

Village Board Agenda Memo

Date: August 20, 2019
To: Village President and Board of Trustees
From: Julia Cedillo, Village Manager
RE: **Recreational (Adult Use) Cannabis Businesses**

PURPOSE

To obtain direction from the Village Board on the prohibition of cannabis businesses in La Grange Park.

BACKGROUND

On June 25, 2019, Governor Pritzker signed into law House Bill 1438, which allows the consumption of cannabis for nonmedicinal purposes (Public Act 101-0027 – the Cannabis Regulation and Tax Act). Illinois became the 11th state in the country to legalize the recreational use and purchase of cannabis. Starting January 1, 2020, adults 21 and older will be able to legally purchase cannabis (this includes cannabis concentrate, and tetrahydrocannabinol (THC) contained in cannabis-infused products) for recreational use from licensed Adult Use dispensaries across the state. Under the new law, dispensaries are eligible to receive their licenses by May 1st, 2020, while processors, growers and transporters are eligible by July 1st.

The new law will allow all Illinois adults aged 21 and older to possess up to 30 grams of cannabis. Those using cannabis for medical purposes would be allowed grow it at home, although recreational users are still prohibited from home growing. Personal cannabis use will be allowed in most private residences, but not in prohibited areas including any public place or in close physical proximity to underage persons.

Under the Act, no unit of local government may unreasonably prohibit *the use* of cannabis within their boundaries. However, the Act does allow local governments *to ban or significantly limit cannabis businesses* in their jurisdiction, including dispensaries, cultivation centers, craft growers, processing organizations, and transportation organizations. The new law does not impose a time limit or require a referendum to adopt these restrictions. Over the next few months, Illinois communities will decide whether they would like to “opt out”, as allowed by the Act. By opting out, communities are prohibiting recreational cannabis businesses and therefore not allowing the cultivation, processing, transportation and dispensing of recreational cannabis within their community. For communities that decide to not “opt-out” (or allow these businesses), various changes within the zoning and village code should be made prior to January 1, 2020. A draft Ordinance prohibiting cannabis business establishments is attached for the Village Board’s consideration.

CONSIDERATIONS

State Licensing for Dispensaries

Adult Use dispensaries will be licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling cannabis or cannabis products. Dispensaries are not allowed to have drive-through windows, vending machines, nor are they allowed to transport/deliver cannabis to residences or other locations. Under the Act, Adult Use dispensaries are allowed to operate between 6 a.m. and 10 p.m. (additional requirements for operation apply under the Act).

Medical Cannabis License Districts are based on State Police Districts, counties, or townships depending on where they are in the state. However, *Adult Use Cannabis Districts* are based on Bureau of Labor Statistics (BLS) Regions. La Grange Park is in the Chicago-Naperville-Elgin BLS region, which gets a total of 47 new licenses in

2020. Also, current medical cannabis dispensaries can open up a “secondary site” adult use licensed establishment within that BLS region. Current licensees cannot apply for a secondary site license in a town until that town has established zoning to allow Adult Use Sales. Only Medical Dispensaries will be legal sellers starting January 1, 2020. More Adult Use Dispensaries will be licensed mid-2020 and again in 2021. The schedule for licensing is below, as provided by the Department of Financial and Professional Regulation.

Schedule of Licensing (Statewide)

Type	Application Open	Application Due	Licenses Granted As early as	# Licenses Awarded
EARLY LICENSEES: Existing Medical Dispensary Licensees (N=55), Includes Same Sites and 2nd Sites*	August, 2019	March 17th, 2021	Can apply within 60 days of the Act; Granted within 14 days	110
EARLY LICENSEES: Existing Cultivation Organizations				22
1st WAVE: New Adult Use Only Conditional Dispensaries*	By October, 2019	January 1st, 2020	May 1st, 2020	75
1st WAVE: New Craft Growers, Infusers, and Transportation Conditional Licensees	By October, 2019	January 1st, 2020	July 1st, 2020	Craft Growers: 40 Infusers: 40
Social Equity Disparity Study Period - Study Released in Early 2021				
<i>Study will guide the crafting of additional rules and grading process.</i>				
2nd WAVE: New Adult Use Only Conditional Dispensaries*	Sometime in 2022		December, 2021	110
2nd WAVE: New Craft Growers, Infusers and Transportation Conditional Licensees	Sometime in 2022		December, 2021	Craft Growers: 60 Infusers: 60
Demand Study to be completed in June 2022 - to determine whether more markets need to be served (max is 500 Dispensary Licenses).				

* Once the Application has been submitted, applicants have 6 months to find/identify a location. This is also the case for 2nd Site Medical License Holders.

Additional information regarding the regulations for cultivation centers, craft growers, processing organizations, and transportation organizations is available in the attached FAQ Sheet.

Zoning

The new Act allows for local ordinances and rules governing the time, place, manner, and number of cannabis businesses consistent with the Act. The Act grants local governments broad authority to authorize and regulate privately-owned facilities where cannabis and cannabis products may be consumed on-site (i.e., “cannabis lounges”) similar to hookah lounges. Under the Act, a state-issued cannabis establishment license will be denied if the applicant would not be in compliance with local zoning rules. In addition, a local government may establish civil penalties for a violation of an ordinance or regulations governing the time, place and manner of the operation of a cannabis establishment.

Under the *Medical Cannabis Law*, for dispensaries, there exists a 1,000 ft. set back requirement from pre-existing schools and daycares. Additionally, the Law does not allow Medical Cannabis Dispensaries in buildings containing a residential dwelling, or in an area zoned exclusively for residential use. Our Village Code limits Medical Cannabis Dispensaries to the C-1 District as a Special Use and a security and operation plan is required.

Under the new Act for *Adult Use Dispensaries*, local governments are allowed to adopt reasonable zoning ordinances that do not conflict with the Act. The 1,000 ft. set back requirement from schools and daycares does not exist in the adult use program, but local governments can set their own restrictions. However, the Act specifically states that a dispensing organization may not be located within 1,500 feet from another dispensing organization.

Revenue

Under the Act, sales will be taxed by the State at 10% for THC levels at or less than 35%; 20% for cannabis infused products such as edibles; and 25% for THC concentrations of more than 35%. The Cannabis

Regulation Fund will transfer 8% of the state tax revenue to the Local Government Distributive Fund (LGDF), earmarked to fund 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.

Additionally, standard state and local sales tax also apply. Municipalities may add additional special taxes up to 3% (must be adopted by ordinance), and Cook County may add up to 3% in incorporated areas / municipalities. If imposed, the tax may only be imposed in 0.25% increments. The tax will be collected and enforced by the Department of Revenue (IDOR), which is entitled to retain 1.5% of the amount distributed to each municipality as an administrative fee. Any local tax ordinance approved by the local jurisdiction must be filed with IDOR by July 1 to be eligible to tax by September 1 (revenue would be received by November). These funds are not earmarked per the Act.

Law Enforcement

The Act provides municipalities with the authority to locally regulate possession and consumption of cannabis by citizens as long as consistent with the Act. As such, local governments can adopt the prohibitions and penalties of the Act into their Codes which will enable the enforcement and prosecution of personal possession and consumption violations through local adjudication or the circuit court.

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 the Motor Vehicle Code or a similar local ordinance by drivers suspected of driving under the influence of cannabis. The Act creates a DUI Cannabis Task Force to examine best practices for the enforcement of driving under the influence of cannabis and emerging technology in roadside testing. The Act creates statutory presumptions applicable to cannabis DUIs. According to Chief Contois, currently, no validated roadside tests are available for use by law enforcement in Illinois (i.e. no portable instrument for measure of cannabis/THC). The current process for proving level of impairment would be to perform a blood test. Driving under the influence of cannabis without these tests presents a challenge to roadside testing and law enforcement agencies.

NEXT STEPS

The Village should discuss whether we will allow cannabis businesses within our jurisdiction. The Act allows local governments to ban or significantly limit cannabis businesses in their jurisdiction, including dispensaries, cultivation centers, craft growers, processing organizations, and transportation organizations. If the Village Board approves an ordinance to prohibit cannabis businesses in La Grange Park, the Village may wish to consider a text amendment in the zoning code to make clear that these businesses are prohibited in every zoning district, subject to the direction of Village Attorney Cathy Keating.

MOTION / ACTION REQUESTED

This item is for discussion and action. If the Village Board wishes to prohibit Adult Use/recreational cannabis businesses in La Grange Park, a draft ordinance is attached for the Board's consideration at the August 27th Village Board Meeting.

Motion To Approve An Ordinance Amending Title XI Of The La Grange Park Municipal Code Amending Chapter 117 And Prohibiting Cannabis Business Establishments.

OTHER/FUTURE CONSIDERATIONS

In the coming months, the Village will continue to consider (1) policy choices to its municipal code with regard to public laws and regulations; (2) policy choices to internal workplace regulations; and (3) training to familiarize employees with the new regulations and policies.

DOCUMENTATION

- An Ordinance Amending Title XI Of The La Grange Park Municipal Code Amending Chapter 117 And Prohibiting Cannabis Business Establishments
- KTJ FAQ Sheet *(this document will be released in conjunction with the IML in September)*
- IML Adult Use Cannabis Resources
- Licensed Medical Cannabis Dispensaries (List)
- Dispensary Locations Map (Our Area)