



MEMO TO : Village President Keith Giagnorio and
Lombard Village Board

FROM : Scott R. Niehaus *SN*
Village Manager

DATE : June 11, 2019

SUBJECT : **Preliminary Information on recreational Cannabis Legislation**

As you are likely aware, the Illinois General Assembly has approved legislation that would approve the use of recreational cannabis. While the bill still needs to be signed by Governor Pritzker, all indications are that he will do so in the near future. In anticipation of Lombard citizens contacting you with questions as to how this legislation will impact the Village of Lombard and how we will approach it, I have asked staff to prepare a summary memo (attached) for your information.

Please feel free to contact me with any questions regarding this legislation. In addition, staff will be monitoring the public comment and inquiry and prepare FAQ sheets to be posted on social media accordingly.

In addition, I would anticipate that at some point the Village Board may request a workshop session on this topic and/or request input from our standing advisory committees per our past practice.

Thank you.

SN:cb

Attachment

Cc: Tim Sexton, Director of Finance
Bill Heniff, Director of Community Development
Carl Goldsmith, Director of Public Works
Roy Newton, Chief of Police
Richard Sander, Fire Chief
Kathy Dunne, HR Director
Nicole Aranas, Assistant Village Manager
Avis Meade, Communications Coordinator
Tom Bayer, Village Attorney



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director
Department of Community Development

DATE: June 11, 2019

SUBJECT: Recreational Cannabis Overview

Following up upon the Special Meeting of the Village Board on April 25, 2019 and recent actions by the Illinois State Legislature relative to the Cannabis Regulation and Tax Act (the "Act"), staff is providing the Village Board with the latest information pertaining to the pending legalization of recreational cannabis in Illinois. This memorandum also serves as an outline of future actions and steps the Village Board may take at a local level. For immediate reference, Klein, Thorpe & Jenkins prepared the attached overview of the legislation and the full text can be found at <http://www.ilga.gov/legislation/101/HB/PDF/10100HB1438sam002.pdf>

BACKGROUND – MEDICAL CANNABIS

On August 1, 2013, the Compassionate Use of Medical Cannabis Pilot Program Act (PA 098-0122) was adopted by the State. The law creates a four-year pilot medical marijuana program that went into effect on January 1, 2014. That action allowed for individuals with selected serious diseases to obtain a special ID card allowing them to buy limited amounts, up to two-and-a-half ounces during a 14-day period, of medical marijuana from one of 60 state-licensed dispensaries.

That action allowed local units of government to establish regulations that provide for reasonable zoning regulations for the cultivation and dispensing of medical marijuana. The Village Board approved a text amendment to the Zoning Ordinance to allow for medical cannabis establishments as conditional use in the O Office district (PC 13-13). In 2014, the Village considered a petition for a medical cannabis facility to be located at 510 E. 22nd Street (PC 14-32), however, that petition was denied by the Village and the petitioner did not receive approval from the State to open a facility.

PENDING CANNABIS LEGISLATION

The current legislation provides for possession of and recreational use of cannabis for individuals who are 21 years of age or older, subject to the following amounts:

1. 30 grams of raw cannabis (the photo below approximates 30 grams and is intended to represent "personal use").



2. 500 mg or less of THC of cannabis-infused products (These are generally candies like a sucker or gummy bears).
3. 5g of cannabis product in concentrated form - (This is typically bottles, creams and the like).
4. Home cultivation of up to five cannabis plants per household is permitted only for medical cannabis patients.

Primary enforcement of the business provisions of the Act will be undertaken by the State of Illinois, through the Department of Agriculture (for cultivation regulations), the Department of Financial and professional Regulation (for business regulations), the State Police (for background checks) the Department of Public Health (for health warnings and advertising), and the Department of Human Services (for preventative and assistance-based programs).

Within the Chicago-Naperville-Elgin defined area, 47 dispensing organization licenses will be made available. As with medical cannabis, licensing selection activities will be performed exclusively by the State, as detailed in the Act. Business violation enforcement actions are regulated and enforced exclusively by the State.

The Act does provide an option for both home-rule and non-home rule units of local government to prohibit cannabis establishments from locating in a given community (referenced as restricted zones). The Act also spells out the provisions for enacting such a zone. However, that action does

not preclude other aspects of the Act from being in effect (e.g., the ability to have up to 30g of cannabis within one's possession, as an example).

While limited, the Act does impact municipalities and the area of interest are set forth within the attached memorandum. These provisions could also fall within the purview of several standing Village committees in the following respects:

- **Public Safety & Transportation** – Matters pertaining to possession, use and use violations and any of the enforcement and criminal aspects, including, of the Act
- **Finance** – Matters pertaining to the potential Village portion of the proceeds from the legal sale of cannabis as local governments can also establish up to a 3 percent local tax.

Government proceeds associated with such sales are broken down as follows:

20% to State mental health services and substance abuse programs

10% to pay unpaid State bills

35% to the State General Revenue Fund

The remaining funds would be distributed as follows:

2% to public education and safety campaigns

8% to the Local Government Distributive Fund, for prevention and training for law enforcement

25% for identified social equity program (see below)

- **Economic & Community Development** – Matters pertaining to the business aspects of such sales activity

The Village can use its local land use zoning authority to establish regulations pertaining to the siting of such recreational cannabis establishments including but not limited to establishing appropriate buffer requirements from selected land uses, and identifying district(s) in which the sale of cannabis would be permitted (either through the conditional use process or by right). Such actions would be taken by the Plan Commission and Village Board through the requisite public hearing process.

Lastly, there are a number of social equity aspects set forth within the Act that attempts to provide some economic benefit to disadvantaged communities. The Act includes expungement provisions, provides additional ranking points for prospective business applicants, access to financial resources for start-up costs for eligible entities, and provides support resources.

STATE DRAFT TIMELINE

As of now, the Act would be effective January 1, 2020, in which sales begin. Existing medical cannabis cultivators and dispensaries will cultivate and provide to adult consumers until additional licensees can apply and get approved. The State will be proceeding on processing licenses though the first half of 2020.

COMMUNICATIONS

Lastly, there are bound to be many questions that will be raised to staff and elected officials regarding the Act and the Village's forthcoming actions. We can represent that we have already begun to receive inquiries from prospective business entities seeking to find out more about the Village actions – staff has represented that the matter has not been formally discussed to date.

ACTION REQUESTED

Staff is forwarding this matter to the Village Board for reference purposes. As the Act is finalized, staff will be bringing this matter back to the Village Board for further consideration and direction as directed or warranted.

KTJ

KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

June 5, 2019

For any questions or comments you might have regarding this newsletter, please feel free to contact:

Authored By:

Name: James V. Ferolo
Email: jvferolo@ktjlaw.com
Phone: (312) 984-6433

Name: Michael A. Marrs
Email: mamarrs@ktjlaw.com
Phone: (312) 984-6419

Name: Carmen P. Forte
Email: cpforte@ktjlaw.com
Phone: (312) 984-6435

Name: Caitlyn R. Culbertson
Email: rculbertson@ktjlaw.com
Phone: (312) 984-6414

Name: Elizabeth F. Brogan
Email: efbrogan@ktjlaw.com
Phone: (312) 984-6431

Recreational Cannabis Legislation Heading to Governor

As the Illinois General Assembly's legislative session galloped to a close last week, HB 1438 was amended to become the Cannabis Regulation and Tax Act (the "Act"). The amended bill received House and Senate approvals in the closing days of the legislative session, and is expected to be sent to the Governor and signed shortly.

There have been some changes to the Act from an earlier version amended to a Senate Bill several weeks ago. The following are some of the highlights of the Act as approved in amended HB 1438 that local governments should be aware of:

- Possession limits for Illinois residents who are 21+ years old are any combination of:
 - ◆ 30g of raw cannabis
 - ◆ 500 mg or less of THC of cannabis-infused products
 - ◆ 5g of cannabis product in concentrated form
- Home cultivation of up to five cannabis plants per household is allowed ONLY for medical cannabis patients and is subject to various conditions (this is scaled back from an earlier version)
- Municipalities may enact ordinances to prohibit or significantly limit a cannabis business establishment's location
- Municipalities may enact reasonable zoning ordinances or resolutions regulating cannabis business establishments

For any questions or comments you might have regarding this newsletter, please feel free to contact:

Chicago Office

20 N. Wacker Drive, Ste. 1660
Chicago, IL 60606

T: (312) 984-6400

F: (312) 984-6444

Orland Park Office

15010 S. Ravinia Ave., Ste 10
Orland Park, IL 60462

T: (708) 349-3888

F: (708) 349-1506

www.ktjlaw.com

This newsletter is not to be construed as legal advice or a legal opinion under any circumstance. The contents are solely intended for general informative purposes, and the readers of this newsletter are strongly urged to contact their attorney with regard to any concepts discussed herein.

This newsletter may be deemed advertising under the laws of the Supreme Court of Illinois.

© 2019 Klein, Thorpe and Jenkins, Ltd.



- Municipalities may enact reasonable ordinances or rules governing the time, place, manner and number of cannabis business establishment operations, including minimum distance limitations between cannabis business establishments and locations it deems sensitive, including colleges and universities, through the use of conditional use permits
- Municipalities may not prohibit home cultivation by medical cannabis patients or unreasonably prohibit use of cannabis authorized under the Act
- Municipalities may establish civil penalties for violation of an ordinance or rules governing the time, place, and manner of operation of a cannabis business establishment or a conditional use permit
- Municipalities may regulate the on-premises consumption of cannabis at or in a cannabis business establishment within its jurisdiction in a manner consistent with the Act
- Cannabis business establishments or other entities authorized or permitted by a municipality to allow on-site consumption shall not be deemed a public place within the meaning of the Smoke Free Illinois Act
- The Act includes Home Rule Preemption language, prohibiting all local governments from regulating or licensing the activities described in the Act, except as otherwise provided in the Act
- The Act allows municipalities to levy, by ordinance, on or after January 1, 2020, a Municipal Cannabis Retailers' Occupation Tax of up to 3% in 1/4% increments. Revenue received from the tax is collected by the Department of Revenue and deposited into the Local Cannabis Consumer Excise Tax Trust Fund. Revenues deposited are then redistributed by the Department of Revenue back to municipalities on a monthly basis based on the amount collected from sales made in the municipality during the second preceding calendar month

For any questions or comments you might have regarding this newsletter, please feel free to contact:

Chicago Office

20 N. Wacker Drive, Ste. 1660
Chicago, IL 60606

T: (312) 984-6400

F: (312) 984-6444

Orland Park Office

15010 S. Ravinia Ave., Ste 10
Orland Park, IL 60462

T: (708) 349-3888

F: (708) 349-1506

www.ktjlaw.com

This newsletter is not to be construed as legal advice or a legal opinion under any circumstance. The contents are solely intended for general informative purposes, and the readers of this newsletter are strongly urged to contact their attorney with regard to any concepts discussed herein.

This newsletter may be deemed advertising under the laws of the Supreme Court of Illinois.

© 2019 Klein, Thorpe and Jenkins, Ltd.



- Employers are not prohibited from adopting reasonable zero tolerance, drug free workplace policies, or other drug-related policies provided the policies are applied in a nondiscriminatory manner
- Employers are not required to permit employees to be under the influence of or use cannabis in the workplace, or while performing job duties or while on call
- Employees may be disciplined for violating a workplace drug policy
- Driving under the influence of cannabis remains illegal, and law enforcement officials may use 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 625 ILCS 5/11-501 of the Vehicle Code or a similar local ordinance by drivers suspected of driving under the influence of cannabis
- The originally proposed broad expungement provisions for previous offenders have been considerably scaled back in the amended version of the Act

The Governor is expected to sign the legislation shortly. The Act will take effect on January 1, 2020. Between now and January, KTJ will work with its local government clients on policy decisions, code amendments, procedures and forms related to allowing and regulating and/or prohibiting cannabis business establishments, zoning issues, taxation issues, employment law issues, DUI and other enforcement issues, expungements and the other aspects of the Act subject to local control.

KTJ will continue to provide updates as the Act becomes law and begins to be implemented.

You can view the full text of HB 1438, as amended, here:

[Cannabis Regulation and Tax Act](#)