



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 8a

Title:

Recreational Cannabis –continued discussion from August 5, 2019

Presenter:

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

Meeting: Government Operations Committee

Date: August 19, 2019

Proposed Cost: \$ N/A

Budgeted Amount: \$ N/A

Not Budgeted:

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

At the Committee meeting on August 5 staff provided foundational information about the Cannabis Regulations and Tax Act focusing on our need to address the question---*does the City desire to allow or ban the sale of recreational cannabis*. Additionally, public comment was accepted. The element missing at the August 5 meeting was Committee member discussion.

In order to encourage committee discussion, the attached questions and responses are provided. This list of questions came from the August 5 meeting and we have provided this to assist in your *providing staff with guidance on how to proceed with the local decision to permit OR ban the sale of recreational cannabis* beginning on January 1, 2020 in the City of St Charles. Staff is also requesting the Committee *offer guidance related to the production/processing/distribution businesses and on-premises consumption*.

Attachments *(please list):*

Questions/Comments pursuant to the August 5 Government Operations Committee meeting

Recommendation/Suggested Action *(briefly explain):*

Offer staff guidance on how to proceed with cannabis related businesses.

Cannabis Discussion – August 19, 2019

Questions/Comments from the Government Operations Committee Meeting- August 5, 2019

1- Discuss other aspects of the State cannabis law.

There are various types of cannabis business establishments identified in the Act. From a zoning perspective, the Cannabis Businesses are identified in three categories:

a- Dispensary, which is a retail establishment (defined in the Act as a *Dispensing Organization*).

b- Production/processing/distribution businesses, which are similar to industrial or manufacturing establishments (defined in the Act: *Cultivation Centers, Craft Growers, Processing Organizations, Transportation Organizations*).

c- On-premises 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).

Mark Koenen understood the Committee’s interest to not advance item “c” above, on-premises consumption. Similarly, he would recommend we NOT advance item “b” above, production/processing/distribution businesses. Staff has not received any inquiries related to production/processing/distribution businesses. Additionally, it is highly unlikely we would receive a request for a production/processing/distribution business in the immediate future; acknowledging the industrially zoned portions of the City are generally built out.

Mark Koenen would recommend the Committee take steps to guide staff on whether to proceed concerning item “a” above, dispensary(s). Additionally, staff is looking for guidance regarding item “b”, and to confirm your earlier feedback with having no interest to advance item “c”, above.

2- What is the process to deal with a cannabis business believed to have violated a State or local ordinance?

The State has identified a very thorough process in the suspension, revocation and hearing process as it relates to violations of House Bill 1438. Section 15-135 outlines the investigative process; 15-140 outlines citations; 15-145 discipline and 15-160 hearings. Article 45 also outlines enforcement and immunities. In general Chief Keegan has outlined the enforcement process as follows:

City enforcement- St Charles Police would process enforcement for any illegal activity related to the Cannabis Act outside the walls of the dispensary. We would use adjudication as the forum to prosecute.

State enforcement- State Police would process enforcement for any illegal activity related to the Cannabis Act at the dispensary. The local Police Department would assist and cooperate with the State Police as necessary.

- 3- What are the penalties for small amounts of cannabis possession in excess of the law? Cities and villages; penalties for ordinance violations.

Generally: No fine or penalty for violation of an ordinance, may exceed \$750.00 for any one violation. See 65 ILCS 5/1-2-1. Additionally:

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).

- 4- Carol Stream is doing looking into police field test equipment to determine toxicity levels. Is SC involved and what is the status?

The St Charles Police staff spoke with Carol Stream Police staff. The pilot program has not advanced. There is, however, a law enforcement summit planned for the fall in Naperville that will include information about roadside testing. The Chief plans to send officers to this summit.

- 5- A person can purchase up to 30 grams of leaf cannabis product. What is the frequency that purchasing can be made?

Article 10 of HB1438 outlines that “no person shall knowingly obtain, seek to obtain or possess an amount of cannabis from a dispensary that would cause him or her to exceed the possession limit of this act”. The Chief interprets this as the responsibility of the purchaser.

- 6- Do we know of any State administrative fee being applied on a local tax on cannabis?

Chris Minick understands the State will impose a 1.5% administrative fee on any locally applied sales tax related to the retail sale of recreational cannabis. This percentage is the same administrative fee value the Illinois Department of Revenue imposes on the City’s Home Rule Sales Tax which they collect on behalf of St. Charles.

- 7- What is the retail cost of cannabis per gram?

Retail cannabis sells in the range of \$45-\$65 per one-eighth of an ounce. One ounce of recreational cannabis (approximately 28.4 grams) sells in the range of \$350-\$500.