabis business establishment...” For your information, the State has indicated a cannabis lounge shall NOT be deemed a public place within the meaning of the Smoke Free Illinois Act. I would suggest if the Council is to choose to allow cannabis retail sales in St. Charles, we walk slowly and get some experience with the new law before deciding to allow cannabis lounges. I would also suggest we see how citizens respond to the new responsibility with the use of legalized cannabis before we permit cannabis lounges---please delay this conversation for another day!

Committee Direction is Necessary-

The Committee will need to advance a recommendation to the City Council on how to proceed. The essence of the decision is:

Will the City of St. Charles permit the sale of recreational cannabis beginning on January 1, 2020, based on Public Act 101-0027, Cannabis Regulation and Tax Act?

IF the response to this question is to ban the selling of recreational cannabis this will take a City Council action. IML has provided a sample ordinance for local consideration (exhibit C- Municipal Cannabis Business Prohibition).

IF the response to this question is to limit/manage the selling of recreational cannabis this will take a City Council action. IML has provided a sample ordinance for local consideration. (See exhibit D- Municipal Cannabis Business Zoning). NOTE- Amending the local zoning code includes a public hearing before the Plan Commission. To accommodate this process, I would suggest the Committee offer guidance before the end of September.

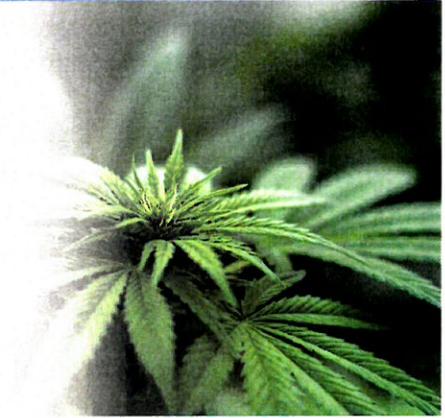
Independent of the question posed above please note in the Chief Keegan’s memorandum there are ordinances that need to City Council considered before January 1, 2020. Additionally, if the City Council choice is to allow recreational cannabis sales we will need to consider a local sales tax. IML has provided a sample ordinance (exhibit E- Municipal Cannabis Retailers’ Occupation Tax).

Attachments: Exhibits A-F noted above

FACT SHEET

Adult-Use Cannabis

Public Act 101-0027 creates the Cannabis Regulation and Tax Act and was signed into law by Governor JB Pritzker on June 25, 2019. Effective January 1, 2020, the Act legalizes the possession and private use of cannabis for Illinois residents over 21 years of age.



7/15/19

LOCAL REGULATION OF CONSUMPTION

Municipalities may not restrict the private consumption of cannabis that is authorized by the Act. However, the Act prohibits the use of cannabis in public places, schools and child care facilities among other locations. Municipalities may adopt and enforce local ordinances to regulate possession and public consumption of cannabis so long as the regulations and penalties are consistent with the Act.

HOME GROW LIMITED TO MEDICAL PROGRAM PARTICIPANTS

Home grow cannabis will be authorized only for medical cannabis program participants, and is limited to five plants in their residence and subject to specified restrictions. Home grow of recreational cannabis by non-medical participants is prohibited. More information about the medical cannabis program is available via this link.



ZONING

The Act preserves local zoning authority and directly authorizes municipalities to prohibit (opt out) or significantly limit the location of cannabis businesses by ordinance. Municipalities will have the authority to enact reasonable zoning regulations that are not in conflict with the act. This would include the authority to opt out of either commercial production or distribution (dispensaries) of adult-use cannabis within their jurisdiction. Municipalities also may enact zoning ordinances and regulations designating the time, place, manner and number of cannabis business operations, including minimum distances between locations through conditional use permits.

BUSINESS REGULATION

In addition to zoning authority, municipalities will have the authority to allow for on-premise use of cannabis at locations to be determined locally. The Act anticipates that local authorities will engage in inspections of cannabis-related businesses. Municipalities may establish and impose civil penalties for violations of the local ordinances and regulations.



LOCAL REVENUE

Municipalities, by ordinance, may impose a Municipal Cannabis Retailers' Occupation Tax on adult-use cannabis products of up to 3% of the purchase price, in .25% increments. Counties may impose up to 3.75% in unincorporated areas, in .25% increments. The taxes imposed under this Act shall be in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any unit of local government, such as sales tax.



SMOKE FREE ILLINOIS ACT

The Act applies the restrictions of the Smoke Free Illinois Act on smoking cannabis, and provides that property owners may prohibit the use of cannabis by any guest, lessee, customer or visitor. In addition, lessors may prohibit cultivation of cannabis by their lessees.

EMPLOYER PROVISIONS

The Act provides employer protections including that nothing in the enactment prohibits employers from adopting reasonable zero-tolerance or drug-free workplace employment policies concerning drug testing, smoking, consumption, storage or use of cannabis in the workplace or while on-call. These policies must be applied in a nondiscriminatory manner. Employers may prohibit the use of cannabis by employees in the workplace, and engage in discipline, including termination, for violations of those policies and workplace rules.

STATE LICENSING

The Act authorizes the production and distribution of cannabis and cannabis products through state-licensed cultivators, craft growers, infusers, transporters and dispensaries. Cannabis transporters will be separately licensed by the Act, as well. A market study due in March 2021 will inform future licensing. The state will issue licenses according to a graduated scale. By the end of the first year, there will be up to 295 dispensing organizations. The Act will allow up to 500 dispensing organizations by January 1, 2022. Cultivators will be capped at 50, and 100 craft growers will be allowed. By that same date, 100 infusers will also be authorized to be licensed.

GRANTS AND INVESTMENT

The Act establishes the Restore, Reinvest and Renew (R3) Program to invest in communities historically impacted by economic disinvestment and violence. The Illinois Criminal Justice Information Authority (ICJIA) will identify R3 areas that qualify for funding, and grants will be awarded by the R3 Board. A 22-member R3 Board will award grants throughout the state, subject to an application process and the Government Accountability and Transparency Act (GATA); the R3 Board shall be chaired by the Lt. Governor.

SOCIAL EQUITY

The Act provides for a social equity program to establish a legal cannabis industry that is accessible to those most adversely impacted by the enforcement of drug-related laws in this state, including cannabis-related laws. Qualifying social equity applicants may be awarded financial assistance and incentives if they are interested in establishing cannabis related businesses.

DECRIMINALIZATION AND EXPUNGEMENTS

A significant portion of the Act addresses the decriminalization of cannabis through mandatory and discretionary expungements of criminal convictions relating to non-violent cannabis offenses.

STATE REVENUE

State revenues derived from the Cannabis Regulation and Tax Act will be deposited into the Cannabis Regulation Fund. The funds will be distributed to multiple state agencies for implementation of the Act. The legalization of adult cannabis also includes a new source of Local Government Distributive Fund (LGDF) dollars. A portion of the Cannabis Regulation Fund revenues (8% of deposits) will go to local governments, through LGDF, which will be used to fund crime prevention programs, training and interdiction efforts. The Cannabis Regulation Fund is derived from moneys collected from state taxes, license fees and other amounts required to be transferred into the Fund.



Police Department
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Memo

Date: July 25, 2019
To: Mayor Rogina and Members of the City Council
Mark Koenen, City Administrator
From: James Keegan, Chief of Police
Re: Potential Impact of Cannabis Dispensaries on Police Operations

Introduction

At your request, I have done some research and compiled a brief report outlining the potential impacts of legalized cannabis and cannabis dispensaries on our police operations. The intent of this information is also to provide objective information that will assist our staff and elected officials in making decisions leading up to the legalization of recreational cannabis.

I will discuss the following concerns as it relates to our police operations:

- Medical Cannabis Dispensaries (MCD)
- Recreational Cannabis Dispensaries (RCD)
- Legalization. What does that mean?
- Traffic Related Concerns & Overdose Concerns
- State Laws vs. Ordinance Revisions
- Expungements

Current Medical Cannabis Dispensary

I first looked at our existing medical cannabis dispensary (MCD) and those around us concerning police related calls in an effort to seek information on the impact to police services. Our facility (located on Illinois Avenue near 38th Avenue) has yielded only a few calls for service; each related to the same person who had their use status revoked from the State of Illinois. The person in question had to be escorted off the premises and then returned one other time uninvited. These are the only two calls originating from this facility.

Other communities surveyed include:

Addison: The Addison Police Department indicated that they have had no calls for service at

the MCD. They also stated that they have not received crime or community complaints related to the facility.

North Aurora: They indicated that they have had five calls for service at their MCD since December of 2015. These calls were for three false burglar alarms, one counterfeit currency complaint, and one inquiry about a state ID card.

Naperville: They have experienced minimal calls for service and most calls are for false burglar alarms.

What impact will recreational cannabis dispensaries (RCD) have on police operations? That remains to be seen although medical cannabis dispensaries (MCD) have had little or no impact. Regardless of whether we “opt-in” or “opt-out”, there are several law enforcement ordinances that we will have to pass and steps the police department will have to undertake in regards to traffic related enforcement. Here is what we know thus far in regards to legalization:

Legalization

Personal Use: On and after January 1, 2020 it will not be a civil or criminal offense for possessing, consuming, using, purchasing, obtaining, transporting, or cultivating cannabis in accordance with the Cannabis Regulation and Tax Act. Illinois residents 21 years of age or older are authorized to possess: 1) 30 grams of cannabis flower; 2) up to 500 milligrams of THC in a cannabis-infused product; and 3) 5 grams of cannabis concentrate. Out of State residents are authorized to possess half the amount of cannabis or cannabis products as Illinois residents.

Home Grow: Cultivating cannabis for personal use is limited to the following:

- Illinois residents 21+ who are patients under the medical cannabis program
- 5 plants maximum per household
- Must take place in an enclosed, locked space
- Must have reasonable precautions to secure the plants from unauthorized access, including by persons under 21
- Cannot be stored or placed in a location where they are subject to ordinary public view
- May only be tended by the patient or their authorized agent
- Seed purchases only from dispensaries

Traffic Related Concerns & Overdoses

Certainly, a concern of the police department will be the impact of impaired driving and traffic related crashes. However, this will likely occur whether or not the City allows an RCD or not. Currently, roadside field sobriety and chemical testing for drug-related impairment lags far behind alcohol related technology and training. The below mentioned task force is a start, but legalization now defines what it means to drive under the influence of cannabis. Drivers will be subject to DUI charges only if they have five or more nanograms of THC in their blood, or ten or more nanograms of THC in their saliva.

Whether police departments in Illinois will be able to test drivers effectively is another question. Practically speaking, I am skeptical that testing for THC in blood and saliva could be done in any systematic way, especially during traffic stops. When it comes to blood testing for THC, there is no equivalent to portable alcohol breathalyzers and experts say portable saliva tests are unreliable. I am unaware of any department that owns or operates any portable saliva-testing equipment.

Overdoses or cases involving cannabis intoxication will be discussed by the Fire Department in a separate white paper, but I do not suspect these types of calls will be any different from what we currently deal with now from use originating from illegal sales and possession.

DUI Cannabis Task Force: This Act creates the DUI Cannabis Task Force (“Task Force”) to study the issue of driving under the influence of cannabis. The Task Force shall also examine best practices in the area of driving under the influence of cannabis enforcement and emerging technology in roadside testing. The Task Force shall present its report and recommendations on improvements to enforcement of driving under the influence of cannabis to the Governor and the General Assembly no later than July 1, 2020. The Department of State Police shall provide administrative support to the Task Force as needed and the Sentencing Policy Advisory Council shall provide data on driving under the influence of cannabis offenses and other data to the Task Force as needed.

State Laws

The following laws take effect on January 1, 2020:

Underage Penalties: A person under the age of 21 who possesses cannabis is guilty of a civil law violation which is punishable by a fine of \$100-\$200. If the person is in a vehicle at the time of offense, the Secretary of State may suspend or revoke the driving privileges. Use of false identification by a person under the age of 21 to purchase cannabis or gain access to a cannabis business establishment is a Class A misdemeanor (less than 1 year of imprisonment).

Cannabis Location Limitations: The possession of cannabis is not authorized in or at the following: school grounds, school buses, correctional facilities, or private residences licensed to provide child care. The use of cannabis is not authorized in or at the following: school grounds, school buses, correctional facilities, or private residences licensed to provide child care, motor vehicle, public place, or knowingly in close physical proximity to any person under the age of 21 who is not a registered medical cannabis patient.

Possession of Cannabis in a Motor Vehicle: No driver may use cannabis within the passenger area of any motor vehicle and no driver or passenger may possess cannabis within any area of the motor vehicle unless it is in a sealed, odor-proof, and child-resistant cannabis container. A violation is a Class A misdemeanor (up to 1 year of imprisonment).

Prohibited Cannabis Production: Persons not authorized by this Act shall not produce or possess cannabis plants. Possession of up to 5 plants is a civil law offense punishable by a fine of \$100-\$200. Possession or production of 6-20 cannabis plants is a Class A misdemeanor (less than 1

year of imprisonment). Currently, the penalty for this offense is a Class 4 felony (1-3 years of imprisonment).

Ordinance Considerations

Regardless of whether or not we “opt-in” or “opt-out”, the following ordinances will have to be advanced to the City Council for additional consideration and likely adjudicated in administrative adjudication:

Possession— Under 21. It shall be unlawful for any person under 21 years of age to knowingly possess, use, display, transfer, transport, grow, or purchase cannabis subject to the provisions of the Illinois Compiled Statutes.

Possession— 21 or older. It shall be unlawful for any person 21 years of age or older to knowingly possess more than one ounce of cannabis subject to the provisions of Illinois Compiled Statutes.

Open and Public Consumption. It shall be unlawful for any person to openly and publicly display, consume, or use cannabis.

Open Cannabis Container. Except as otherwise permitted, a person while in the passenger area of a motor vehicle that is on a public highway of this state or the right-of-way of a public highway of this state or on a street, alley, or roadway of this city or the right-of-way of a street, alley, or road of this city shall not knowingly: (1) use or consume cannabis; or (2) have in his or her possession an open cannabis container.

Expungement

The Act provides the following mechanisms for criminal history relief of misdemeanor and Class 4 felony cannabis possession, production, and delivery records created prior to the effective date: 1) automatic expungement of arrest records; 2) pardons authorizing expungement of convictions; 3) motions to vacate and expunge convictions filed by individuals, State’s Attorneys, and legal aid organizations.

“Minor cannabis offense” means a Class 4 felony (1-3 years of imprisonment) or misdemeanor cannabis violation concerning up to 30 grams of any substance containing cannabis, provided that the violation: (1) did not include a penalty enhancement for delivering cannabis to a person under 18 years of age who is at least 3 years the person’s junior; and (2) is not associated with an arrest, conviction, or other disposition for a violent crime. This definition applies to records created prior to the effective date.

Arrest Records: The Illinois State Police (“ISP”) and all local law enforcement agencies within the State shall automatically expunge all criminal history records of arrest, charge not initiated by arrest, order of supervision, or probation for a minor cannabis offense committed prior to the effective date of the Act if: (1) one year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and (2) no criminal charges were filed

relating to the arrest or law enforcement interaction or criminal charges were filed and subsequently dismissed or vacated or the arrestee was acquitted. The records must be expunged according to the following time frames:

- Records created prior to the effective date of this Act but on or after January 1, 2013 by 2021;
- Records created prior to January 1, 2013 but on or after January 1, 2000 by January 1, 2023; and
- Records created prior to January 1, 2000 by January 1, 2025.

Currently, the records of arrest that did not result in convictions can be expunged by petition.

Pending Cannabis Offenses: If a person is arrested for a minor cannabis offense before the effective date of this Act and the case is still pending and no sentence has been imposed, he or she may petition the court to dismiss the charges and expunge all records concerning the case. The Court shall consider the following:

- the reasons to retain the records provided by law enforcement;
- the petitioner's age;
- the petitioner's age at the time of offense;
- the time since the conviction; and
- the specific adverse consequences if denied.

Currently Incarcerated: A person incarcerated solely as a result of one or more convictions for minor cannabis offenses shall be released from incarceration upon the issuance of an expungement order.

Summary

As with any law or procedural change, the police department stands ready and able to respond accordingly.

Respectfully submitted,

James Keegan
Chief of Police

Memo

Fire Department



Date: 7/30/2019
 To: Mayor Raymond Rogina
 Members of the City Council
 From: Fire Chief Joseph Schelstreet
 Re: Recreational Marijuana and Its Impacts on Emergency Medical Services

The legalization of recreational marijuana has generated some concern regarding the possible impact upon emergency medical services (EMS). As the decision to allow the sale of this drug is going to be debated here in a public forum, Fire Department staff members have been researching the available data from Colorado and other states which have previously legalized marijuana to understand any possible increases in requests for service that may result from its more frequent use.

Available data indicates that many areas, where marijuana has been legalized, have seen up to a doubling of Emergency Department visits for marijuana based complaints. These complaints pertain to possible marijuana toxicity or associated trauma experienced by people who have ingested edibles containing tetrahydrocannabinol (THC) or who have inhaled smoke from a variety of different methods. If we utilize the data available from the Emergency Departments, and assume a doubling of ambulance requests for marijuana toxicity, our data indicates that we would see an additional 2-14 calls annually (2 confirmed cases plus 12 unspecified). The chart below illustrates the number of ambulance calls for drug/alcohol usage annually since 2014. The numbers represent the patient's primary impression based upon the paramedic's assessment.

Total	2018	2017	2016	2015	2014
Alcohol dependence with withdrawal	7	7	0	0	1
Alcohol use	38	54	10	7	10
Overdose - Alcohol	8	8	0	0	0
Overdose - Cannabis	2	0	0	1	1
Overdose - Cocaine	1	1	0	1	1
Overdose - Hallucinogens	3	1	0	0	0
Overdose - Heroin	4	8	6	2	5
Overdose - Other opioids	3	5	1	0	0
Overdose - Synthetic narcotics	1	0	1	1	0
Overdose - Unspecified	12	1	2	0	2
Overdose- OTC and Prescription	8	15	23	13	16

Based upon this data, we do not believe that we will see an immediate impactful increase in ambulance calls based upon the sale of use of marijuana or edibles containing THC. Rather, we believe that we will see a short-term spike and then a leveling out of call volumes.

Key indicators that the Fire Department will be monitoring include the following:

- Due to the ability to refine growing methods, THC levels have increased from 10% to 30% in some cases resulting in a much more potent product. Ambulance requests may initially result from inexperienced users overindulging. This is especially true with edibles.
- Edibles can include cookies, brownies and candy. Children may be attracted to these items and could consume them. The Fire Department would introduce a public education campaign to increase awareness to this issue.
- The taxation associated with the sale of these products can make them more expensive than other drugs. Colorado initially experienced an increase in heroin related incidents as heroin became cheaper than legal marijuana. The Fire Department would continue to monitor statistical information on all drug related ambulance requests and advise Council accordingly.

Based upon available data, the Fire Department does not believe that allowing the sale of marijuana and associated products will increase call volume to the extent that additional resources will be necessary. We will initially react by increasing public education and monitoring statistical data. If unanticipated impacts are realized, we will report the information accordingly.

Finance Department
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Memo

Date: July 23, 2019
 To: Mayor Rogina and Members of the City Council
 Mark Koenen, City Administrator
 From: Chris Minick, Finance Director
 Re: Potential Financial Impacts of Legal Cannabis Sales

The recently enacted law allowing recreational cannabis sales significantly curtails a municipality’s ability to regulate recreational cannabis; however, if a municipality opts to allow sales of recreational cannabis, certain forms of local sales taxation are allowed. This report will discuss the forms of sales tax that would apply to recreational sales. Quantification of an amount of revenue that may be generated from any state and local taxes will be very difficult to calculate until we have some history with patterns of recreational cannabis sales within the State.

The legislation legalizing recreational cannabis allows for local taxation on cannabis sales. A municipality can levy a local sales tax of up to 3% (in 0.25% increments) on the sales price of recreational cannabis. This local tax on cannabis sales would be applicable in addition to all other sales taxes currently levied. Therefore, the amount of sales tax that the City could receive from recreational cannabis sales within its borders could be as much as 5%.

The 5% is summarized in the table below:

Existing Sales Tax on General Merchandise (imposed by state)	1%
Existing Home Rule Sales Tax imposed by City Ordinance	1%
<u>Maximum Local Tax on Recreational Cannabis Sales Allowed</u>	<u>3%</u>
Potential Maximum Tax Rate on Recreational Cannabis Sales	5%

In the event that the City imposed a 3% local tax on recreational cannabis sales, the resulting revenue would equal \$30,000 per \$1 million of cannabis sales occurring within City limits. In addition, already existing sales taxes (state imposed 1% as well as the City’s 1% Home Rule Sales Tax) would generate an additional \$10,000 each, (\$20,000 total). This would bring the amount of City revenue received to \$50,000 per \$1 million of recreational cannabis sales as summarized below:

Each \$1 million in recreational cannabis sales would generate:

Existing Sales Tax on General Merchandise (imposed by state)	\$10,000
Existing Home Rule Sales Tax imposed by City Ordinance	\$10,000
<u>Maximum Local Tax on Recreational Cannabis Sales Allowed</u>	<u>\$30,000</u>
Total City Sales Tax Revenue per \$1 million in Cannabis Sales	\$50,000

As mentioned previously, it is difficult to attempt to quantify the amount of sales of cannabis that a local dispensary would generate. My research has revealed a wide variation in estimates ranging from a few hundred thousand dollars to estimates well in excess of \$1 million in local taxes per recreational cannabis dispensary in Illinois. Many of these estimates are derived based on actual sales data and experience in other states and modified in a linear manner to reflect the population and relative income levels present in Illinois. Given the newness of the law and lack of experience with recreational cannabis sales, it is difficult to comment on the accuracy of these linear analyses to attempt to quantify the amount of sales that will actually be generated.

The Illinois Economic Policy Institute (IEPI) has published an estimate of \$1.62 billion of recreational cannabis sales in the State of Illinois. Their estimate was based on extrapolating the amount of recreational cannabis sales in Colorado based on Illinois' population and purchasing power. IEPI is a pro-legalization group and concludes in their study that Illinois should legalize and tax recreational cannabis. I am not supporting or refuting their conclusion, but their position should be taken into account when evaluating their estimate of revenue.

Community & Economic Development

Phone: (630) 377-4443



STAFF MEMO

TO: Chair and Members of the Government Operations Committee
FROM: Rita Tungare, Director of Community & Economic Development
RE: Zoning & Regulation of Cannabis Business Establishments
DATE: July 30, 2019

The St. Charles Zoning Ordinance does not identify the production/processing or sale of Recreational Cannabis as a use category in any zoning district. The Zoning Ordinance lists two Medical Cannabis use categories that were added after the State of Illinois adopted the “Compassionate Use of Medical Cannabis Pilot Program Act” in 2014 (“Medical Cannabis Act”).

I. Medical Cannabis zoning

Medical cannabis facility types that were identified under the Medical Cannabis Act were incorporated into the Zoning Ordinance as use categories in Chapter 17.30:

Medical Cannabis Cultivation Center.

A facility operated by an organization or business that is registered by the State of Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

Medical Cannabis Dispensing Organization.

A facility operated by an organization or business that is registered by the State of Illinois 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.

Use Standards were added in Chapter 17.22 to define separation distances from other uses. These requirements are the same as listed in the Medical Cannabis Act:

Medical Cannabis Cultivation Center

*A registered cultivation center may not be located within **2,500 feet** of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use.*

Medical Cannabis Dispensing Organization

*A dispensing organization may not be located within **1,000 feet** of the property line of a preexisting public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility.*

A registered dispensing organization may not be located in a house, apartment, condominium, or an area zoned for residential use.

The Medical Cannabis Act states that a Medical Dispensing Organization may not be located in ‘an area zoned for residential use’. The City interpreted this requirement as prohibiting Medical Dispensing Organizations from being located in any zoning district that allows residential use. Only two of the City’s non-residential zoning districts do not permit any residential uses- M-2 Limited Manufacturing and BR Regional Business (see list attached as Exhibit “A”)

Based on this information, City Council approved the following:

- Medical Cannabis Cultivation Center as a Permitted Use in the M2 district.
- Medical Cannabis Dispensing Organization as a Permitted Use in the M2 district. (At the time, Plan Commission recommended also permitting Dispensing Organizations in the BR district.)

Existing Medical Cannabis Dispensary in St. Charles

There is currently a Medical Cannabis Dispensing Organization operating in the M2 zoning district at 3714 Illinois Ave. (Zen Leaf). The Zoning Ordinance limits this business to medical cannabis products as defined under the Medical Cannabis Act, and therefore dispensing of recreational cannabis products is not permitted at this facility by zoning. **Please note that retail sales of any kind are not permitted in the M2 zoning district.** This information has been shared with the current owners of the Zen Leaf St. Charles medical dispensary, Verano Holdings.

The existing Medical Cannabis Dispensary will be able to apply for a state license to sell recreational cannabis products. A City zoning sign off is not required for the state to grant a recreational license for the Medical Dispensary’s current location.

The existing Medical Dispensary can also seek approval for a secondary location for a Recreational Dispensary. This secondary location cannot be within 1500 ft. of the existing Medical Dispensary, but otherwise can be located anywhere within the BLS (Bureau of Labor Statistics) region as the existing Medical Dispensary. This would generally permit the secondary location to be anywhere within the Chicago metropolitan area.

The City’s Zoning Ordinance does not distinguish Recreational Cannabis Dispensing as a separate use category. Unless amended, under the existing zoning code language, a Recreational Cannabis Dispensary would be permitted to open in any location where Retail Sales is a permitted use.

II. Recreational Cannabis

The “Illinois Cannabis Regulation and Taxation Act” (“the Act”) will legalize establishments that produce/process and sell cannabis products for recreational purposes, effective January 1, 2020.

Local Government zoning authority

The Act pre-empts the City’s Home Rule Authority and identifies the regulation and licensing of recreational cannabis businesses as “exclusive powers and functions of the state”.

The Act grants local governments the ability to:

- a) Prohibit any type of recreational cannabis business establishment within the corporate limits (in which case any zoning regulation may be unnecessary)
- b) Regulate cannabis business establishments through zoning, including use of Special Use zoning in order to review and regulate the operation of each business.
- c) Regulate on premise consumption of cannabis at a cannabis business establishment.

Types of Cannabis Business Establishments identified in the Act

For purposes of zoning regulation, the Cannabis Business Establishments identified in the Act can be broken down into three categories:

- Dispensary, which is a retail establishment (defined in the Act as a *Dispensing Organization*)
- Production/processing /distribution businesses, which are similar to industrial or manufacturing establishments (defined in the Act: *Cultivation Centers, Craft Growers, Processing Organizations, Transportation Organizations*)
- On-premise consumption, which is most similar to the “Alcohol or Tobacco Establishment” in the City’s Zoning Ordinance (which includes Hookah Bars or Tobacco stores with indoor consumption)

The complete definitions from the Act are attached as Exhibit B.

III. Zoning/Regulatory Options for Recreational Cannabis Businesses

Option 1: Prohibit recreational cannabis businesses by legislative action

Decide whether to prohibit recreational cannabis business establishments outright, or whether to prohibit specific types of cannabis business establishments:

- Dispensary
- Production Facilities
- On-Premise Consumption at Cannabis businesses

If the City decides to prohibit all recreational cannabis business establishments, then zoning regulation of these uses is not necessary. The Zoning Ordinance would not need to be amended.

Option 2: Regulate recreational cannabis businesses through zoning

If the Council wishes to allow recreation cannabis businesses, then recreational cannabis businesses may be further regulation through zoning.

Zoning Use Categories

Provide direction to staff to initiate a General Amendment to the Zoning Ordinance to incorporate regulations for cannabis business establishments. Staff would look for preliminary direction on what zoning parameters should be considered.

Based on how comparable uses are classified under the Zoning Ordinance, the following may be appropriate to consider:

- Dispensary is a retail/commercial use that could be appropriate for a business district that is primarily commercial and serves regional customers, such as BR or BC
- Production facilities could be grouped together into a single use category that would be appropriate for an industrial zoning district, such as M1 or M2
- Decide if On-Premise Consumption should be permitted or not.

Special Use regulation

Decide whether to regulate cannabis dispensaries or production facilities as Special Uses, in order to impose further limitation on the location and operation of the businesses:

- Limitations on the number of Cannabis Business Establishments
- Limitations on location within each zoning district
- Distance limitations from sensitive land uses (such as schools or residential uses)
- Time of business operation
- Regulations applicable to on-premise consumption

Note: The Act is unclear as the extent to which the City can impose more stringent requirements than those already listed in the Act. For example, the Act already lists permitted hours of operation for dispensaries (6am to 10pm) and a separation distance between cannabis businesses (1500 ft.). More guidance may be available in coming months.

Exhibit A

Business and Manufacturing Zoning Districts – Residential Uses Permitted

St. Charles Zoning District	Residential Uses Permitted in District
BL- Local Business	<ul style="list-style-type: none"> • Dwelling, Upper Level • Dwelling, Single-Family
BC-Community Business	<ul style="list-style-type: none"> • Assisted Living Facility (Special Use)
BR-Regional Business	<ul style="list-style-type: none"> • <i>No Residential Uses Permitted</i>
CBD-1 Central Business (Core of Downtown)	<ul style="list-style-type: none"> • Artist Live/Work Space • Assisted Living Facility (Special Use) • Dwelling, Upper Level • Dwelling, Multi-Family
CBD-2 Mixed Use Business (Downtown fringe)	<ul style="list-style-type: none"> • Artist Live/Work Space • Assisted Living Facility • Dwelling, Upper Level • Dwelling, Auxiliary • Dwelling, Multi-Family • Dwelling, Townhouse • Dwelling, Two-Family • Dwelling, Single-Family • Group Home, Large • Group Home, Small • Independent Living Facility
OR- Office/Research	<ul style="list-style-type: none"> • Assisted Living
M-1 Special Manufacturing (Older industrial near Downtown, Foundry Business Park area)	<ul style="list-style-type: none"> • Artist Live/Work Space
M-2 Limited Manufacturing (East Side Industrial Park)	<ul style="list-style-type: none"> • <i>No Residential Uses Permitted</i>

Exhibit B **Cannabis Business Establishments defined under the Act:**

The “Dispensing Organization” is the term used to define a recreational cannabis retail business: **"Dispensing organization"** means a facility operated by 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.

The other Cannabis Business Establishment use categories relate to the production, processing and distribution of recreational cannabis products. These businesses are industrial/manufacturing businesses operating at various points in the production cycle.

"Cultivation center" means a facility operated by an organization or business that is licensed by the Department of Agriculture 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.

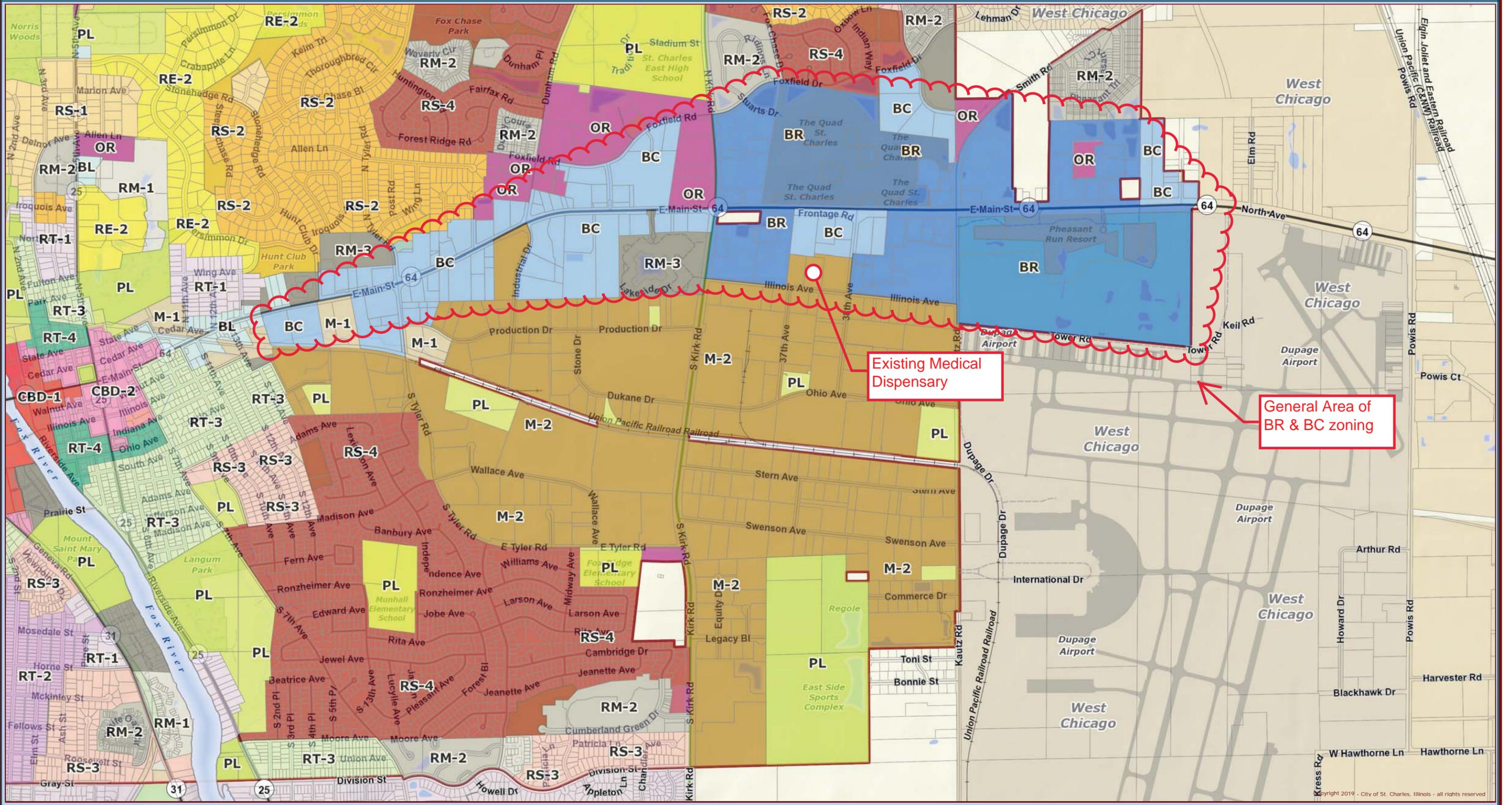
"Craft grower" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space 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. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

"Processing organization" or "processor" means a facility operated by an organization or business that is licensed by the Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

"Transporting organization" or "transporter" means an organization or business that is licensed by the 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.

Exhibit C

Zoning Maps



Data Source:
City of St. Charles, Illinois
Kane County, Illinois
DuPage County, Illinois

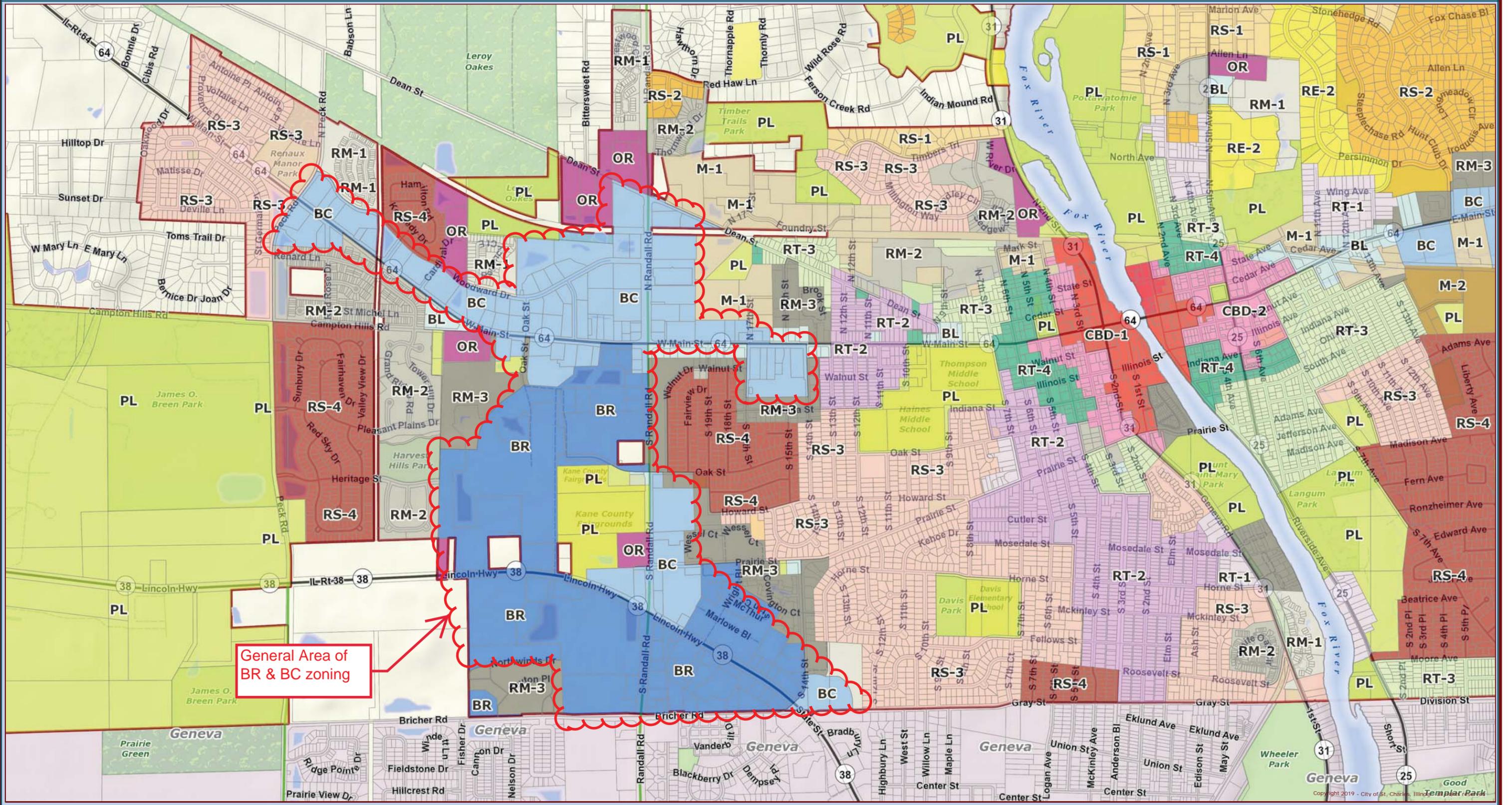
Coordinate System: Illinois State Plane East
Projection: Transverse Mercator
North American Datum 1983

Printed On: August 1, 2019 11:51



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Data Source:
City of St. Charles, Illinois
Kane County, Illinois
DuPage County, Illinois

Coordinate System: Illinois State Plane East
Projection: Transverse Mercator
North American Datum 1983

Printed On: August 1, 2019 11:53



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**MODEL ORDINANCE
MUNICIPAL CANNABIS BUSINESS PROHIBITION**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE CITY/VILLAGE OF _____
BY THE ADDITION OF [ARTICLE/CHAPTER] _____
PROHIBITING CANNABIS BUSINESS ESTABLISHMENTS**

WHEREAS, the City/Village has the authority to adopt ordinances and to promulgate rules and regulations [that pertain to its government and affairs and] that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Cannabis Regulation and Tax Act, Public Act 101-0027, which provides that the City/Village has the authority to prohibit adult-use cannabis business establishments; and

WHEREAS, the City/Village has determined that the operation of cannabis business establishments would present adverse impacts upon the health, safety and welfare of the residents, and additional costs, burdens and impacts upon law enforcement and regulatory operations of the City/Village; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City/Board of Trustees of the Village of _____ as follows:

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Cannabis Business Establishments Prohibited. Chapter ___ of the Municipal Code of the City/Village of _____ shall be amended by the addition of [Article/Chapter] ___ that will read as follows:

ARTICLE [CHAPTER] ___ Cannabis Business Establishments Prohibited.

1. Definitions. The following words and phrases shall, for the purposes of this Article [Chapter], have the meanings respectively ascribed to them by this section, 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

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.

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.

PERSON: Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

2. Cannabis Business Establishments Prohibited. The following Adult-Use Cannabis Business Establishments are prohibited in the City/Village of _____. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the City/Village of _____ of any of the following:

- Adult-Use Cannabis Craft Grower
- Adult-Use Cannabis Cultivation Center
- Adult-Use Cannabis Dispensing Organization
- Adult-Use Cannabis Infuser Organization or Infuser
- Adult-Use Cannabis Processing Organization or Processor
- Adult-Use Cannabis Transporting Organization or Transporter

3. Public Nuisance Declared. Operation of any prohibited Cannabis Business Establishment within the City/Village in violation of the provisions of this Article [Chapter] is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

4. Violations. Violations of this Article [Chapter] may be enforced in accordance with the provisions of Article [Chapter] ___ of this Code.

5. Severability. 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.

6. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

ADOPTED THIS _____ day of _____, 20__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 20__.

Mayor/Village President

ATTEST:

City/Village Clerk

**MODEL ORDINANCE
MUNICIPAL CANNABIS BUSINESS ZONING**

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER __ (ZONING TITLE, PURPOSE, DEFINITIONS), CHAPTER __ (GENERAL ZONING PROVISIONS), CHAPTER __ (COMMERCIAL DISTRICTS), AND CHAPTER __ (INDUSTRIAL DISTRICTS) OF TITLE __ (ZONING ORDINANCE) OF THE _____ MUNICIPAL CODE PERTAINING TO ADULT-USE CANNABIS

WHEREAS, the City/Village of _____, Illinois, has enacted Municipal Code Regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act (Act), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use cannabis, which became effective June 25, 2019; and

WHEREAS, pursuant to the Act, the City/Village may enact reasonable zoning ordinances or resolutions not in conflict with the Act, regulating cannabis business establishments, including rules adopted governing the time, place, manner and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations the City/Village deems sensitive; and

WHEREAS, on _____, the City Council/Village Board initiated an amendment to Title __ (Zoning Ordinance) to review and consider additional amendments to further regulate adult-use cannabis facilities within the City/Village of _____; and

WHEREAS, the Planning and Zoning Commission/Zoning Board of Appeals conducted public hearings, as required by law, on _____ and _____, in regards to the proposed amendments to Title __ (Zoning Ordinance) of the _____ Municipal Code pertaining to adult-use cannabis; and

WHEREAS, the Planning and Zoning Commission/Zoning Board of Appeals recommended approval of the proposed amendments to Title __ (Zoning Ordinance) on _____.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City/Board of Trustees of the Village of _____ as follows:

SECTION 1: The recitals set forth above are incorporated herein.

SECTION 2: Chapter __ (Zoning Title, Purpose, Definitions) of Title __ (Zoning Ordinance) of the _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

* * *

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:

An adult-use cannabis 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 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.

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.

4. Adult-Use Cannabis Craft Grower: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

4.1 Facility may not be located within 1,500 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.

4.2 Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

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

4.4 For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as “_____” per Section ____ (Schedule of Off-Street Parking Requirements: Industrial Uses), provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

4.5 Petitioner shall file an affidavit with the City/Village affirming compliance with Section ____ as provided herein and all other requirements of the Act.

5. Adult-Use Cannabis Cultivation Center: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

5.1 Facility may not be located within 1,500 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.

5.2 Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

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

5.4 For purposes of determining required parking, Adult-Use Cannabis Cultivation Centers shall be classified as “_____” per Section ____ (Schedule of Off-Street Parking Requirements: Industrial Uses), provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

5.5 Petitioner shall file an affidavit with the City/Village affirming compliance with Section ____ as provided herein and all other requirements of the Act.

6. Adult-Use Cannabis Dispensing Organization: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

6.1 Facility may not be located within 1,500 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.

6.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

6.3 At least 75% of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in Section 6.5 below in the same tenant space.

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

6.5 Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the dispensing organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the facility required by Section 10 (Additional Requirements) shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. 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 City/Village of Municipal Code.

6.6 For purposes of determining required parking, said facilities shall be classified as “_____” per Section ___ (Schedule of Off-Street Parking Requirements: Commercial Uses) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ___ (Adult-Use Cannabis: Conditional Use) herein.

6.7 Petitioner shall file an affidavit with the City affirming compliance with Section ___ as provided herein and all other requirements of the Act.

7. Adult-Use Cannabis Infuser Organization: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

7.1 Facility may not be located within 1,500 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.

7.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

7.3 At least 75% of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

7.4 For purposes of determining required parking, said facilities shall be classified as “_____” per Section ___ (Schedule of Off-Street Parking Requirements: Commercial Uses) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ___ (Adult-Use Cannabis: Conditional Use) herein.

7.5 Petitioner shall file an affidavit with the City affirming compliance with Section ___ as provided herein and all other requirements of the Act.

8. Adult-Use Cannabis Processing Organization: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

8.1 Facility may not be located within 1,500 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.

8.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

8.3 At least 75% of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

8.4 For purposes of determining required parking, said facilities shall be classified as “_____” per Section ____ (Schedule of Off-Street Parking Requirements: Commercial Uses) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

8.5 Petitioner shall file an affidavit with the City affirming compliance with Section _____ as provided herein and all other requirements of the Act.

9. Adult-Use Cannabis Transporting Organization: In those zoning districts in which an Adult-Use Transporting Organization may be located, the proposed facility must comply with the following:

9.1 Facility may not be located within 1,500 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.

9.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

9.3 The transporting organization 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.

9.4 For purposes of determining required parking, said facilities shall be classified as “_____” per Section ____ (Schedule of Off-Street Parking Requirements: _____) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

9.5 Petitioner shall file an affidavit with the City affirming compliance with Section _____ as provided herein and all other requirements of the Act.

10. Additional Requirements: Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the conditional use permit, 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 based on the specific characteristics of the

floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act.

11. Co-Location of Cannabis Business Establishments. The City/Village may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Conditional Use criteria within the City/Village of _____ Municipal Code. In a co-location, the floor space requirements of Section 6.3 and 7.3 shall not apply, but the co-located establishments shall be the sole use of the tenant space.

SECTION 4: Chapter __ (Commercial Districts) of Title __ (Zoning Ordinance) of the City/Village of _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

ARTICLE A. B-1 GENERAL COMMERCIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter __ of this Title, as appropriate:

* * *

Adult-Use Cannabis Dispensing Organization.

ARTICLE B. B-2. INTENSE COMMERCIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter __ of this Title, as appropriate:

* * *

Adult-Use Cannabis Dispensing Organization.

Adult-Use Cannabis Infuser Organization.

Adult-Use Cannabis Processing Organization.

Adult-Use Cannabis Transporting Organization.

SECTION 5: Chapter __ (Industrial Districts) of Title __ (Zoning Ordinance) of the City/Village of _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

ARTICLE A. I-1 GENERAL INDUSTRIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter __ of this Title, as appropriate:

* * *

Adult-Use Cannabis Craft Grower Organization.
Adult-Use Cannabis Dispensing Organization.
Adult-Use Cannabis Infuser Organization.
Adult-Use Cannabis Processing Organization.
Adult-Use Cannabis Transporting Organization.

ARTICLE B. I-2 HEAVY INDUSTRIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter ___ of this Title, as appropriate:

* * *

Adult-Use Cannabis Craft Grower Organization.
Adult-Use Cannabis Cultivation Organization.
Adult-Use Cannabis Dispensing Organization.
Adult-Use Cannabis Infuser Organization.
Adult-Use Cannabis Processing Organization.
Adult-Use Cannabis Transporting Organization.

SECTION 6: Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 7: Effective Date. This Ordinance shall be in full force and effect upon its passage and approval as required by law.

ADOPTED THIS _____ day of _____, 20__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 20__.

Mayor/Village President

ATTEST:

City/Village Clerk



Model Ordinance
Municipal Cannabis Retailer's Occupation Tax

**MODEL ORDINANCE
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE CITY/VILLAGE OF _____
BY THE ADDITION OF [ARTICLE/CHAPTER] _____
IMPOSING A MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

WHEREAS, the City/Village has the authority to adopt ordinances and to promulgate rules and regulations [that pertain to its government and affairs and] that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/11-8-22 *et seq.* (Act); and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a municipal cannabis retailers' occupation tax which will be collected by the Illinois Department of Revenue;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City/ Board of Trustees of the Village of _____ as follows:

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Adoption of Tax. Chapter ____ of the Municipal Code of the City/Village of _____ shall be amended by the addition of [Article/Chapter] ____ that will read as follows:

ARTICLE [CHAPTER] ____ Municipal Cannabis Retailers' Occupation Tax.

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 City/Village at the rate of 3% of the gross receipts from these sales made in the course of that 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).

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. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are 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. The Department shall have full power to administer and enforce the provisions of this article.

3. Severability. 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.

4. Effective Date. 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 January, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to September 30, 2019.

[NOTE: Any new ordinance or amendment to an existing ordinance can take effect only on September 1. To be effective September 1, an ordinance must be adopted and filed with the Department of Revenue by June 1.]

ADOPTED THIS _____ day of _____, 20__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 20__.

Mayor/Village President

ATTEST:

City/Village Clerk

BRIAN P. DOYLE

████████████████████
ST. CHARLES, ILLINOIS 60174

July 31, 2019

Todd Bancroft, Chairman
Government Operations Committee
City of St. Charles
2 E. Main St.
St. Charles, IL 60174

Dear Mr. Bancroft:

I read today that the Government Operations Committee is holding a meeting next week on whether to allow recreational cannabis sales in St. Charles. As I will be unable to attend, I wish to share my thoughts about this issue. Please share this letter with your fellow committee members.

Although I'm sure you know it already, it's worth emphasizing that the ban you're considering pertains only to business activity. The City has no power to ban possession or use of cannabis. Furthermore, retail operations, in and of themselves, pose no material threat to public safety and welfare. Therefore, I think it's fair to say that the question you're really entertaining is whether to prohibit a particular type of economic development in St. Charles.

Although I'm by no means a strict libertarian, I do believe that the City has a duty to substantiate that there is a public good to be served by such a ban and that it outweighs the burdens placed on an otherwise free market. In this case, given that cannabis possession and use are not relevant, I fail to see how that standard will be met.

I hope your committee will follow the examples of South Elgin Village President Steve Ward and Elburn Village President Jeff Walter, both of whom were recently quoted by the *Daily Herald* as being in favor of permitting recreational cannabis sales in their respective communities. As Mr. Walter commented, "If someone wants to invest in Elburn ... and it's legal, they can invest."

The same should be true here in St. Charles.

Best regards,



Brian P. Doyle

Conti, Tracey

From: francis wanderlich [REDACTED]
Sent: Thursday, August 01, 2019 5:48 PM
To: Conti, Tracey
Subject: Cannabis sales in St. Charles

I support the Committee to allow recreational cannabis sales in St. Charles only if state laws are strictly enforced and the ultimate amount of city tax is instituted on sales.

Based on my research, cannabis has many more health benefits for humans as compared to alcohol which is readily sold throughout the city of St. Charles.

Frank Wanderlich
[REDACTED]
St. Charles, IL 60174

Discussion about Cannabis at Aug. 5, 2019, Government Operations Meeting
7 p.m., City Council Chambers, 2 E. Main St.

The possession and private consumption of cannabis by people 21 or older for recreational use will be legal in Illinois beginning Jan. 1, 2020. However, municipalities may choose whether or not to allow retail cannabis stores in their communities. Cities also may limit how many stores are allowed and where they can be located.

A public discussion around whether to allow recreational cannabis sales in St. Charles will be on the agenda for the Aug. 5, 2019, Government Operations Committee Meeting, at 7 p.m., in City Council Chambers, 2 E. Main Street. Official agendas are posted on the City of St. Charles website 48 hours prior to the meeting at www.stcharlesil.gov/meetings.

What to consider if recreational cannabis sales are prohibited in St. Charles

- No retail sites will be allowed to sell cannabis products for recreational use. Note: Currently there is one medical cannabis dispensary in St. Charles.
- Recreational cannabis use will be allowed in St. Charles even if recreational sales are prohibited.

It will be legal to privately consume cannabis in St. Charles because it will be legal throughout the state. Only the sale of cannabis for recreational use can be prohibited in St. Charles. If communities surrounding St. Charles allow recreational cannabis sales, it will be legal for citizens to buy cannabis in those cities and privately consume it in St. Charles.

What to consider if recreational cannabis sales are allowed in St. Charles

- The City Council may determine how many retail sites are allowed in St. Charles and where they can be located, as state law permits.
- The City can enact a local sales tax up to 3% on cannabis sales.

Conti, Tracey

From: lawrence rakunas [REDACTED]
Sent: Thursday, August 01, 2019 9:39 AM
To: Rogina, Raymond
Cc: Lewis, Maureen; Bessner, Edward
Subject: Selling of cannabis in St Charles

Raymond P Rogina
Mayor of the City of St. Charles, IL

Dear Mayor Rogina,

As Mayor of the City of St. Charles and a long time educator, you have always put the health and safety of our young people first. Medical studies have show that cannabis (THC) has a deteriorative effect on a child's or young persons developing brain. I am concerned that if the City Council approves the sale of cannabis in the City limits that many of our children and young people will be exposed to this psychotropic drug.

Please follow the lead of the City of Naperville and Batavia Mayor Jeff Schielke to oppose the sale of cannabis (THC) in the City of St. Charles. I would greatly appreciate your leadership to stop the sale of this psychotropic drug in our home town.

Respectfully yours,

Larry and Mary Rakunas
[REDACTED]
St. Charles, IL 60174