



Village of Brookfield

8820 Brookfield Avenue • Brookfield, Illinois 60513-1688
(708) 485-7344 • FAX (708) 485-4971
www.brookfieldil.gov

VILLAGE PRESIDENT
Kit P. Ketchmark

VILLAGE CLERK
Brigid Weber

BOARD OF TRUSTEES
Brian G. Conroy
Edward J. Côté
Michael J. Garvey
Nicole M. Gilhooly
Kathryn S. Kaluzny
David P. LeClere

VILLAGE MANAGER
Timothy C. Wiberg

MEMBER OF
Illinois Municipal League
Proviso Township
Municipal League
West Central
Municipal Conference

TREE CITY U.S.A. Since 1981

HOME OF THE CHICAGO
ZOOLOGICAL SOCIETY

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION

AGENDA

October 24th, 2019 - 7:00 P.M.

Edward Barcal Hall - 8820 Brookfield Avenue
Brookfield, IL 60513

- I. **Call to Order**
- II. **Roll Call**
- III. **Staff Update**
Local Planning Initiatives and Updates
- IV. **Public Hearings**
PZC Case 19-08 – Cannabis Text Amendment
- V. **New Business**
Approval of Minutes
- VI. **Old Business**
- VII. **Next Meeting**
November 21st, 2019 (rescheduled from November 28th, 2019)
- VIII. **Public Comment**
- IX. **Adjournment**

Individuals with a disability requiring a reasonable accommodation in order to participate in any meeting should contact the Village of Brookfield (708) 485-7344 prior to the meeting. Wheelchair access may be gained through the front (south) entrance of the Village Hall.

VILLAGE OF BROOKFIELD
BROOKFIELD, ILLINOIS 60513

JOURNAL OF THE PROCEEDINGS OF THE
PLANNING AND ZONING COMMISSION

HELD ON THURSDAY, SEPTEMBER 26th, 2019
IN THE BROOKFIELD VILLAGE HALL

MEMBERS PRESENT: Chairman: Charles Grund; Commissioners: Patrick Benjamin; Todd Svoboda; Christopher Straka; Mark Weber; Karen Ann Miller; Jennifer Hendricks

ALSO PRESENT: Elyse Vukelich, Village Planner; Michael Garvey, Village Trustee;

On Thursday, September 26th, 2019, Chairman Grund called the meeting of the Planning and Zoning Commission to order at approximately 7:00 P.M. Secretary Weber conducted the roll call.

Staff Update

No staff update.

New Business

Approval of Minutes with corrections for September 19th, 2019. Motion by Commissioner Svoboda, seconded by Commissioner Straka. Motion carries, 6-0, with Commissioner Hendricks abstaining.

Public Hearings

PZC Case 19-06 – Final Planned Development for the Linda Sokol Francis Brookfield Public Library at 3541 Park Avenue and 3606 Grand Boulevard

Motion to open the public hearing by Commissioner Straka, seconded by Commissioner Miller. The motion carried 7-0.

STAFF PRESENTATION: Village Planner Elyse Vukelich gave a presentation on the proposed final planned development. She stated that this case is being reheard due to a new traffic study that was submitted by the library. She went over the existing conditions of the site, and the variances that were requested in the preliminary planned development.

She went over the additional variance that the Brookfield Public Library is requesting as part of the Final Planned Development, which is to increase the size of parking lot signage from 4 square feet to 19.5 and 9 square feet.

Vukelich stated that the new traffic study was reviewed by Hancock Engineering. She also stated that Hancock Engineering recommended the plans for final engineering. She also added that at the most recent Village Board meeting it was confirmed that the 3500 block of Park Avenue is scheduled to be resurfaced by the Village in 2021.

APPLICANT PRESENTATION: Dan Pohrte of Product Architecture gave an overview of the project. He presented the site plan, floor plans, renderings of the building, and went over the major materials.

Michael May of TADI gave an overview of the new traffic study. He stated that he is a licensed Professional Engineer in the state of Illinois. He gave an overview of the data collection. Counts were taken on Thursday, September 5th and Saturday, September 7th. He showed videos from the traffic counts. There was a block party taking place on Park Avenue for a portion of the traffic study, but explained why the impact was negligible. May went on to discuss trip generation and how many new trips the library is expected to generate. He stated that the intersection is expected to operate at the same level of service with the new library. May went over the recommendations from the traffic study, which included recommending an additional crossing guard at the intersection after school lets out, the addition of stop signs at the driveways from the parking lot, and a no right turn sign on Lincoln at the driveway exit.

Commissioner Svoboda asked about the software platform used for the traffic analysis. May explained his reasoning for using the software.

PUBLIC COMMENT: Mark McCann of 3510 Park Avenue stated that he was skeptical of the legality of the traffic study. He is upset that the alley will not be paved. He feels the library did not conduct this traffic study legally. McCann stated that he believes the Planning and Zoning Commissioners are knowingly approving a plan that violates state law, and that they should question how it could impact their own professional licenses. He stated that TADI has no credibility and he hopes that the Village follows the law.

Tom Moore of the Brookfield Public Library stated that he has worked at the library since 2008. He feels that the new library is necessary because the current library does not have enough room. He stated that the librarians are all talented and provide great programs for Brookfield.

Jonathan Platt of 3649 Madison stated that he observed the planning process for the new library and feels the library has made every effort possible to lessen the impact on the neighbors. He feels that the traffic study is credible and doesn't understand the skepticism. He strongly supports the new library. He appreciates the effort of the library board and the library's leadership.

Sam Levin of Hollywood was concerned about the metal fins on the library's elevations rusting. He stated that he does not like the design. He does not think that a library is necessary in every community. He asked why we can't share a library with a neighboring community. He feels this new library should not be on the burden of the taxpayer. He feels the traffic analysis is flawed. He doesn't think anyone has asked the neighbors of the library how this will affect them. He feels there should be needle disposal boxes in the bathrooms of the new library.

Michael May of TADI responded to the concerns of Mr. Levin. He went over his analysis regarding the parking lot. Mr. May showed his professional engineer license and certification on a slide from his PowerPoint presentation. He stated that this is his own professional license, not TADI's and that in 17 years the company license has never been used for a traffic study. TADI is currently renewing its professional license with the state of Illinois. He spoke with the Illinois Department of Financial and Professional Regulation and they confirmed that he is allowed to submit plans with his professional license while TADI is pending registration. He stated that it is unusual for engineers to stamp traffic studies.

Dan Pohrte of Product Architecture stated that the metal fins will not rust due to the materials.

Motion to close the public hearing by Commissioner Benjamin, seconded by Commissioner Straka. The motion carried 7-0.

COMMISSIONER DELIBERATION: Commissioner Benjamin said that Michael May of TADI gave an excellent presentation. He does not question Mr. May's credibility. He feels that this final planned development is in line with the preliminary planned development and is supportive of the project.

Commissioner Straka said he agrees with Commissioner Benjamin. He asked if adding a second crossing guard during school arrival and departure times would be a requirement of the library. Vukelich responded stating that the Village Manager is aware of the recommendation and that he will take it into consideration.

Commissioner Weber stated that he has taken the testimony very seriously because he lives so close to the library.

Commissioner Svoboda said that the additional information and the review of Hancock Engineering supports the recommendation for this project.

Commissioner Miller thanked Mr. May for his explanation of the traffic study.

Commissioner Hendricks said that she agrees with all the comments.

Chairman Grund asked if the stop signs recommended by the traffic study should be added as a condition of approval. Mr. May stated that he is not entirely sure if they are on library property.

Commissioner Benjamin made a motion, seconded by Commissioner Straka, to approve PZC case 19-06 with the conditions recommended by staff AND a condition to include two stop signs as stated and a left turn only sign if they occur on private property in the parking area. The motion carried 7-0.

Next Meeting:

Scheduled for Thursday, October 24th, 2019.

Adjournment

At approximately 7:54 p.m. there was a motion made by Commissioner Svoboda to adjourn, seconded by Commissioner Benjamin. Motion carries, 7-0.

Charles Grund
Chairman
Planning & Zoning Commission
Village of Brookfield
Brookfield, Illinois

//e

DRAFT



Village of Brookfield

Planning and Zoning Commission Staff Report

TO: The Village of Brookfield's Planning and Zoning Commission

HEARING DATE: October 24th, 2019

FROM: The Village of Brookfield's Community and Economic Development Department (CEDD)

PREPARED BY: Elyse Vukelich, Village Planner

TITLE

PZC 19-08 – Cannabis Text Amendment: The Village of Brookfield, Illinois requests text amendments to Chapter 62 of the Village Code of Ordinances. The text amendments include regulations for cannabis related businesses.

GENERAL INFORMATION

APPLICANT: The Village of Brookfield
8820 Brookfield Avenue
Brookfield, IL 60513

APPLICATION/NOTICE: The application has been filed in conformance with applicable procedural and public notice requirements.

PROPERTY INFORMATION

EXISTING ZONING: N/A
EXISTING LAND USE: N/A
PINs: N/A

ANALYSIS

SUBMITTALS

This report is based on the following documents, which are on file with the Community and Economic Development Department:

1. Application for a Text Amendment
2. Certification of a Legal Notice Published October 9, 2019 in the *Riverside Brookfield Landmark*

BACKGROUND

The Village of Brookfield requests text amendments and updates to Chapter 62 of the Village Code of Ordinances to regulate cannabis related businesses. On June 25th, 2019, Governor JB Pritzker signed Public Act 101-0027, the Cannabis Regulation and Tax Act. This legalized the possession and use of cannabis for residents over 21 years of age. The Act becomes effective January 1st, 2020. Municipalities must choose to “opt in” or “opt out” of allowing recreational cannabis businesses in their municipal limits.

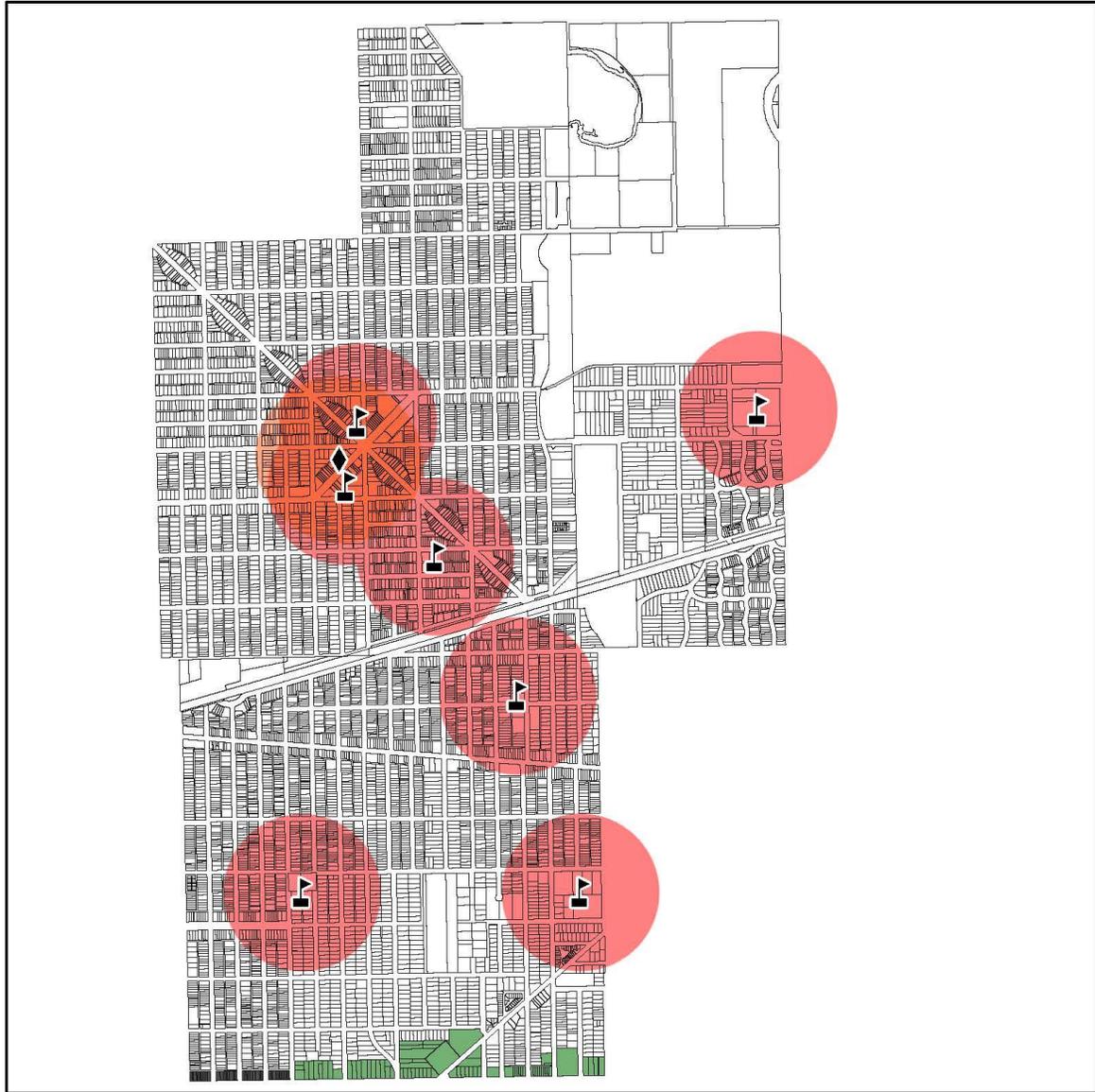
The Village Board discussed recreational cannabis at the August 26th and September 9th Committee of the Whole meetings. The Village Board then voted to authorize the filing of an application to amend the zoning ordinance to regulate the location of retail cannabis businesses at their meeting on September 23rd, which generated this application.

Chapter 62 of the Code of Ordinances currently contains regulations regarding medical cannabis, which became legal in Illinois on January 1st, 2014 through Public Act 98-0122, the Compassionate Use of Medical Cannabis Pilot Program. This law did not allow municipalities to ban the cultivation, dispensing and use of medical cannabis, but it did impose location restrictions on where medical cannabis businesses could be located. For example, medical dispensaries could not be located in residentially zoned districts or within 1,000 lineal feet of a school or daycare facility. The Village of Brookfield’s subsequent regulations on medical cannabis reflect those location restrictions. The Village created an overlay district where medical cannabis businesses would be allowed, as shown on the next page.

Public Act 101-0027, the Cannabis Regulation and Tax Act, does not impose the same location restrictions for recreational cannabis. The only location based restriction imposed by the state is that recreational cannabis dispensing organizations cannot be located within 1,500 feet of the property line of a pre-existing dispensing organization. This also applies to craft growers (another type of cannabis use, explained later in this report), which cannot be located within 1,500 feet of another craft grower or cultivation center. As a result, municipalities are given significantly more freedom under PA 101-0027 as to where recreational cannabis businesses can be located.

**Exhibit 1: Medical Cannabis Overlay District Map from PZC Case 15-09
Overlay District shown in green**

Medical Cannabis Dispensing Facility Overlay District Analysis



Legend

-  Brookfield Schools
-  Schools 1,000 Ft Buffer
-  Registered Day Care Facilities
-  Day Care Facilities 1,000 Ft Buffer
-  Parcel
-  General Light Industrial Zoned Parcels
-  Cannabis Dispensing Facilities Could Locate

The proposed text amendment for chapter 62, to zone for medical Cannabis dispensing facilities, places the following three regulations where this use can locate:



1. Only in General Light Industrial (GLI) Parcels.
2. Of the Parcels zoned GLI only the parcels bound to the west by Raymond Ave, to the east by Custer Ave, and to the south by 47th St
3. Must be a 1,000 linear feet from a school property,
4. Must be a 1,000 linear feet from a day care facility.

PUBLIC COMMENT

The Village of Brookfield received comment from members of the public at the August 26th, September 9th, and September 23rd Village Board and Committee of the Whole meetings. Any comments that are submitted to staff after the dissemination of this memo will be presented at the Planning and Zoning Commission public hearing on October 24th, 2019.

DISCUSSION

This text amendment aims to do the following:

1. Create definitions for the different kinds of cannabis related uses
2. Establish these uses as permitted uses in appropriate zoning districts within the Village
3. Create parking regulations for these uses

NEW DEFINITIONS AND USES

Public Act 101-0027 creates a number of cannabis related uses that will be licensed by the State of Illinois. They are:

1. **Craft Growers** – Facilities 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. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering stage at this point in time. Craft growers can share premises with a processing organization or a dispensing organization. Craft growers sell or distribute cannabis to cultivation centers, infusers, and dispensing organizations. They are not permitted in an area zoned for residential use, and they cannot be located within 1,500 feet of another craft grower or cultivation center. By the end of 2020, the state will issue up to 100 licenses for craft growers.

2. **Cultivation Centers** – Facilities operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by the Act) and perform other necessary activities to provide cannabis and cannabis infused products to cannabis business establishments. Cultivation centers may not contain more than 210,000 square feet of canopy space for plants in the flowering stage. By the end of 2020, the state will issue licenses up to 50 cultivation centers.

3. **Dispensing Organizations** – Facilities operated by an organization or business that is licensed by the Illinois 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 the Act to purchasers or to qualified registered medical cannabis patients and caregivers. Dispensing organizations are not permitted to sell cannabis via a drive-through window, vending machine, or transport of cannabis to residences other locations for delivery. Operation is limited to 6:00 AM and 10:00 PM local time, and must have video surveillance. They are required to check and scan government-issued identification of purchasers. There must be two people working at any time. Alcohol is not to be sold on-site. Dispensing organizations may not be located within 1,500 feet of a pre-existing dispensary organization. By the end of 2020, the state will issue up to 295 licenses for dispensing organizations.

4. **Infusers** – An infuser or infuser organization is a 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. They may resemble a commercial kitchen or bakery in terms of operations. Infusers may only sell or distribute

cannabis products to a dispensing organization. Sales to the public cannot take place at these establishments. Under P.A. 101-0027, an infuser may share premises with a craft grower or dispensing organization. They may not be allowed in an area zoned for residential use. By the end of 2020, the state will issue licenses to up to 100 infusers.

5. Transporters – Transporters or transporting organizations are businesses licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Illinois Community College Cannabis Vocational Training Pilot Program.

Because these new kinds of uses will be licensed by the state, they need to be incorporated into the zoning code. As a result, the following definitions will be added to Section 62-2 Definitions:

Cannabis craft grower means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture as a craft grower 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.

Cannabis cultivation center means a facility operated by an organization or business that is licensed by the Department of Agriculture as a cultivation center to cultivate, process, transport and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

Cannabis dispensary means a business that offers the retail sales of cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered patients and caregivers. Cannabis dispensaries must be 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. Cannabis dispensaries do not permit on-site consumption of cannabis products.

Cannabis infuser means 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.

Cannabis transporting organization or transporter means an organization or business that is licensed by the Illinois Department of Agriculture as a transporter to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis

ESTABLISHING USES IN ZONING DISTRICTS

The proposed regulations should be considered a framework for the discussion of the Commission, and revised as necessary. To begin with, the most common type of cannabis related business once the law goes into effect will be dispensing organizations. They will receive the highest amount of licenses. The Village of Brookfield has eight zoning districts that permit retail. They are listed as follows, with descriptions from Chapter 62:

SA 1 Core Mixed-Use – applies to core lots intended to continue and enhance the scale and walkability of the existing mixed-use, main-street-style buildings.

SA 2 Neighborhood Mixed Use – applies mainly to corner lots outside the downtown area, intended to continue and enhance the scale and pedestrian-orientation of the existing mixed-use, main-street-style buildings at the Hollywood Station area and to create new similar scale buildings at the Congress Park Station area.

SA 3 Corridor Mixed-Use – intended to increase the pedestrian-orientation of shopping centers and commercial uses that are more automobile oriented, mainly along Ogden Avenue.

SA 4 General Mix (includes 4a & 4b) – intended to be a transitional district to support the core with offices and residential uses at the edge of the core area and within the neighborhood station areas.

C-1 General Service - intended to provide for the needs of a population base greater than that of the municipality, so as to provide areas for services, commercial and retail uses requiring vehicular access, generally of uses generating larger volumes of vehicle and pedestrian traffic.

C-3 Centralized Commercial - intended to provide for limited basic shopping needs occurring daily or frequently for the convenient shopping of persons residing in the adjacent residential neighborhoods while providing highly limited services to nonlocal traffic. The uses permitted are intended to generate only low to moderate nonlocal vehicular traffic.

C-4 Local Retail - intended to provide for limited basic shopping needs occurring daily or frequently for the convenient shopping of persons residing in the adjacent residential neighborhoods while providing highly limited services to nonlocal traffic. The uses permitted are intended to generate only low to moderate nonlocal vehicular traffic.

C-5 Restricted Local Retail - Because of its location and limited size, it is intended to provide limited office and service uses which, although attractive to low to moderate vehicular traffic levels, do not create incompatibility with the general character of nearby low density residential use.

In addition to the commercial districts, the zoning code lists the following descriptions for the industrial districts:

I-1 General Light Industrial District - provides a location which affords access only to primary thoroughfares and proximate access to the interstate system allowing for industrial and manufacturing and kindred support operations requiring direct access moderate motor vehicle use.

I-2 Restricted Light Industrial District - provides a location which affords both truck and rail transportation access. This location is not intended to provide for those types of industrial and manufacturing uses which are intended to attract frequent vehicular traffic by consumers.

The definition of Special Use, is listed below. Staff took this explanation from Chapter 62 into consideration when creating the proposed regulations.

Special uses are generally uses which have unique, special or unusual impact upon the use or the enjoyment of neighboring properties beyond those uses normally included "of right" within any one zoning district. Such uses may include, but are not limited to, public and quasi-public uses affecting the public interest. Planned developments are an example of special uses.

Dispensary Regulations

After analyzing the types of uses allowed in each of these districts, staff is proposing the following addition to the use table in Section 62-30:

Use Subcategory Specific Use Type	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2
Retail Sales								
Building supplies	S	—	—	—	—	—	P	—
<u>Cannabis Dispensary</u>	<u>P</u>	<u>:</u>	<u>P</u>	<u>P</u>	<u>:</u>	<u>:</u>	<u>P</u>	<u>:</u>
Durable goods	P	P	P	P	—	S	—	—
Nondurable goods	P	P	P	P	—	P	S	—
Self-service Storage Facility	S	—	—	—	—	—	P	P
Studio, Artist or Instructional Service	P	P	P	P	—	P	—	—
Trade School	P	S	—	—	—	—	—	—

The C-1 District, which encompasses most of Ogden Avenue, is an auto-oriented retail district. Bars, the sale of nondurable goods (which includes liquor stores), restaurants, personal improvement services, and personal vehicle sales and rental are all permitted in this district. All of the uses mentioned are either a higher intensity use, or of similar intensity. Under the P.A. 101-0027, cannabis will become another nondurable good to be consumed, and will function as a retail store. Because the proposed definition will exclude on-site consumption, cannabis dispensaries will function the same way a liquor store or grocery store functions. Consumers will enter, buy their product, and leave. Since the C-1 District permits retail and higher intensity uses, staff is proposing to allow cannabis dispensaries as a permitted use in that district.

The C-3 District, encompassing the 8 Corners District, is a pedestrian focused retail district. The uses in the C-3 district were recently amended by the Planning and Zoning Commission, then amended again by the Village Board. During these public hearings, there was a lot of discussion about the district as a retail-focused area. Considering this district permits bars, restaurants, and the sale of nondurable and durable goods, staff is proposing to add cannabis dispensaries as a permitted use.

The C-4 District, located along 31st Street, serves as a locally oriented retail district. While it is limited in size, it permits bars, restaurants, the sale of durable and nondurable goods, studio, artist or instructional services, and fueling stations. Staff is proposing to add cannabis dispensaries as a permitted use.

The I-1 District, located along 47th Street, serves as an area where industrial and manufacturing related uses can locate. P.A. 101-0027 allows for craft growers and infusers (to be permitted in the I-1 District as stated further in this report) to co-locate with dispensaries. Medical cannabis is also permitted in part of the I-1 District. For that reason, staff is proposing to allow dispensaries as a permitted use in the I-1 District.

In addition to the use table in Section 62-30, there is a use table pertaining to just the Station Area Districts in 62-216. Staff is proposing the following change to this table:

Use Subcategory Specific Use Type	SA 1	SA 2	SA 3	SA 4	SA 5	SA 6
Building supplies	—	—	S	—	—	—
<u>Cannabis Dispensary</u>	<u>P</u>	<u>P/35</u>	<u>P</u>	<u>P/35</u>	<u>=</u>	<u>=</u>
Durable Goods	P	P/35	P	—	—	—
Nondurable goods	P	P/35	P	P/35	—	—
Self-service Storage Facility	—	—	S	—	—	—
Studio, Artist or Instructional Service	P/U	P/U/35	P	P	—	—
Trade School	P/U	—	P	P	—	—

The SA 1 Core District, located on Grand Boulevard in the heart of Downtown Brookfield, is a retail and service focused district which permits restaurants, bars, and retail. Because cannabis dispensaries will be another kind of retail, staff is proposing to add cannabis dispensaries as a permitted use in this district.

The SA 2 Core District, located near the Hollywood Metra Station, only covers a few parcels. However, because this district also permits retail, the sale of nondurable and durable goods, and prepared food shops, staff is proposing to permit cannabis dispensaries in this district. Because many of the other retail uses in this district are limited to maximum floor area under 3,500 square feet, staff recommends limiting cannabis dispensaries the same way.

The SA 3 Corridor Mixed Use District permits all kinds of retail, offices, consumer services, and eating and drinking establishments. Cannabis dispensaries fit the kinds of uses in this district.

The SA 4 General Mix District permits restaurants, bars, studio, artist and instructional services, and offices. This district permits the sale of nondurable goods under 3,500 square feet. Following that reasoning, staff is proposing to permit cannabis dispensaries in this district that are under 3,500 square feet in maximum floor area.

Craft Grower Regulations

In addition to the retail sale of cannabis, craft growers need to be incorporated into the use tables in Chapter 62. As described earlier, craft growers are small scale cannabis growth operations. They may have up to 5,000 square feet of space for plants in the flowering stage, so they require buildings that are larger than 5,000 square feet. In terms of operations they dry, cure, and package cannabis. They do not sell cannabis to consumers, but craft growers and dispensaries may be able to collocate in the same building. For that reason, staff is proposing to create a new use in Section 62-29 Agricultural Use Category. The following addition is proposed:

Sec. 62-29. - Agricultural use category.

This category includes uses such as gardens, farms and orchards that involve the raising and harvesting of food and non-food crops and the raising of farm animals. The agricultural subcategories are:

(a) Cannabis craft grower. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture as a craft grower 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.

~~(b)(a)~~ *Community garden.* An area less than one acre in area that is managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers). A community garden area may be divided into separate garden plots or orchard areas for cultivation by one or more individuals or may be farmed collectively by members of the group. Community gardens may be principal or accessory uses.

~~(c)(b)~~ *Greenhouse or nursery.* An area of land or a building used for propagation and growth of trees or plants for wholesale or retail sales and distribution. Does not include on-site retail sales unless such sales are otherwise allowed in the subject zoning district.

The following change is proposed to the use table in Section 62-30:

Use Subcategory Specific Use Type	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2
<i>AGRICULTURAL</i>								
<u>Cannabis Craft Grower</u>	<u>P</u>	=	=	=	=	=	<u>P</u>	=
Community Garden	P	P	P	P	P	P	P	P
Greenhouse or Nursery	P	P	P	P	P	P	P	—

The following change is proposed to the use table in Section 62-216:

Use Subcategory Specific Use Type	SA 1	SA 2	SA 3	SA 4	SA 5	SA 6
<i>AGRICULTURAL</i>						
<u>Cannabis Craft Grower</u>	=	=	<u>P</u>	=	=	=
Community Garden	—	—	—	—	P	P
Greenhouse or Nursery	—	—	P	P	—	—

Under staff's proposal, cannabis craft growers will be allowed on Ogden Avenue in the C-1 and SA 3 Districts, and the I-1 District. Cannabis craft growers have the potential to be collocated with dispensaries or infusers, and Ogden Avenue and 47th Street are the areas in Brookfield with the most space for a potential combination craft grower/infuser/dispensary. The use itself will not surpass the intensity of the other uses in these districts, and the auto-oriented nature of these corridors make them ideal for this kind of use.

Cultivation Center Regulations

Cultivation centers operate the same way craft growers operate, but on a much larger scale. They are permitted to have up to 210,000 square feet for plants in the flowering stage, which means the building itself can be much larger than that. Because of the large-scale nature of this use, staff proposes to add it as a category in the "moderate-impact manufacturing and industry" category in Section 62-26. The following change to this section is proposed:

- (b) *Moderate-impact manufacturing and industry.* Manufacturing and industrial uses that, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of moderate- impact manufacturing and industrial uses include: large breweries, distilleries and alcohol manufacturing (other than micro distilleries), cannabis cultivation centers, coffee roasting with a roasting capacity of more than five kilos, dairy products manufacturing, foundries, chrome plating, crematoriums, electroplating, fiberglass manufacturing, flour mills, paper products manufacturing and large-scale breweries and distilleries.

Moderate-impact manufacturing and industry is only permitted as a Special Use in the I-2 District, so this use will not be permitted by right anywhere in Brookfield.

Infuser Regulations

Cannabis infusers are licensed to obtain cannabis or cannabis extract from a cultivation center or craft grower and incorporate it into other products. They do not directly sell these products to the consumer. Instead, they sell them to a dispensary. However, similar to craft growers, they are permitted to collocate with craft growers and dispensaries. They will function similar to a commercial kitchen. As a result, staff is proposing to add cannabis infusers to the list of uses under the category of "low-impact manufacturing and industry" in Section 62-26. The following change to this section is proposed:

- (a) *Low-impact manufacturing and industry.* Manufacturing and industrial uses that do not, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of low-impact manufacturing and industrial uses include: commercial laundries and linen supply services, apparel manufacturing, bakery products manufacturing, bottling plants, cannabis infusers, ice manufacturing, mattress manufacturing and assembly, musical instrument, parts manufacturing, newspaper printing, binderies and craft brewing and distilling (as defined and regulated by 235 ILCS).

Low-impact manufacturing and industry is permitted in the I-1 District as a Special Use, and is permitted in the I-2 District. The Industrial Use category states "This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced." This accurately describes a cannabis infusers operations.

Transporter Regulations

Cannabis transporters are almost identical in operations to a trucking or transportation terminal. They are trucking or transportation companies that are licensed to transport cannabis. Staff is proposing to make the following change under Section 62-27:

The proposed regulations for cannabis transporting organization mirror those of the trucking and transportation terminals, which have essentially the same operations.

PARKING REGULATIONS

All uses identified in the zoning code need parking regulations. When a new business applies for a business license, it is the Department of Community Development’s responsibility to ensure that they meet the parking requirements identified in Section 62-290.

Some of the cannabis related uses will fit into this table without any changes. Cannabis dispensaries are a retail use, which is identified in the parking requirements as shown below:

Use	Requirement
Retail sales uses, not otherwise listed	SA districts: 1.0 space for each 333 square feet of gross floor area. All other districts: 1.0 space for each 250 feet of gross floor area.

Staff will continue to use this parking requirement to evaluate the requirements for cannabis dispensaries. This appears to be similar with neighboring communities’ parking regulations for cannabis dispensaries. Riverside is requiring 1 parking space per 300 square feet of gross floor area for cannabis dispensaries, and Oak Park requires 1 parking space per 500 square feet of floor area for medical cannabis dispensaries.

Craft growers, cultivation centers, infusers, and transporters can be evaluated under the manufacturing, industrial and construction category which reads:

Use	Requirement
Manufacturing, industrial and construction	1.0 space per employee, plus 1.0 space per company vehicle.

While these facilities have the potential to encompass a large amount of square footage, they may not need a large number of employees. Therefore, it makes sense to evaluate them based off of the number of employees.

All of these uses will also be entitled to the parking credits and reductions described in Section 62-291.

COMPREHENSIVE PLAN

While the Comprehensive Plan was written well before P.A. 101-0027 was approved or even discussed, there are elements that support the regulations as proposed. The Comprehensive Plan designates the future land use of Ogden Avenue and 31st Street as Corridor Commercial, and designates Downtown Brookfield and 8 Corners as “Mixed Use.” Both of these categories support ground floor retail (p. 60).

In addition, Objective 1 from Goal 4-3 (p. 191) aims to “Promote a healthy and mutually reinforcing mix of commercial, retail, restaurant, entertainment, and multifamily uses within the 8 Corners area and Downtown.” The proposed regulations incorporate cannabis retail into Downtown and 8 Corners as a potentially strong and popular retail use. As stated earlier, cannabis will not be able to be delivered by delivery services, or through a website. As a result, all consumers who intend to purchase must physically go to a cannabis dispensary to purchase the product. Cannabis

dispensaries have the potential to create pedestrian traffic in Downtown Brookfield and 8 Corners. While the Comprehensive Plan doesn't directly address cannabis related uses, the proposed regulations parallel its goals.

RECOMMENDATIONS

Staff recommends approval of the text amendments as presented. If Commissioners are in agreement with the staff's findings and recommendations, they may adopt them as presented or edit them as appropriate.

The Planning and Zoning Commission has the option to recommend that Village Board of Trustees adopt the amendments, adopt the amendments with modification or deny the request for amendments.



EXHIBIT "A"

Village of Brookfield
 Planning and Zoning Commission Application Packet

Text Amendment

Applicant Information:

1. Name and Phone Number of contact person for application process	Elyse Vukelich, Village Planner, Village of Brookfield 708-485-1445
2. Petitioner's Name	Village of Brookfield
3. Petitioner's Address	8820 Brookfield Avenue Brookfield, IL 60513
4. Phone Number	708-485-1445
5. Email Address	EVukelich@brookfieldil.gov
6. Fax Number	
7. Owner of Record Name	Village of Brookfield
8. Owner of Record Address	8820 Brookfield Avenue Brookfield, IL 60513

Property Information:

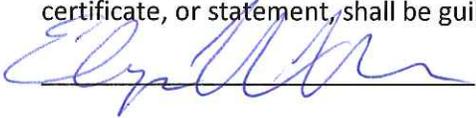
9. Common Street Address	Village of Brookfield Illinois		
10. Legal Description	Village of Brookfield, Illinois		
11. Permanent Tax Index Number			
12. When did the owner acquire the property?	Property is not owned by the Village of Brookfield		
13. Is the petitioner in the process of purchasing/leasing the property?	Yes	No	X
If so, is the purchase/lease contingent on approval of the map amendment?	Yes	No	
14. Is your property use presently (check one):	Conforming X	Non-Conforming	
15. If the property is a non-conforming use, please explain:			
16. Surrounding Zoning and Land Use:			
	<u>Zoning District</u>	<u>Land Use</u>	
North	Village of LaGrange Park	Various	
South	Village of McCook -	Various	
East	Village of LaGrange	Various	
West	Village of Lyons	Various	
17. What is the Zoning Classification of the subject property?	All zoning districts in the Village of Brookfield, Illinois		
18. What is the requested text/map amendment and why? (Please attach another sheet if necessary.)			

Text Amendment Application, continued

A Text and Map Amendment to authorize an amendment to the applicable provisions of Chapter 62 entitled "Zoning" of the Code of Ordinances, Village of Brookfield, Illinois to regulate the location of cannabis business establishments and an amendment to the Village's Zoning Map to create an Adult-use Cannabis Business Overlay District which is legally described in Exhibit "A-1" and as proposed in the draft of An Ordinance Amending Chapter 14 Entitled "Business Licensing and Regulation" and Chapter 62 entitled "Zoning" of the Code of Ordinances, Brookfield, Illinois, Regarding Cannabis Business Establishments attached as Exhibit "A-2."

Please note that additional information may be required upon staff review.

Any person who shall knowingly make or cause to be made, or conspire, combine, aid or assist in, agree to, arrange for, or in any way procure the making of a false or fraudulent application, affidavit, certificate, or statement, shall be guilty of a misdemeanor as provided by statute by the State of Illinois.

A handwritten signature in blue ink, appearing to read "Elyse Vukelich", written over a horizontal line.

Elyse Vukelich, Village Planner Date: September 23, 2019

MEMORANDUM

To: Kit P. Ketchmark, Village President
Board of Trustees
Village of Brookfield

From: Richard J. Ramello

Re: Cannabis Regulation and Tax Act

Date: August 20, 2019

On June 4, 2019, the Illinois General Assembly passed the Cannabis Regulation and Tax Act (the “Act”) legalizing the purchase, procurement, possession, consumption, use (in a private residence), or transportation of 30 grams of cannabis flower, cannabis-infused products containing a total of no more than 500 mg of THC and 5 grams of cannabis product in concentrated form by Illinois residents over 21 years of age.. Illinois non-residents can only purchase, procure, possess, consume, use (in a private residence), or transport one-half of those amounts. Governor Pritzker signed the 610 page bill on June 25, 2019 as Public Act 101-0027 which becomes effective on January 1, 2020. The use, sale, and possession of cannabis over 0.3% Tetrahydrocannabinol (THC) (a Schedule I drug under the federal Controlled Substances Act of 1970) remains illegal under federal law. This memorandum provides a summary of the relevant issues of interest to the village.

Under the Act, the use (excluding medical use) or possession of cannabis by a person under the age of 21 years is prohibited. The use of cannabis is prohibited in any “public place” including school grounds and child care facilities. A “public place” includes “any place where a person could reasonably be expected to be observed by others.” The use of cannabis is prohibited “in close physical proximity” to persons under the age of 21. The smoking of cannabis is prohibited in any location where smoking is banned by the Smoke Free Illinois Act. The sale of cannabis to minors under the age of 21 years is prohibited. The possession of cannabis in motor vehicle is prohibited unless the cannabis is in a “sealed, odor-proof, child-resistant, tamper-evident cannabis container” and “reasonably inaccessible”. The operation a motor vehicle under the influence of cannabis (DUI) is prohibited.

The Act requires the Village to expunge all criminal history records of an arrest, charge not initiated by arrest, order of supervision, or order of qualified probation for a “minor cannabis offense” (not more than 30 grams) if one year has elapsed from the date of the arrest and no criminal charges were filed or, if filed, were subsequently dismissed.

Medical Cannabis Program participants over 21 years old can cultivate up to five (5) cannabis plants per household in an enclosed, locked space out of public view. The village may not prohibit home cultivation or unreasonably prohibit use of cannabis.

Division 3 of Article IX of Chapter 36 of the Brookfield Code currently prohibits the possession of cannabis. On or before the effective date of the Act (January 1, 2020), Section 36-521 of the Brookfield Code should be amended to comply with the Act.

The village may enact and enforce policies on drug-free workplace, zero tolerance, drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call. The Act authorizes the Village to discipline an employee or terminate employment of an employee for violating the Village's cannabis employment policies or workplace drug policy. The Act provides that the Village may consider an employee to be impaired or under the influence of cannabis if the Village has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If the Village elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the Village must afford the employee a reasonable opportunity to contest the basis of the determination. The village's personnel policy manual should be reviewed for compliance with the Act.

Except as otherwise provided in the Act, the regulation and licensing of cannabis business establishments are exclusive powers and functions of the State of Illinois. Except as otherwise provided in and consistent with the Act, the village may not regulate or license cannabis business establishments. The following types of cannabis business establishments will be licensed by the State of Illinois:

1. Dispensary or dispensing organization: A licensed dispensary operated by a dispensing organization is permitted 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 the Act to purchasers or to qualified registered medical cannabis patients and caregivers.
2. Craft Grower: A licensed craft grower is permitted 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. The cannabis may be grown in a canopy space between 5,000 and 14,000 square feet. Subject to certain conditions, a craft grower may share premises with a processing organization or a dispensing organization, or both.
3. Cultivation Center: A licensed cultivation center is permitted to cultivate, process, transport (unless otherwise limited by the Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.
4. Infuser or infuser organization: A licensed infuser or infuser organization is permitted to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

5. Transporter of transporting organization: A licensed transporter is permitted to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program

No later than October 1, 2019, and until January 1, 2020, the State of Illinois Department of Financial and Professional Regulation will accept applications for Early Approval of Conditional Adult Use Dispensing Organization Licenses from the fifty-five (55) existing medical cannabis dispensaries. Once licensed, these dispensaries may sell cannabis to persons over 21 years of age for recreational use. They also will have the right to establish a secondary location for a new non-medical cannabis dispensary. The Act requires the secondary location to be at least 1,500 feet from any other cannabis related business. The secondary location must be within the same Bureau of Labor Statistics (BLS) region as their existing medical cannabis dispensary. The Act allows the licensee one hundred eighty (180) days after its license is approved to find a suitable location. The department is authorized to issue up to seventy-five (75) Conditional Adult Use Dispensing Organization Licenses before May 1, 2020.

After January 1, 2021, the State of Illinois Department of Financial and Professional Regulation is authorized to issue licenses for dispensaries from new organizations. The department is authorized to issue up to one hundred ten (110) Conditional Adult Use Dispensing Organization Licenses by December 21, 2021.

A medical cannabis cultivation center registered and in good standing under the Compassionate Use of Medical Cannabis Pilot Program Act may apply to the Department of Agriculture for an Early Approval Adult Use Cultivation Center License to produce cannabis and cannabis-infused products at its existing facilities. On or after July 1, 2021, the Department of Agriculture may authorize a maximum of thirty (30) cannabis cultivation centers. Additionally, the Act authorizes the Department of Agriculture to issue licenses for up to forty (40) craft growers by July 1, 2020. After December 21, 2021 the Department of Agriculture may issue up to an additional sixty (60) craft grower licenses. After January 1, 2022 the Department of Agriculture may issue up to an additional craft grower licenses up to one hundred fifty (150) in total. To be approved for a license the craft grower must comply with the village's zoning ordinance. A craft grower may not be located in an area zoned for residential use. A craft grower may not sell or distribute any cannabis to any person other than a cultivation center, a craft grower, an infuser organization or a dispensing organization. The cultivation of cannabis by a craft grower must take place in an enclosed, locked facility.

The Department of Agriculture may issue up to forty (40) infuser licenses by July 1, 2020. By December 21, 2021, the Department of Agriculture may issue up to an additional sixty (60) infuser licenses. An infuser may not be located in an area zoned for residential use. All processing of cannabis by an infuser must take place in an enclosed, locked facility.

The Department of Agriculture may issue an unlimited number of transporter licenses to transport cannabis to a cultivation center, a craft grower, an infuser organization, a dispensing organization, a testing facility or other facility authorized by the department.

Should the board of trustees decide to allow cannabis business establishments to be located within the village, the Brookfield Code should be amended to zone the locations at which these businesses may locate and to regulate those business as authorized by and consistent with the Act.

The Illinois Municipal League has issued a Memorandum, Fact Sheet on Adult Use Cannabis and model ordinances regarding municipal cannabis business prohibition, municipal cannabis business zoning and municipal cannabis retailers' occupation tax. The model municipal cannabis business prohibition ordinance and the municipal cannabis business zoning ordinances are alternative ordinances. Only one, not both, of the model ordinances is intended to be enacted depending upon the policy decision made by the board of trustees. The Illinois Municipal League's model ordinance regarding municipal cannabis business prohibition completely bans cannabis business establishments within a municipality. It further declares the operation of cannabis business establishments as a public nuisance.

According to media reports, several municipalities are enacting ordinances to completely ban cannabis business establishments within the municipality. Presumably, the municipalities enacting ordinances to completely ban cannabis business establishments within the municipality and the Illinois Municipal League's model ordinance regarding municipal cannabis business prohibition are based upon the language of Section 55-25 of the Act. Unfortunately, the relevant language of that section is conflicting. Section 55-25 (5) of the Act expressly provides "A unit of local government....may enact ordinances to prohibit a cannabis business establishment's location." While Section 55-25 (2) of the Act states: "No unit of local government....may unreasonably restrict the ... place.... and number of cannabis business establishment operations authorized by this Act." The question then becomes whether a complete ban on cannabis business establishments within a municipality is an unreasonable restriction on the place and number of cannabis business establishment operations authorized by the Act.

The Illinois Supreme Court has held that the primary objective in construing a statute is to ascertain and give effect to the intention of the legislature and to this end all other rules of construction are subordinate. Further, that the intent is determined by reading the statute as a whole and considering all relevant parts. When the language is unambiguous, the law is to be enforced as enacted by the legislature. Where two statutes are allegedly in conflict, a court has a duty to interpret the statutes in a manner that avoids an inconsistency and gives effect to both statutes, where such an interpretation is reasonably possible.

Following the Illinois Supreme Court's reasoning, an argument can be made that the legislature, in enacting Section 55-25 (5) of the Act, has determined that prohibiting cannabis business establishments' locations within a municipality is not an unreasonable place and number restriction. Therefore, prohibiting the locations of cannabis business establishments within a municipality is clearly permitted by the Act. Whether prohibiting cannabis business establishments everywhere in a municipality as opposed to just particular locations or particular zoning districts, however is of questionable validity.

Certain language of the Act itself does, however, provide some support for prohibiting cannabis business establishments everywhere in a municipality. Section 15-25(e-5) of the act provides “If, within 180 days of being awarded a Conditional Adult Use Dispensing Organization license, a dispensing organization is unable to find a location within the BLS Region in which it was awarded a Conditional Adult Use Dispensing organization license because no jurisdiction within the BLS Region allows for the operation of an Adult Use Dispensing Organization, the Department of Financial and Professional Regulation may authorize the Conditional Adult Use Dispensing Organization License holder to transfer its license to a BLS Region specified by the Department.”

Additionally, the validity of declaring cannabis business establishments a public nuisance is questionable. The Act expressly authorizes and legalizes cannabis business establishments. Section 55-90 of the Act preempts the local regulation of cannabis business establishments inconsistent with the provisions of the Act. Prohibiting cannabis business establishments as a public nuisance is likely regulation of those businesses inconsistent with the Act. The enforceability of declaring a legal and statutorily authorized business a public nuisance is questionable. Should the board of trustees decide to restrict cannabis business establishments, the recommended approach is to prohibit the location of those businesses in the various zoning districts of the village.

Should the board of trustees decide to allow cannabis business establishments to be located within the village, the Illinois Municipal League’s model ordinance regarding municipal cannabis business zoning with various modifications to tailor the ordinance to the village’s zoning ordinance provisions can be utilized as a starting point for the zoning regulation of cannabis business establishments. Should the village desire to amend its zoning ordinance, a Zoning Text Amendment Application should be filed by the village and the necessary public hearing conducted.

In 2015, when the Compassionate Use of Medical Cannabis Pilot Program Act was enacted, the village created a Medical Cannabis Overlay District. This overlay zoning district allowed the location of medical cannabis cultivation centers and medical cannabis dispensing facilities as permitted uses within the I-1 General Light industrial Zoning District with similar boundaries as the Sexually Oriented Business Overlay District. (*See* Division 7 of Article II of Chapter 62 of the Brookfield Code) The overlay district’s boundaries were defined as follows:

(A) *Property between Raymond Avenue and Arthur Avenue.*

1. Lots 37, 38, 39, 40, 41, 42, 43 and 44 in Arthur T. McIntosh’s Congress Park Farms, a subdivision of the southeast quarter of the southwest quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.
2. Lot 3 in Butkovick’s Resubdivision of Lots 35 and 36 in Arthur T. McIntosh’s Congress Park Farms, a subdivision of the southeast quarter of the southwest quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

(B) *Property between Arthur Avenue and Elm Avenue.* Lots 9 and 10, except those parts of said lots dedicated for Maple Avenue, and Lots 11, 12, 13, 14, 15, 16, 17 and 18 in Arthur T. McIntosh's Congress Park Farms, a subdivision of the southeast quarter of the southwest quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

(C) *Property between Elm Avenue and Plainfield Road.*

1. That part of Lot 13 lying south of the north line of Lot 14 extended easterly, and Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 in Block 12 in Oliver Salinger and Company's Bungalow Park, a subdivision in the northeast quarter of the southwest quarter and part of the west half of the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

2. That part of the west half of the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian described as follows:

Beginning in the centerline of Plainfield Road, 62 feet northeasterly from the point of intersection of the south line of the southeast quarter of said Section 3 with the said centerline of Plainfield Road; thence northeasterly, along the centerline of Plainfield Road 350 feet; thence northwesterly, at right angles to the centerline of Plainfield Road 311.14 feet; thence southwesterly, parallel with the centerline of Plainfield Road, 350 feet; thence southeasterly 311.14 feet to the point of beginning (except that part used for public road known as Plainfield Road), in the county.

(D) *Property between Plainfield Road and Vernon Avenue.*

1. Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 in Block 13 in Oliver Salinger and Company's Bungalow Park, a subdivision in the northeast quarter of the southwest quarter and part of the west half of the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

2. Lots 1, 2, 3, 4, 5 and 6 in Auspitz and Oakes Brookfield Park Subdivision in the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

(E) *Property between Vernon Avenue and Prairie Avenue.* Lots 7, 8, 9, 10 and 11 in Auspitz and Oakes Brookfield Park Subdivision in the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

(F) *Property between Prairie Avenue and Forest Avenue.* Lots 22, 23, 24, 25, 26 and the south 20 feet of the east 100 feet of Lot 27 Auspitz and Oakes

Brookfield Park subdivision in the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

(G) *Property between Forest Avenue and Grove Avenue.* Lot 1 in Stocker's Resubdivision Number 1, a resubdivision of Lots 7 to 12 in Block 2 in Pinkert's State Road Addition, a subdivision of the east half of the southeast quarter of the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

(H) *Property between Grove Avenue and Custer Avenue.* Lots 8, 9, 10 and 11 in Block 3 in Pinkert's State Road Addition, a subdivision of the east half of the southeast quarter of the southeast quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian in the county.

The Act authorizes the State of Illinois to levy a 7% wholesale tax and 10% to 25% (depending on THC level) retail tax on cannabis sales plus the normal sales tax. Of the state taxes levied, 8% of the taxes are to be distributed to the Local Government Distributive Fund for crime prevention programs, training, and interdiction efforts, including detection, enforcement, and prevention efforts, relating to the illegal cannabis market and driving under the influence of cannabis. Should the board of trustees decide to allow cannabis business establishments to be located within the village and further decide to tax the sale of cannabis, the Illinois Municipal League's model ordinance regarding a municipal cannabis retailers' occupation tax can be utilized as a starting point for the taxation of cannabis dispensing establishments. The Act permits the village to impose a Municipal Cannabis Retailers' Occupation Tax of up to 3% of the gross receipts from the sale of non-medical cannabis. The tax must be imposed in 1/4% increments.

cc: Mr. Timothy C. Wiberg, Village Manager, Village of Brookfield
Mr. George Issakoo, Assistant Village Manager, Village of Brookfield
Mr. Martin J. Bourke, Interim Director of Community and Economic Development, Village of Brookfield
Ms. Elyse Vukelich, Village Planner, Village of Brookfield

Frequently Asked Questions Cannabis Regulation and Tax Act Public Act 101-0027

Updated September 9, 2019

Provided by

KTJ

KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

In Partnership with



KLEIN, THORPE AND JENKINS, LTD.

20 North Wacker Drive, Suite 1660
Chicago, Illinois 60606
(312) 984-6400

15010 S. Ravinia Avenue, Suite 10
Orland Park, Illinois 60462
(708) 349-3888

7 Northpoint Drive
Streator, Illinois 61364
(815) 672-3116

ILLINOIS MUNICIPAL LEAGUE

500 East Capitol Avenue | P.O. Box 5180
Springfield, Illinois 62705-5180
(217) 525-1220

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

INDEX

ADVERTISING..... 1

CRAFT GROWERS..... 2

CULTIVATION CENTERS 3

DISPENSING ORGANIZATIONS 4

DRIVING UNDER THE INFLUENCE (DUI)..... 7

EMPLOYMENT CONCERNS 9

EXPUNGEMENTS 10

FREEDOM OF INFORMATION ACT 11

HOME CULTIVATION 12

INFUSER ORGANIZATIONS OR INFUSERS..... 13

LICENSING 14

LOCAL GOVERNMENT 17

SOCIAL JUSTICE 22

TAXATION, REVENUES AND APPROPRIATIONS..... 23

USE AND POSSESSION 26

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

ADVERTISING

What are the restrictions on advertising for a cannabis business establishment?

- “Advertise” means to engage in promotional activities including, but not limited to: newspaper, radio, Internet and electronic media, and television advertising; the distribution of fliers and circulars; and the display of window and interior signs.
- No cannabis business establishment nor any entity or person shall engage in advertising that contains any statement or illustration that is:
 - False or misleading;
 - Promotes the overconsumption of cannabis;
 - Displays cannabis;
 - Shows someone under 21 consuming cannabis;
 - Makes health or medicinal claims about cannabis;
 - Includes the image of the cannabis leaf or bud; or
 - Includes any image that is likely to appeal to minors.
- No cannabis business establishment nor any person or entity shall place or maintain or cause to be placed or maintained an advertisement in any form:
 - Within 1,000 feet of school grounds, playgrounds, hospitals, health care facilities, recreation centers, child care centers; public parks, public libraries; or game arcades that admit persons under the age of 21;
 - On or in a public transportation vehicle or on a public transportation shelter; or
 - On or in publicly-owned or publicly-operated property.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

CRAFT GROWERS

What is the definition of “craft grower?”

- "Craft grower" means 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. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering stage. 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.

Are craft growers inspected? How, and by whom?

- Craft growers are subject to random inspections by the Illinois Department of Agriculture, the Illinois Department of Public Health, local safety or health inspectors and the Illinois State Police.

To whom may craft growers sell cannabis?

- Craft growers may sell or distribute cannabis to a cultivation center, a craft grower, an infuser organization, a dispensing organization or as otherwise authorized by rule.

What are the limitations on the location of craft growers?

- A craft grower may not be located in an area zoned for residential use.
- A craft grower shall not be located within 1,500 feet of another craft grower or a cultivation center.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

CULTIVATION CENTERS

What is the definition of “cultivation center?”

- "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 the Act) and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

Are cultivation centers inspected? How, and by whom?

- Cultivation centers are subject to random inspections by the Illinois Department of Agriculture, the Illinois Department of Public Health, local safety or health inspectors and the Illinois State Police.

To whom may cultivation centers sell cannabis?

- Cultivation centers may sell or distribute cannabis or cannabis-infused products to dispensing organizations, craft growers, infusing organizations, transporters or as otherwise authorized by rule.

What is the maximum space a cultivation center may provide for plants in the flowering stage?

- A cultivation center may not contain more than 210,000 square feet of canopy space for plants in the flowering stage for cultivation of adult-use cannabis as provided in this Act.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

DISPENSING ORGANIZATIONS

What is the definition of “dispensing organization?”

- "Dispensing organization" means a facility operated by an organization or business that is licensed by the Illinois 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 the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in the Act, a “dispensing organization” shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

What methods of sale by dispensing organizations are prohibited?

- Drive-through windows
- Vending machines
- Transport of cannabis to residences or other locations where purchasers may be for delivery

When are dispensing organizations allowed to operate?

- Operation is allowed between 6:00 a.m. and 10:00 p.m. local time.
- Operation is prohibited when video surveillance equipment is inoperative.
- Operation is prohibited when point-of-sale equipment is inoperative.
- Operation is prohibited when the state’s cannabis electronic verification system is inoperative.
- Operation is prohibited when there are fewer than two people working at any time within a dispensing organization.

What products are dispensing organizations prohibited from selling?

- Dispensing organizations may not sell any product containing alcohol except tinctures, which are limited to containers no larger than 100 milliliters.
- Selling clones or other live plant material is prohibited.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- Selling cannabis, cannabis concentrate or cannabis-infused products in combination or bundled with each other for one price is prohibited.

Can dispensing organizations sell cannabis outside of Illinois or obtain cannabis from outside of Illinois?

- No. Dispensing organizations may not transport cannabis or cannabis products across state lines.
- No. Dispensing organizations may not obtain cannabis or cannabis-infused products from outside the State of Illinois.

What type of packaging is required for cannabis sold at dispensing organizations?

- All cannabis sold by a dispensing organization to purchasers must be in a container or package with a label identifying, at a minimum, the name of the dispensing organization, the contents and the weight of the raw cannabis in grams or, for cannabis products, the amount of Tetrahydrocannabinol (THC) in milligrams.

Are there restrictions in the Act on the location of dispensing organizations?

- Yes. A dispensing organization may not be located within 1,500 feet of the property line of a pre-existing dispensing organization.

What is the process for a dispensing organization to dispense cannabis to a purchaser?

- Before cannabis is dispensed:
 - The age of the purchaser shall be verified by checking a government-issued identification card by use of an electronic reader or electronic scanning device to scan the identification;
 - The validity of the government-issued identification card must be verified;
 - Any appropriate purchaser education or support materials shall be offered; and
 - Information must be entered into the state's cannabis electronic verification system, including the dispensing organization's agent's identification number, the dispensing organization's identification number, the amount, type (including strain, if applicable) of cannabis or cannabis-infused product dispensed, and the date and time the cannabis is dispensed.
- A dispensing organization shall refuse to sell cannabis to anyone unless the person produces valid identification showing that the person is 21 years of age or older. However, a medical cannabis dispensing organization may sell cannabis-infused products to a person who is under

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

21 years of age if the sale complies with the provisions of the Medical Cannabis Program Act and rules.

- Public Act 101-0363, effective August 8, 2019, revised the Medical Cannabis Program Act to provide that registered qualifying patients under 21 years of age shall be prohibited from consuming forms of cannabis other than medical cannabis-infused products, and purchasing any usable cannabis or paraphernalia used for smoking or vaping medical cannabis.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

DRIVING UNDER THE INFLUENCE (DUI)

How will DUI's be addressed under the new law?

- Driving under the influence of cannabis will continue to be illegal.
- The Act allows for use of validated roadside chemical tests or standardized field sobriety tests approved by the National Highway Traffic Safety Administration when conducting investigations of a violation of Section 11-501 of the Illinois Motor Vehicle Code (625 ILCS 5/11-501) or a similar local ordinance by drivers suspected of driving under the influence of cannabis.
- The results of validated roadside chemical tests and standardized field sobriety tests are, under the Act, admissible at a civil or criminal trial or proceeding for an arrest for a cannabis-related offense as defined in Section 11-501 of the Illinois Motor Vehicle Code or a similar local ordinance.
- The Act creates a DUI Cannabis Task Force to examine best practices for enforcement of driving under the influence of cannabis laws and emerging technology in roadside testing for impairment.
- The Act creates various statutory presumptions applicable to cannabis DUIs:
 - Tetrahydrocannabinol (THC) concentration of 5 nanograms or more in whole blood or 10 nanograms or more in an other bodily substance creates a presumption that a person was under the influence of cannabis; and
 - Tetrahydrocannabinol (THC) concentration of less than 5 nanograms in whole blood or less than 10 nanograms in an other bodily substance does not give rise to a presumption that the person was or was not under the influence of cannabis, but may be considered with other competent evidence in determining whether the person was under the influence of cannabis.
- The refusal to submit to a chemical test will result in the imposition of driver's license sanctions under Section 11-501.1 of the Illinois Motor Vehicle Code.
- The refusal to take validated roadside chemical tests or standardized field sobriety tests is admissible in any civil or criminal action or proceeding regarding impairment by use of cannabis.
- An authorized medical cannabis patient who drives is deemed to have given consent to (i) validated roadside chemical tests or (ii) standardized field sobriety tests.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- Law enforcement officers must have an independent, cannabis-related factual basis giving reasonable suspicion that a person is driving or in actual physical control of a motor vehicle while impaired by the use of cannabis to conduct validated roadside chemical tests or standardized field sobriety tests.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

EMPLOYMENT CONCERNS

May an employer maintain a drug-free workplace?

- Yes. The Act specifies that nothing shall prohibit an employer from adopting:
 - reasonable zero-tolerance or drug-free workplace policies;
 - employment policies concerning drug testing; or
 - regulations concerning smoking, consumption, storage or use of cannabis at the workplace or while on call.
- These policies must be applied in a nondiscriminatory manner.
- Employers' policies may cover use of cannabis in the employer's workplace, while performing the employee's job duties or while "on call." An employee is deemed "on call" when he or she is scheduled with at least 24 hours' notice by employer to be on standby or otherwise responsible for performing tasks related to his or her employment.
- An employer may discipline an employee for violating a workplace drug policy. If the employer elects to discipline the employee, the employer must give the employee reasonable opportunity to contest the determination.
- Nothing in the Act shall be construed to interfere with any federal, state or local restrictions on employment including, but not limited to, the United States Department of Transportation regulation 49 CFR 40.151(e), or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.
- The Illinois Right to Privacy in the Workplace Act prohibits discrimination for the use of a lawful product while off duty or not on call. (820 ILCS 55/5.)

How can an employer determine whether an employee is impaired by the use of cannabis?

- An employer may consider an employee to be impaired by the use of cannabis if the employer has a good faith belief that the employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

EXPUNGEMENTS

What records will be automatically expunged?

- The Act mandates that arrest records relating to offenses under the Illinois Cannabis Control Act for possession of under 30 grams of any substance containing cannabis that are not associated with an arrest, conviction or other disposition of a violent crime as defined in subsection (c) of Section 3 of the Illinois Rights of Crime Victims and Witnesses Act. “Minor Cannabis Offenses” will be automatically expunged by all law enforcement agencies, including records of an arrest, charges not initiated by arrest, orders of supervision or orders of qualified probation for all offenses committed prior to the Act if:
 - One year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and
 - No criminal charges were filed or if filed they were dismissed and/or arrestee was acquitted.

What is the schedule for automatic expungement?

- The Act provides that all law enforcement agencies must expunge qualifying records according to the following schedule:
 - Records created prior to the effective date of the Act, but on or after January 1, 2013, shall be automatically expunged prior to January 1, 2021;
 - Records created prior to January 1, 2013, but on or after January 1, 2000, shall be automatically expunged prior to January 1, 2023; and
 - Records created prior to January 1, 2000, shall be automatically expunged prior to January 1, 2025.

What is the process for expungement for offenders actually convicted of Minor Cannabis Offenses or of more serious violations under the Cannabis Control Act?

- Within 180 days of the effective date of the Act, the Illinois State Police must notify the Prisoner Review Board of those convictions for Minor Cannabis Offenses that are eligible for expungement under the Act.
- The Act provides a process for the Prisoner Review Board to make recommendations to the Governor for pardons for certain convictions for Minor Cannabis Offenses.
- Those convicted for more serious violations of the Cannabis Control Act and not qualifying for a pardon have the option of petitioning for expungement through the circuit court.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

FREEDOM OF INFORMATION ACT

Are all records and documents created or obtained by a public body pursuant to the provisions of the Act subject to the Illinois Freedom of Information Act (FOIA)?

- The Act adds an exemption to FOIA for confidential information described in Section 55-30 of the Illinois Cannabis Regulations and Tax Act (information received by state agencies from cannabis establishment licensees or applicants).
- The name and address of a dispensing organization licensed under the Act shall be subject to disclosure under FOIA. The name and cannabis business establishment address of the person or entity holding each cannabis business establishment license shall be subject to disclosure.
- Complaints from consumers or members of the general public received regarding a specific, named licensee or complaints regarding conduct by unlicensed entities shall be subject to disclosure.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

HOME CULTIVATION

What are the limitations and requirements to grow cannabis at home?

- Only registered medical cannabis patients over 21 years of age may participate in home cultivation.

- Additionally, cultivation in private residences by medical cannabis patients is subject to the following limitations:
 - There is a limit of five plants that are five inches or more per household without a cultivation center or craft grower license;
 - Cannabis plants may not be cultivated in an area subject to public view;
 - Reasonable precautions must ensure that the plants are secure from unauthorized access or access by a person under 21 years of age;
 - Cannabis cultivation must occur in an enclosed locked space;
 - Cannabis cultivation may only occur on residential property lawfully in possession of the medical cannabis patient or with the consent of the person in lawful possession of the property;
 - A medical cannabis patient may allow their authorized agent to tend to the plants for brief periods of time if the patient is temporarily away;
 - A medical cannabis patient may only purchase cannabis seed from a dispensary;
 - Purchase of live plant material is prohibited; and
 - If the home grown plants yield more than the allowable possession limit of 30 grams of raw cannabis, then the excess cannabis must remain secured within the residence of residential property in which it was grown.

May a landlord prohibit growth of cannabis on their property?

- Yes. An owner or lessor of residential property may prohibit the cultivation of cannabis by a lessee.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

INFUSER ORGANIZATIONS OR INFUSERS

What is the definition of “infuser organization” or “infuser?”

- "Infuser organization" or "infuser" means 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.

Are infusers inspected? How, and by whom?

- Infusers are subject to random inspections by the Illinois Department of Agriculture, the Illinois Department of Public Health, local safety or health inspectors and the Illinois State Police.

To whom may infusers sell cannabis?

- Infusers may only sell or distribute cannabis to a dispensing organization, or as otherwise authorized by rule.

What are the limitations on the location of infusers?

- An infuser may not be located in an area zoned for residential use.
- An infuser may share premises with a craft grower 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.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

LICENSING

Is a license required to operate a cannabis establishment in Illinois?

- Yes. The Illinois Office of Cannabis Control shall issue licenses for all dispensing organizations. Dispensing organizations are defined by the Act as a facility operated by an organization or business that is licensed by the Illinois 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 the Act to purchasers or to qualified registered medical cannabis patients and caregivers.

May municipalities require licenses to operate a cannabis establishment within their boundaries?

- Since licensing is a function of the state under the Act, local governments may only enforce generally applicable business registration requirements for cannabis establishments and conduct inspections of the premises to ensure compliance with local ordinances.

What are the different types of licenses?

- The Act creates the following adult-use cannabis licenses, subject to various fees and subject to administration by the Illinois Department of Agriculture and the Illinois Department of Financial and Professional Regulation:
- Early Approval Adult-Use Dispensing Organization - A license that permits a medical cannabis dispensing organization licensed under the Illinois Medical Cannabis Program Act as of the effective date of the Act to begin selling cannabis to purchasers as permitted by the Act as of January 1, 2020.
- Early Approval Adult-Use Cultivation Center - A license that permits a medical cannabis cultivation center licensed under the Illinois Medical Cannabis Program Act as of the effective date of the Act to begin cultivating, infusing, packaging, transporting (unless otherwise provided in the Act) and selling cannabis to cannabis business establishments for resale to purchasers as permitted by the Act as of January 1, 2020. A cultivation center may begin producing cannabis and cannabis-infused products once the Early Approval Adult Use Cultivation Center License is approved. A cultivation center that obtains an Early Approval Adult Use Cultivation Center License may begin selling cannabis and cannabis-infused products to approved dispensing organizations on December 1, 2019.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- Conditional Adult-Use Dispensing Organization License - A license awarded to top-scoring applicants for an Adult-Use Dispensing Organization License that reserves to the applicant the right to an adult-use dispensing organization license if the applicant meets certain conditions described in the Act. A dispensing organization that is awarded a Conditional Adult-Use Dispensing Organization License is not entitled to purchase, possess, sell or dispense cannabis or cannabis-infused products until the applicant has received an Adult-Use Dispensing Organization License.
- Conditional Adult-Use Cultivation Center License - A license awarded to top-scoring applicants for an Adult-Use Cultivation Center License that reserves to the applicant the right to an Adult-Use Cultivation Center License if the applicant meets certain conditions as determined by the Illinois Department of Agriculture by rule. A cultivation center applicant that is awarded a Conditional Adult-Use Cultivation Center License is not entitled to grow, purchase, possess or sell cannabis or cannabis-infused products until the applicant has received an Adult-Use Cultivation Center License.
- Adult-Use Dispensing Organization - A license issued by the Illinois Department of Financial and Professional Regulation that permits a person to act as a dispensing organization under the Act and any administrative rule made in furtherance of the Act.
- Adult-Use Cultivation Center - A license issued by the Illinois Department of Agriculture that permits a person to act as a cultivation center under the Act and any administrative rule made in furtherance of the Act.
- Craft Grower - The Illinois Department of Agriculture shall issue up to 40 craft grower licenses by July 1, 2020. A “craft grower” is 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.
- Infuser - The Illinois Department of Agriculture shall issue up to 40 infuser licenses through a process provided for in the Act no later than July 1, 2020. “Infuser organization” or “infuser” means 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. An infuser is prohibited from extracting cannabis concentrate from raw cannabis material. Only cultivation centers and craft growers will be allowed to extract cannabis concentrate.
- Transporter - Transporting organization” or “transporter” means an organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

behalf of a cannabis business establishment or a community college licensed under the Illinois Community College Cannabis Vocational Training Pilot Program.

Do state licenses need to be renewed?

- Yes. All licenses expire and are subject to the renewal provisions set forth in the Act.
- Adult-Use Dispensing Organization Licenses shall expire on March 31 of even-numbered years. Licensees must submit a renewal application as provided by the Illinois Department of Financial and Professional Regulation and pay the required renewal fee.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

LOCAL GOVERNMENT

May municipalities prohibit cannabis establishments within their boundaries?

- Yes. A municipality may enact ordinances to prohibit or significantly limit an adult-use cannabis business establishment's location.
- While adult-use cannabis business establishments may be prohibited, the Illinois Medical Cannabis Program Act specifically provides that medical cannabis dispensing organizations may not be prohibited within municipal boundaries. For medical cannabis establishments, then, municipalities may only regulate location via reasonable zoning regulations (special use permits, etc.).

May municipalities and other units of local government regulate cannabis establishments within their boundaries?

- A unit of local government may enact reasonable zoning ordinances or resolutions not in conflict with the Act or with Illinois Office of Cannabis Control, Illinois Department of Public Health, Illinois Department of Financial and Professional Regulation and Illinois Department of Agriculture rules regulating cannabis establishments.
- A unit of local government may enact ordinances or rules governing the time, place, manner and number of cannabis establishment operations, including a minimum distance limitation between cannabis establishments and locations it deems sensitive through the use of special use permits.

May municipalities prohibit or regulate cannabis establishments outside of their boundaries?

- A municipality may exert extra territorial zoning authority in the unincorporated area within one and one half miles of its corporate limits through the adoption of a comprehensive plan and zoning for that area pursuant to 65 ILCS 5/11-13-1. The municipal ordinances would control that area absent a county zoning ordinance, or another municipality with zoning already in place.

May municipalities regulate the on-premises consumption of cannabis and/or allow cannabis cafes and lounges?

- Yes. A municipality may regulate and/or allow the on-premises consumption of cannabis at or in a cannabis business establishment within its jurisdiction in a manner consistent with the Act. The Act allows the creation of “cannabis cafes/lounges” in the discretion of the municipality. Cannabis business establishments or other entities authorized or permitted by a municipality to

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

allow on-site consumption shall not be deemed a public place within the meaning of the Smoke Free Illinois Act.

May municipalities and other units of local government prohibit the use of cannabis within their boundaries?

- No unit of local government, including a home rule unit, may unreasonably prohibit the use of cannabis authorized by the Act.

Does the Act contain any location restrictions on dispensaries?

- A dispensing organization may not be located within 1,500 feet of the property line of a preexisting dispensing organization.
- These distance restrictions are different than those originally imposed by the Illinois Medical Cannabis Program Act. Under the Medical Cannabis Program Act, registered cultivation centers could not locate 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 (410 ILCS 130/105(c)) and registered dispensing organizations could not locate within 1,000 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, or part day child care facility or be located in a house, apartment, condominium, or an area zoned for residential use (410 ILCS 130/130(d)). P.A. 101-0363, which made various amendments to the Medical Cannabis Program Act and became effect on August 8, 2019, eliminated the distance restrictions for medical cannabis dispensaries registered after July 1, 2019.

Does failure to be in compliance with local zoning regulations have any impact on a cannabis establishment's ability to operate in Illinois?

- Yes. A state-issued cannabis establishment license will be denied if the applicant is not in compliance with local zoning rules.

May municipalities and other units of local government fine or penalize cannabis establishments for violation of local zoning regulations?

- A unit of local government may establish civil penalties for violation of an ordinance or rules governing the time, place and manner of operation of a cannabis establishment within the jurisdiction of the unit of local government.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

May municipalities regulate personal possession and consumption of cannabis?

- The Act provides municipalities with the authority to locally regulate possession and consumption of cannabis by private citizens in a manner consistent with the Act. Therefore, municipalities may adopt the prohibitions and penalties of the Act into their codes which will give the local governments the ability to enforce and prosecute personal possession and consumption violations through local adjudication or the circuit court.

Does the Act apply to home rule units of government?

- Yes. A unit of local government may not regulate cannabis-related activities in a manner more restrictive than their regulation by the state under the Act. Home rule preemption applies here.
 - “This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.” Section 55-25(4).
- Home rule preemption is specifically set forth in Section 55-90 of the Act. *“Except as otherwise provided in this Act, a unit of local government, including a home rule unit, may not regulate or license the activities described in this Act.” [emphasis added]*

May voters choose to limit or prohibit cannabis establishments within a municipality?

- Only within the City of Chicago. The Act allows the legal voters of any precinct within a municipality with a population of over 500,000 to petition their local alderman, using a petition form made available online by the city clerk, to introduce an ordinance establishing the precinct as a restricted cannabis zone. "Restricted cannabis zone" means a precinct within which home cultivation, one or more types of cannabis business establishments, or both has been prohibited pursuant to an ordinance initiated by a petition under the Act.

Does the Act contain any operational rules for adult-use cannabis dispensing organizations?

- The Act, in Section 15-70, contains a list of specific business operational rules for adult-use cannabis dispensing organizations that provide a clear baseline of regulatory guidelines for these establishments. Municipalities may include these in any statement on approvals or conditions that are part of any conditional use permit. These rules include:
 - A dispensing organization must include the legal name of the dispensary on the packaging of any cannabis product it sells.
 - Dispensing organizations are prohibited from selling any product containing alcohol except tinctures, which are limited to containers that must be no larger than 100 milliliters.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- A dispensing organization may only accept cannabis deliveries into a restricted access area. Deliveries may not be accepted through the public or limited access areas unless otherwise approved under the Act.
- A dispensing organization shall maintain compliance with state and local building, fire and zoning requirements or regulations.
- A dispensing organization shall submit a list to the state of the names of all service professionals that will work at the dispensary.
- A dispensing organization's license allows for a dispensary to be operated only at a single location.
- A dispensing organization may operate between 6:00 a.m. and 10:00 p.m. local time.
- A dispensing organization must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.
- A dispensing organization shall not:
 - Produce or manufacture cannabis;
 - Accept a cannabis product from an adult-use cultivation center, craft grower, infuser, dispensing organization or transporting organization unless it is pre-packaged and labeled in accordance with the Act and any rules that may be adopted pursuant to the Act;
 - Obtain cannabis or cannabis-infused products from outside the State of Illinois;
 - Sell cannabis or cannabis-infused products to a purchaser unless the dispensary organization is licensed under the Illinois Medical Cannabis Program Act, and the individual is registered under the Medical Cannabis Program Act or the purchaser has been verified to be over the age of 21;
 - Enter into an exclusive agreement with any adult-use cannabis cultivation center, craft grower or infuser;
 - Refuse to conduct business with an adult-use cannabis cultivation center, craft grower, transporting organization or infuser that has the ability to properly deliver the product and is permitted by the Illinois Department of Agriculture, on the same terms as other adult-use cannabis cultivation centers, craft growers, infusers or transporters with whom it is dealing;
 - Operate drive-through windows;
 - Allow for the dispensing of cannabis or cannabis-infused products in vending machines;
 - Transport cannabis to residences or other locations where purchasers may be for delivery;
 - Enter into agreements to allow persons who are not dispensing organization agents to deliver cannabis or to transport cannabis to purchasers;
 - Operate a dispensing organization if its video surveillance equipment is inoperative;
 - Operate a dispensing organization if the point-of-sale equipment is inoperative;

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- Operate a dispensing organization if the state's cannabis electronic verification system is inoperative;
- Operate a dispensing organization when there are fewer than two people working at any time;
- Be located within 1,500 feet of the property line of a pre-existing dispensing organization;
- Sell clones or any other live plant material;
- Sell cannabis, cannabis concentrate or cannabis-infused products in combination or bundled with each other or any other items for one price, and each item of cannabis, concentrate or cannabis-infused product must be separately identified by quantity and price on the receipt;
- Violate any other requirements or prohibitions set by the Act or administrative rules.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

SOCIAL JUSTICE

What other agency oversight does the state have for social issues related to cannabis production, sale and use?

- The Restoring Our Communities (ROC) program will be created. The ROC program will be a performance incentive funding program for high-need, underserved communities throughout the state.
- The purpose of the ROC program will be to directly address the impact of economic disinvestment and the historical use of criminal justice responses to community and individual needs by supporting local design and control of community-based responses to these impacts that can be accessed outside of the criminal justice system.
- The ROC program will provide planning and implementation grants as well as technical assistance to collaborative groups that include human service providers and community-based organizations, individuals who have experienced the criminal justice system or other systems of state intervention, individuals who have been consumers of social programs administered by the state or local jurisdictions, and local leaders from all sectors.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

TAXATION, REVENUES AND APPROPRIATIONS

How is cannabis cultivation going to be taxed at the state level?

- Beginning on January 1, 2020, a Cannabis Cultivation Privilege Tax is imposed by the State of Illinois upon the privilege of cultivating cannabis at the rate of 7% of the gross receipts from the sale of cannabis by a cultivator.
 - This tax rate already exists under current medical cannabis law.
 - As all funds collected under the Cannabis Regulation and Tax Act and under the Compassionate Use of Medical Cannabis Program Act will be deposited into the state's Cannabis Regulation Fund, the 7% cultivation tax that previously only applied to the cultivation of medical cannabis is repealed, effective July 1, 2020 (See 410 ILCS 130/200), and replaced by the same tax that applies to both adult-use and medical cannabis cultivation.
 - All funds received by the Illinois Department of Revenue under the privilege tax shall be paid into the Cannabis Regulation Fund in the state treasury.

- The Cannabis Cultivation Privilege Tax will be collected in addition to all other occupation or privilege taxes imposed by the State of Illinois or by any municipal corporation or political subdivision (whether the cultivation is for medical or adult-use purposes).

How is the sale of cannabis going to be taxed at the state level?

- Beginning on January 1, 2020, a Cannabis Purchaser Excise Tax is imposed by the State of Illinois upon purchasers for the privilege of using cannabis at the following rates:
 - Cannabis flower or products with less than 35% Tetrahydrocannabinol (THC): 10% tax.
 - Cannabis-infused products (i.e., edibles): 20% tax.
 - Cannabis flower or products with a THC concentration higher than 35%: 25% tax.

- The purchase price of any product that contains any amount of cannabis or any derivative is subject to the excise tax on the full purchase price of the product.

- The purchase of cannabis is also subject to state and local sales taxes. Sales tax is collected in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision of the state.

- All funds received by the Illinois Department of Revenue under the excise tax will be paid into the Cannabis Regulation Fund in the state treasury.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

What is the state going to do with the funds collected in the form of state taxes, license fees and any other monies collected with regard to cannabis production and sale?

- The Cannabis Regulation Fund is created in the state treasury. Unless otherwise provided, all funds collected under the Cannabis Regulation and Tax Act and under the Medical Cannabis Program Act shall be deposited into the Cannabis Regulation Fund, consisting of taxes, license fees, other fees and any other amounts required to be deposited or transferred into the Fund.
- Monthly, the transfers of revenues received into the Cannabis Regulation Fund shall be certified as follows:
 - First, to pay for the direct and indirect costs associated with the implementation, administration and enforcement of the Compassionate Use of Medical Cannabis Program Act and the Cannabis Regulation and Tax Act, the Illinois Department of Revenue shall certify the transfer of 1/12 of the fiscal year amount appropriated to the numerous agencies involved with the program;
 - Second, after the above-noted transfers have been made, the remainder shall be transferred by formula to the following funds:
 - 35% transferred to the state General Revenue Fund
 - 25% transferred to the Criminal Justice Information Projects Fund to support the Restore, Reinvest and Renew Program for community reinvestment
 - 20% transferred to the Illinois Department of Human Services Community Services Fund to fund mental health and substance abuse services at local health departments
 - 10% transferred to the Budget Stabilization Fund to pay the backlog of unpaid state bills
 - 8% transferred to the Local Government Distributive Fund (LGDF) to fund crime prevention programs, training, and interdiction efforts relating to the illegal cannabis market and cannabis-based DUIs
 - 2% transferred to the Drug Treatment Fund for public education and awareness

How may cannabis be taxed at the local level?

- On and after January 1, 2020, the corporate authorities of any county or municipality may, by ordinance, impose a County and Municipal Cannabis Retailers' Occupation Tax (MCROT).
- For municipalities, the MCROT is imposed upon purchasers for the privilege of using adult-use cannabis purchased in the municipality. The rate of tax shall not exceed 3% of the purchase price. If imposed, the tax shall only be imposed in 0.25% increments.
- Counties are authorized to impose a tax of up to 3% in incorporated areas and 3.75% on sales emanating from unincorporated areas.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- The Illinois Department of Revenue will collect and administer the MCROT.
- The MCROT shall not be imposed on cannabis that is subject to tax under the Medical Cannabis Program Act. Sales of medical cannabis from registered medical cannabis dispensaries are taxed at the 1% rate imposed on prescription and nonprescription drugs in Illinois.
- Any ordinance imposing the tax must be certified by the municipal clerk of that unit of local government and filed with the Illinois Department of Revenue before June 1 of any year, to be effective and enforced by the Department of Revenue on September 1 of that year.
- The MCROT will be collected in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision of the state.

How are existing sales taxes affected?

- Retailers' Occupation Taxes (sales taxes), assessed at both a local and state level, will not be deposited into the Cannabis Regulation Fund. Nothing in the Medical Cannabis Program Act and the Cannabis Regulation and Tax Act affects the collection of these taxes or their deposit in the state's general fund and/or distribution to municipalities under local ordinance.
- Under the state Retailers' Occupation Tax, the sale of cannabis is classified as a "sale of tangible personal property at retail."

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

USE AND POSSESSION

How much cannabis may a resident of the State of Illinois legally possess under the Act?

- For an Illinois resident who is 21 years of age or older, the possession limit is any combination of the following:
 - 30 grams of raw cannabis;
 - Cannabis-infused product or products containing a total of no more than 500 mg of Tetrahydrocannabinol (THC);
 - 5 grams of cannabis product in concentrated form.
- For individuals who register as qualifying patients under the state’s existing medical cannabis program only:
 - Up to 5 cannabis plants and the cannabis produced from those 5 plants, secured within the residence or dwelling unit (no matter how many people reside in a residence, only 5 plants are allowed per residence).
 - Any combination of the amounts indicated above. Additionally, if they have plants that yield more than the 30 grams of raw cannabis, the excess must remain secured in the residence or residential property it is grown.

How much cannabis may a non-resident of the State of Illinois legally possess under the Act?

- For a person who is 21 years of age or older and who is not a resident of Illinois, the possession limit is any combination of the following:
 - 15 grams of raw cannabis;
 - Cannabis-infused products or products containing a total of no more than 250 mg of THC;
 - 2.5 grams of cannabis product in concentrated form.
- A non-resident may not possess cannabis plants.

Where is a person prohibited from possessing cannabis?

- The Act does not permit any person to engage in, and does not prevent the imposition of any civil, criminal or other penalties for engaging in, any of the following conduct:
 - Possessing cannabis on a school bus.
 - Possessing cannabis on the grounds of any preschool or primary or secondary school unless approved as a medical cannabis patient.
 - Possessing cannabis in any correctional facility.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

- Possessing cannabis in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed, tamper-evident container and reasonably inaccessible while the vehicle is moving.
- Possessing cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

Where is the use of cannabis prohibited?

- The Act does not permit any person to engage in, and does not prevent the imposition of any civil, criminal or other penalties for engaging in, the following:
 - Consuming cannabis on a school bus.
 - Consuming cannabis on the grounds of any preschool or primary or secondary school unless authorized in the medical cannabis program.
 - Consuming cannabis in any correctional facility.
 - Consuming cannabis in any motor vehicle.
 - Consuming cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.
 - Consuming cannabis in any public place or knowingly in close physical proximity to anyone under 21 years of age.
 - Consuming cannabis in any public place where a person could reasonably be expected to be observed by others.
 - Consuming cannabis in any location where smoking is prohibited by the Smoke Free Illinois Act (410 ILCS 82/1 *et seq.*), including hospitals, restaurants, retail stores, offices, commercial establishments, etc.
 - Universities, colleges and other post-secondary educational institutions may restrict or prohibit cannabis use on their property.

How is a “public place” defined under the Act?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – Public Act 101-0027

Are there certain specific activities that an individual may not perform while using cannabis?

- Operating, navigating or being in actual physical control of any motor vehicle, aircraft or motorboat while using or under the influence of cannabis.
- Use of cannabis by a law enforcement officer, corrections officer, probation officer or firefighter while on duty.
- Use of cannabis by a person who has a school bus driver's permit or a Commercial Driver's License (CDL) while on duty.
- Driving under the influence and reckless driving based on THC impairment may continue to be charged.