



RIVER FOREST ZONING BOARD OF APPEALS MEETING AGENDA

A meeting of the River Forest Zoning Board of Appeals will be held on Thursday, October 17, 2019 at 7:30 P.M. in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

- I. Call to Order
- II. Approval of the Minutes from the meeting of the Zoning Board of Appeals on September 19, 2019
- III. Text Amendment Request – Public Hearing Regarding Proposed Amendments to the Village of River Forest Zoning Ordinance Regarding Certain Cannabis Business Establishments Operating Under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., as amended, and Medical Cannabis Establishments Under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1, et seq.
- IV. Variation Request – Public Hearing Regarding Major Variations to Sections 10-9-5 and 10-9-6 of the Zoning Ordinance (Floor Area Ratio and Building Height) at 535 Monroe Avenue
- V. Public Comment
- VI. Adjournment

**VILLAGE OF RIVER FOREST
ZONING BOARD OF APPEALS MEETING MINUTES
September 19, 2019**

A meeting of the Village of River Forest Zoning Board of Appeals was held at 7:30 p.m. on Thursday, September 19, 2019 in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

I. CALL TO ORDER

The meeting was called to order at 7:30 p.m. Upon roll call, the following persons were:

Present: Chairman Frank Martin, David Berni, Gerald Dombrowski, Ronald Lucchesi, Tagger O'Brien, and Joanna Schubkegel

Absent: Michael Smetana

Also Present: Secretary Clifford Radatz

II. APPROVAL OF AUGUST 8, 2019 ZONING BOARD OF APPEALS MEETING MINUTES

A MOTION was made by Member Lucchesi and SECONDED by Member Berni to approve the minutes of the August 8, 2019 Zoning Board of Appeals meeting.

Ayes: Members Berni, Dombrowski, Lucchesi, O'Brien, and Chairman Martin

Nays: None

Abstain: Member Schubkegel

Motion passed.

Member Schubkegel abstained because she was not in attendance at the August 8, 2019 meeting.

III. APPROVAL OF FINDINGS OF FACT FOR THE PROPOSED ZONING VARIATION FOR 842 HARLEM AVENUE FROM THE MEETING OF THE ZONING BOARD OF APPEALS OF AUGUST 8, 2019

A MOTION was made by Member Lucchesi and SECONDED by Member O'Brien to approve the Findings of Fact and recommendation for the proposed Zoning Variation for 842 Harlem Avenue from the meeting of the Zoning Board of Appeals on August 8, 2019.

Ayes: Members Berni, Dombrowski, Lucchesi, O'Brien, and Chairman Martin

Nays: None

Abstain: Member Schubkegel

Motion passed.

Member Schubkegel abstained because she was not in attendance at the August 8, 2019 meeting.

IV. PUBLIC COMMENT

None.

V. ADJOURNMENT

A MOTION was made by Member Lucchesi and SECONDED by Chairman Martin to adjourn the meeting at 7:37 p.m.

Ayes: Members Berni, Dombrowski, Lucchesi, O'Brien, Schubkegel, and Chairman Martin

Nays: None

Motion passed.

Respectfully Submitted:

Clifford Radatz, Secretary

Frank Martin, Chairman
Zoning Board of Appeals

Date: _____



Village of River Forest
Village Administrator's Office

400 Park Avenue
River Forest, IL 60305
Tel: 708-366-8500

MEMORANDUM

Date: October 7, 2019

To: Frank Martin, Chairman, Zoning Board of Appeals

From: Lisa Scheiner, Assistant Village Administrator

Subj: Recreational Cannabis Business Establishments – Proposed Text Amendments

ISSUE: Governor Pritzker recently signed House Bill 1438, known as the Cannabis Regulation and Tax Act (CRTA), which allows cannabis to be sold at licensed facilities, and consumed for recreational purposes for adults age 21 and over. These changes will become effective January 1, 2020. The CRTA includes a number of provisions that impact municipalities. Further, recent changes to the Compassionate Use of Medical Cannabis Program Act (CUMCPA) also require text amendments to the Zoning Ordinance. The purpose of the October 17, 2019 public hearing is for the Zoning Board of Appeals to consider the Village's petition to amend the Zoning Ordinance in response to these recent statutory changes.

This hearing has been advertised on the Village's website for several weeks, a legal notice was published at the Village Hall, on the Village website and in the *Wednesday Journal* 15 days prior to the hearing. It was also announced in the Village's October e-newsletters and via social media.

PETITION: Pursuant to Section 10-5-5 of the River Forest Zoning Ordinance, the Village Board of Trustees has petitioned the Zoning Board of Appeals to consider text amendments to amend the following sections of the Zoning Ordinance to add definitions for cannabis business establishments and allow the limited operation of Cannabis Business Establishments (CBEs) in the Village of River Forest subject to the following limitations, in addition to limitations which the Zoning Board of Appeals and/or Village President and Board of Trustees may determine are appropriate:

- Chapter 10-3 (Definitions)
- Chapter 10-7 (Regulations of General Applicability)
- Chapter 10-12 (C1 Commercial Zoning District)
- Chapter 10-13 (C2 Commercial Zoning District)
- Chapter 10-14 (C3 Central Commercial Zoning District)
- Chapter 10-15 (ORIC Office/Research/Industrial/Commercial Zoning District)
- Chapter 10-21 (Land Use Chart)

The additions and amendments to the Village of River Forest Zoning Ordinance include, but are not be limited to, those described above, along with, defining cannabis business establishments and medical cannabis establishments, establishing additional reasonable time, place and manner restrictions, distance limitations, or other limitations on the operations of cannabis business establishments and medical cannabis establishments as allowed under the CRTA and/or the CUMCPA, and such other regulations as the Zoning Board of Appeals and/or Village President and Board of Trustees may determine are appropriate. Proposed amendments to the

Zoning Ordinance are set forth below. Deletions to existing language in the Zoning Ordinance are stricken through and additions are underlined.

Amendment One: Section 10-3-1 of the Zoning Ordinance, entitled “Definitions of Words and Terms,” is amended to add the following definitions:

- “CANNABIS: “Cannabis” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended.
- CANNABIS BUSINESS ESTABLISHMENT: A medical cannabis cultivation center, medical cannabis dispensary, recreational cannabis craft grower, recreational cannabis cultivation center, recreational cannabis dispensary, recreational cannabis infuser, recreational cannabis processor and / or recreational cannabis transporter.
- MEDICAL CANNABIS CULTIVATION CENTER: A “cultivation center” as defined in the Illinois Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, et seq.), as amended.
- MEDICAL CANNABIS DISPENSARY: A “dispensary organization” as defined in the Illinois Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, et seq.), as amended.
- RECREATIONAL CANNABIS CRAFT GROWER: A “craft grower,” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended.
- RECREATIONAL CANNABIS CULTIVATION CENTER: A “cultivation center,” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1 et seq.), as amended.
- RECREATIONAL CANNABIS DISPENSARY: A “dispensary,” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended.
- RECREATIONAL CANNABIS INFUSER: An “infuser” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended.
- RECREATIONAL CANNABIS PROCESSOR: A “processor,” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended.
- RECREATIONAL CANNABIS TRANSPORTER: A “transporter,” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended.”

Amendment Two: Section 10-7-5 of the Zoning Ordinance, entitled “Cannabis Business Establishments,” is hereby created and shall read as follows:

“A. Cannabis Consumption Prohibited: Consumption of cannabis, in any form, is prohibited on the premises of cannabis business establishments.

B. Compliance Required:

1. Cannabis business establishments, their “principal officers,” as defined and referred to in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1, et seq.), as amended, and the Illinois Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, et seq.), as amended, their agents and their employees shall strictly comply with all laws, regulations, ordinances and directives of the State and the Village, including, but not limited to, licensing requirements, registration requirements, operations requirements, zoning approvals, special use conditions and zoning requirements, including lot size, building height, lot coverage, setbacks, stormwater management, public utilities and parking.
2. No cannabis business establishment may operate in the Village without first receiving all the approvals required for the operation of the cannabis business establishment, including, but not limited to, from the Village, the Illinois Department of Financial and Professional Regulation and the Illinois Department of Agriculture. Proof of receipt of all required approvals must be provided to the Village Administrator prior to operation of a cannabis business establishment.

C. Distance Requirements: Cannabis business establishments shall comply with all distance requirements, both in State law and the following:

1. A medical cannabis dispensary, recreational cannabis dispensary and a recreational cannabis craft grower shall not be located within one hundred (100) feet of a pre-existing public or private preschool or elementary or secondary school, measured from lot line to lot line.

2. A recreational cannabis dispensary shall not be located within one thousand five hundred (1,500) feet of an existing medical cannabis dispensary or recreational cannabis dispensary, measured from lot line to lot line.
3. A recreational craft grower shall not be located within one thousand five hundred (1,500) feet of an existing recreational craft grower or medical cannabis cultivation center, measured from lot line to lot line.
4. A medical cannabis cultivation center shall not be located within two thousand five hundred (2,500) feet 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, measured from lot line to lot line.

D. Limitations on Number of Establishments:

1. There shall be no more than () recreational cannabis dispensaries in the Village at any given time.
2. There shall be no more than () recreational cannabis craft growers in the Village at any given time.

E. Hours of Business: Unless different hours of business are included in a special use permit or planned development for a cannabis business establishment, a cannabis business establishment may only be operated between the hours of AM and PM.

F. Required Reports: A cannabis business establishment shall provide the Village Administrator with any notices of violation, orders and correspondence related to alleged or proven violations by the cannabis business establishment, its principal officers, its agents or its employees sent by the Illinois Department of Financial and Professional Regulation or the Illinois Department of Agriculture. A cannabis business establishment shall provide the Village Administrator with the materials within two (2) business days of the cannabis business establishment's receipt of the materials."

Amendment Three: Section 10-21-1 of the Zoning Ordinance, entitled "Land Use Chart," is amended to read as follows:

"The land use chart contained in Appendix A, set out in Section 10-21-3 of this Chapter indicates what the permitted, prohibited and special uses and planned developments required are in each of the zoning districts established by this zoning title. When a use is not specifically listed as a prohibited, permitted, special or planned development use in the land use chart in Appendix A, such use is hereby prohibited."

Amendment Four: Section 10-21-3, Appendix A, of the Zoning Ordinance, entitled "Land Use Chart," is amended to add the following items to the Land Use Chart¹:

Under the "Retail Trade" heading:

| Land Use | R1 and R2 | R3 | R4 | C1 | C2 | C3 | ORIC | PRI |
|----------------------------------|-----------|----|----|----|----|----|------|-----|
| Medical cannabis dispensary | N | N | N | S | S | S | S | N |
| Recreational cannabis dispensary | N | N | N | S | S | S | S | N |

Under the "Industrial" heading:

| Land Use | R1 and R2 | R3 | R4 | C1 | C2 | C3 | ORIC | PRI |
|--|-----------|----|----|----|----|----|------|-----|
| Medical cannabis cultivation center | N | N | N | S | S | S | S | N |
| Recreational cannabis craft grower | N | N | N | S | S | S | S | N |
| Recreational cannabis cultivation center | N | N | N | N | N | N | N | N |
| Recreational cannabis infuser | N | N | N | N | N | N | N | N |
| Recreational cannabis processor | N | N | N | N | N | N | N | N |
| Recreational cannabis transporter | N | N | N | N | N | N | N | N |

¹ Within the Land Use Chart, "N" is a non-permitted use, "S" is a special use", "P" is a permitted use, and "PD" is a planned development

ANALYSIS: The CRTA, which will become effective January 1, 2020, establishes regulations regarding the cultivation, distribution, possession and consumption of recreational cannabis. The CRTA allows municipalities to determine whether recreational cannabis CBEs are a permitted, conditional (special), or prohibited use within their corporate boundaries.

The CUMCPA (formerly CUMCPPA), which became effective January 1, 2014, established regulations regarding the cultivation, distribution, possession and consumption of medical cannabis. The CUMCPA allows municipalities to determine whether medical cannabis CBEs are permitted or conditional (special) uses within their corporate boundaries, but municipalities may not prohibit the use. The Village of River Forest land use chart and Zoning Ordinance are currently silent on the matter. Until recently, no medical CBE could locate in River Forest given location restrictions in the CUMCPA. Specifically, the CUMCPA stated that cultivation centers could not locate within 2,500 feet of the property line of an existing public/private preschool, elementary or secondary schools, daycare centers, daycare homes, childcare facilities, or areas zoned for residential use. Further, dispensing organizations could not locate within 1,000 feet of the property line of an existing public/private preschool, elementary or secondary schools, daycare centers, daycare homes, childcare facilities, or in a house, apartment, condominium, or an area zoned for residential use. Amendments to the CUMCPA that took effect in August, 2019, eliminated mandatory distance requirements for all medical cannabis dispensaries registering after July 1, 2019.

Given the recent statutory changes, it is appropriate for the Zoning Board of Appeals to address the issue of both medical and recreational CBEs through this text amendment process.

Location Regulations: The Village has the authority to establish local regulations regarding the location of a CBE, provided those regulations do not conflict with the state's minimum requirements.

Under the State's regulations, CBEs may only be located on properties zoned for commercial use. The Village's commercially zoned areas consist of Madison Street (C2 Commercial District), Lake Street (primarily the C3 Central Commercial District West of Lathrop and the ORIC District East of Lathrop), North Avenue (C1 Commercial District) and Harlem Avenue (select properties are located in the C2 Commercial District).

Further, the State has established a requirement that there must be a minimum distance of 1,500 feet between CBEs (measured from property line to property line) and this restriction crosses municipal corporate boundary lines. There is currently a medical dispensary in Oak Park on Lake Street, east of Harlem Avenue that is applying to hold a recreational license as well. As a result, a CBE could not currently be located in Town Center because it is within 1,500 feet of another dispensary.

As noted earlier, the State's amendments to the CUMCPA removed the mandatory distance requirements between medical CBEs and certain uses that the state defined as "sensitive". The CRTA gives each municipality the authority to define "sensitive uses" and to establish mandatory distance requirements between those uses and CBEs. Staff recommends that the Village establish minimum distance requirements between CBEs and "sensitive uses" and that those "sensitive uses" be defined as preschools, elementary schools, and secondary schools. Please note that the Village's current liquor restrictions prohibit anyone from holding a liquor license within 100 feet of a school (measured from property line to property line) and 100 feet from a church (measured building to building). Practically speaking, the churches that are currently located near the commercial zoning districts where CBEs could be located also operate schools, so defining schools as a "sensitive use" could also incorporate those churches.

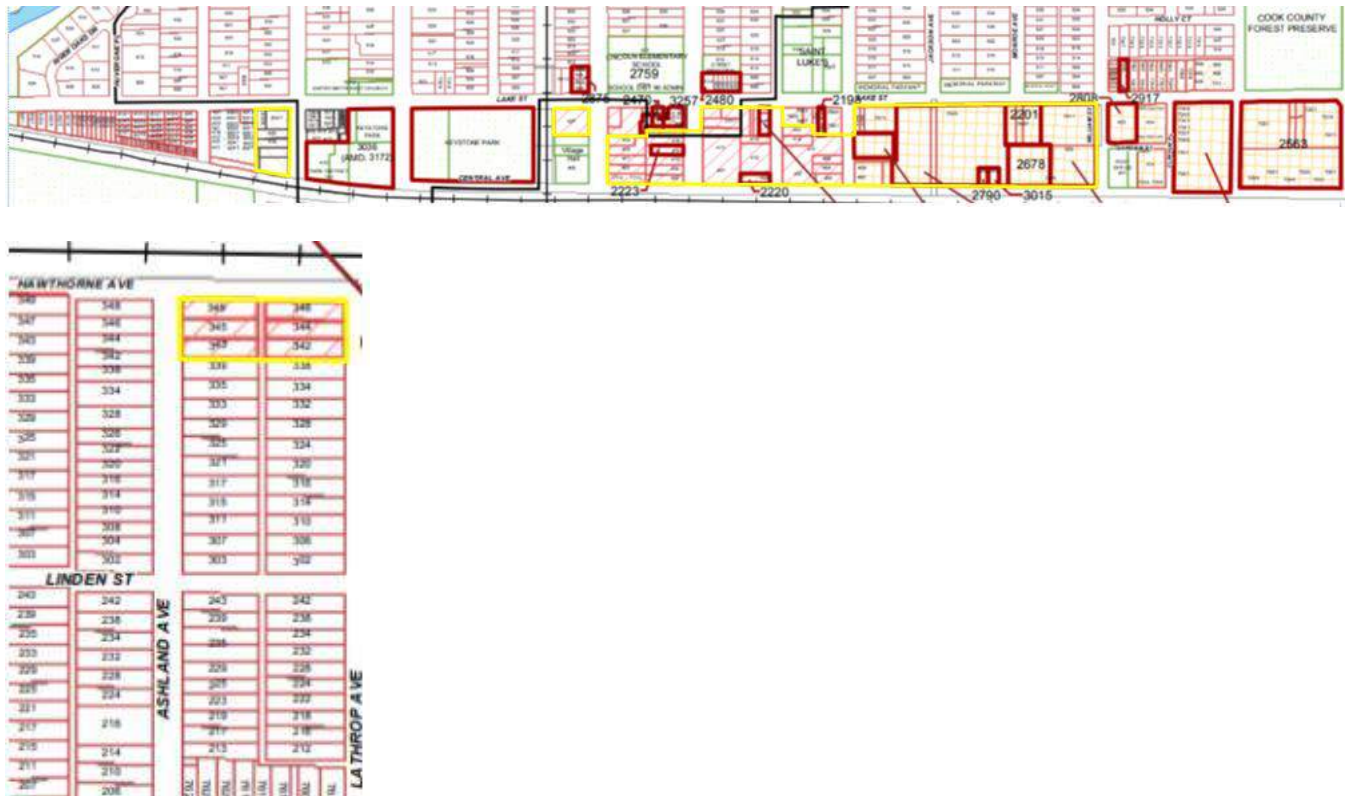
The following maps demonstrate where a CBE could be located in River Forest if the Village implements the mandatory distance requirement recommended above. The maps demonstrate that there are no commercial properties on Harlem Avenue where a CBE could be located for the foreseeable future. There are locations on Madison Street, North Avenue, and Lake Street where a CBE could be located, however, the proximity restrictions and limited licenses available under the CRTA, as well as market realities, make it unlikely the Village

would have more than a few CBEs located within its boundaries. Properties inside the yellow boundaries indicate locations where a CBE could be located.

North Avenue Corridor²



Lake Street Corridor (including Lathrop south of the tracks)³



² The North Avenue commercial corridor is approximately 4,900 feet from Thatcher to Harlem. The distance between Thatcher and west of St. Vincent's is approximately 2,300 feet. The distance between Harlem and east of Keystone Montessori is approximately 1,190 feet.

³ The Lake Street commercial corridor measures approximately 5,600 feet from west of Thatcher to Harlem, and 4,300 feet from West of Thatcher to William. A CBE cannot currently be located in the Town Center (Lake Street east of William) due to the location of an existing dispensary in at 1132 Lake Street in Oak Park. There is a small commercially zoned pocket south of Hawthorne between Ashland and Lathrop. However, these properties are approximately 200 feet south of Lake. Under the CRTA, a dispensary located on Lake Street would likely prohibit a CBE on these properties because no two CBEs can be within 1,500 feet of each other.

Madison Street Corridor⁴



Harlem Avenue Corridor⁵



⁴ The Madison Street commercial corridor measures approximately 2,390 feet from the alley between Gale and Keystone east to Lathrop.

⁵ There are no commercially zoned properties on Harlem Avenue that could accommodate a CBE for the foreseeable future. The area south of Oak is within 1,500 feet of the dispensary in Oak Park, meaning that a dispensary could not currently be located

The recommended mandatory distance requirements, in addition to the State's distance requirements and zoning district restrictions, result in a limited number of locations within the Village's commercial zoning districts where CBEs could be located. Further, the Zoning Board of Appeals could recommend a limit on the maximum number of CBEs that would be allowed in River Forest.

Use Regulations: The Village has the authority to determine which types of CBE uses may be located in River Forest's commercially zoned districts. The State has established the following general use categories:

- Cultivation Center: facilities up to 210,000 square feet of canopy space where plants are cultivated, processed, and transported to provide cannabis and cannabis-unfused products to other CBEs;
- Craft Grower: facilities up to 14,000 square feet where adult use cannabis is cultivated, dried, cured, and packaged for sale at a dispensing or processing location;
- Dispensing Organization: facilities where adult use cannabis is acquired from a craft grower, cultivation center, or another dispensary, for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies to purchasers.

The state will also issue licenses for infuser organizations and transporter organizations, however, those licenses will likely be ancillary to the cultivation centers, craft growers and dispensaries and not standalone facilities.

The Village Board of Trustees has petitioned the Zoning Board of Appeals to consider amendments to the Zoning Ordinance that would allow craft growers and dispensing organizations as special uses in the commercial zoning districts. The Village's special use process recognizes that there are certain types of uses which, because of their specific characteristics or the services which they provide, should not be permitted without consideration of the impact of the use upon neighboring land owners. The Special Use process allows the Zoning Board of Appeals to recommend and the Village Board of Trustees to attach conditions to the approval. Conditions may include, but are not limited to restrictions on size, bulk, location, landscaping, signage, outdoor lighting, odor control, security, parking, ingress and egress, hours of operation, restrictions on the visibility of product displays, and other conditions that are deemed necessary to have the proposed use meet the standards set forth in the Zoning Ordinance and prevent or minimize adverse impacts on other properties in the immediate vicinity. The Special Use process also allows all Village Departments, including public safety, to review the application and recommend conditions of approval. For informational purposes, a copy of the Special Use Process flowchart is attached.

Please note that the CRTA establishes certain operating restrictions on dispensaries including the following: they may only operate between the hours of 6:00 a.m. and 10:00 p.m., there must be at least two employees on site at all times, they may not operate when video surveillance, point-of-sale equipment, and the State's electronic verification system are inoperative, they may not have drive-through windows or vending machines, and they may not transport or deliver cannabis to residences or other locations where a purchaser may be located. There are restrictions on what they can sell (alcohol is prohibited except tinctures), how products must be packaged, what steps they must take before cannabis is sold or dispensed, and more. Further, within the proposed text amendments or through the Special Use review process, the Zoning Board of Appeals would have an opportunity to recommend additional restrictions on CBE operations, including, for example, a greater limitation on the hours of operation.

Finally, the Village can determine whether or not it will permit consumption of cannabis in a "smoking lounge" inside a CBE. Industry trends do not require that CBEs include a "smoking lounge" to be successful. The Village Board recommends that the Zoning Ordinance be amended to prohibit smoking lounges and on-site consumption at CBEs.

there. Although the properties at 800 Harlem Avenue are commercially zoned and more than 1,500 feet away from another CBE, this is the site of The Sheridan senior living building that is under construction. Finally, the distance between Chicago and Oak Avenues is less than 1,500 feet, so two dispensaries could not be located on Harlem Avenue under the CRTA's regulations.

Financial Analysis: Regardless of whether or not the Village permits or prohibits CBEs, the Village may see an increase in public safety calls for service. However, based on the initial research conducted, the Village does not anticipate a need to hire additional personnel as a result of the CRTA or amendments to the CUMCPA.

The Village will receive revenue on a per capita basis as a result of recreational cannabis sales through the State of Illinois regardless of whether or not CBEs are allowed to locate in River Forest. These funds must be earmarked for law enforcement purposes. The Illinois Municipal League (IML) typically provides the Village with per capita revenue estimates for all monies that are distributed through the Local Government Distributive Fund (e.g. motor fuel tax revenues). The IML has not yet projected annual per capita cannabis revenue.

In addition to the per capita revenue, the River Forest Village Board of Trustees recently approved an ordinance imposing a 3% excise tax, in addition to sales tax, on potential future cannabis sales in River Forest. No funds will be collected if a CBE is not located in River Forest however, if revenue is generated, these funds need not be restricted only to local law enforcement. For every \$1 million in annual sales at a dispensary, the Village would receive \$50,000 in revenue (\$30,000 from the excise tax, \$10,000 from state sales tax and \$10,000 in non-home rule sales tax). The Village adopted the Ordinance imposing this tax to meet certain Department of Revenue deadlines and this action did not amend the Zoning Ordinance.

The Illinois Economic Policy Institute (IEPI) drafted the attached report in November, 2018, with discussion regarding the potential financial impacts of legalizing recreational cannabis. This report examines revenues generated in Colorado to estimate potential revenue in Illinois. Based on this report, total estimated annual sales in Illinois could reach approximately \$1,616,200,000. Under the State's current regulatory structure, there are up to 185 potential dispensaries that will be licensed in Illinois, resulting in estimated annual sales of \$8,736,216. As shown in the table below, this could result in \$436,810.80 per dispensary in new revenue to the Village of River Forest.

Cannabis Sale Revenue Estimates

| | |
|---------------------------------|-----------------|
| Total Annual Sales (State-wide) | \$1,616,200,000 |
| # of Potential Dispensaries | 185 |
| Annual Sales Per Dispensary | \$8,736,216 |
| 3% Cannabis Excise Tax | \$262,086.48 |
| 1% State Sales Tax | \$87,362.16 |
| 1% Non-Home Rule Sales Tax | \$87,362.16 |
| Total Revenue Per Dispensary | \$436,810.80 |

The Village has not yet determined how this additional revenue would be utilized specifically. However, the annual budget process allows the Village Staff and Board of Trustees to make decisions about how to fund operations in a manner that protects public safety, stabilizes property taxes, and strengthen property values.

ATTACHMENTS:

- Legal Notice – October 2, 2019
- Special Use Process Flowchart & Ordinance
- August 26, 2019 Village Board of Trustees Regular Meeting materials (available online: [audio recording](#)):
 - Village of River Forest - Frequently Asked Questions (FAQs)
 - Klein Thorpe Jenkins - Frequently Asked Questions (FAQs) and PowerPoint Materials
 - Adult-Use Cannabis Informational Resources, Illinois Municipal League
 - Staff PowerPoint Presentation
- September 9, 2019 6 p.m. Committee of the Whole Meeting materials (available online: [audio recording](#), [video recording](#); [audio recording](#) of the 7 p.m. Board of Trustees Regular Meeting is also available online):
 - Staff PowerPoint Presentation
- The Financial Impact of Legalizing Marijuana in Illinois, Illinois Economic Policy Institute
- Local Impacts of Commercial Cannabis, International City/County Managers Association

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**PUBLIC NOTICES****PUBLIC NOTICES**

PUBLIC HEARING NOTICE ZONING BOARD OF APPEALS RIVER FOREST, ILLINOIS

Public Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals of the Village of River Forest, Cook County, Illinois, on Thursday, October 17, 2019 at 7:30 p.m. in the First Floor Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois, to consider amendments to the Village's Zoning Ordinance which include, but may not be limited to, the following:

Additions and amendments to Chapters 10-3 (Definitions), 10-7 (Regulations of General Applicability), 10-12 (C1 Commercial Zoning District), 10-13 (C2 Commercial Zoning District), 10-14 (C3 Central Commercial Zoning District), 10-15 (ORIC Office/Research/Industrial/Commercial Zoning District) and 10-21 (Land Use Chart), to allow the limited operation in the Village of River Forest of certain cannabis business establishments operating under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., as amended ("CRTA"), and medical cannabis establishments under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1, et seq., as amended ("CUMCPPA"), subject to the following limitations, in addition to those limitations which the Zoning Board of Appeals and/or Village President and Board of Trustees may determine are appropriate:

A. Cannabis dispensaries and cannabis craft growers operating under the CRTA may be located in the Village of River Forest as a special use in the C1 Commercial Zoning District, C2 Commercial Zoning District, C3 Central Commercial Zoning District and the ORIC Office/Research/Industrial/Commercial Zoning District.

B. Cannabis cultivation centers, cannabis processing organizations and cannabis transporting organizations are prohibited from operating in the Village of River Forest.

C. Medical cannabis dispensaries and medical cannabis cultivation centers operating under the CUMCPPA may be located in the Village of River Forest as a special use in the C1 Commercial

Zoning District, C2 Commercial Zoning District; C3 Central Commercial Zoning District and the ORIC Office/Research/Industrial/Commercial Zoning District.

D. Consumption of cannabis shall not be permitted on the premises of any cannabis business establishment or medical cannabis establishment.

The additions and amendments to the Village of River Forest Zoning Ordinance include, but are not limited to, those described above, along with, defining cannabis business establishments and medical cannabis establishments, establishing additional reasonable time, place and manner restrictions, distance limitations, or other limitations on the operations of cannabis business establishments and medical cannabis establishments as allowed under the CRTA and/or the CUMCPPA, and such other regulations as the Zoning Board of Appeals and/or Village President and Board of Trustees may determine are appropriate.

The petitioner for the Text Amendments is the Village President and Board of Trustees.

This public hearing is being held pursuant to direction given by the Village President and Board of Trustees for the Zoning Board of Appeals to consider these amendments. For additional information visit www.vrf.us. All interested persons will be given the opportunity to be heard at the public hearing. For public comments to be considered by the Zoning Board of Appeals and Village Board of Trustees in their decision, they must be included as part of the public hearing record at the hearing before the Zoning Board of Appeals.

For further information or for a copy of the proposed text amendments, please contact Assistant Village Administrator Lisa Scheiner at (708) 714-3554 or at lscheiner@vrf.us or visit www.vrf.us.

Sincerely,
Clifford Radatz
Secretary, Zoning Board of Appeals

Published in Wednesday Journal
10/2/2019

PUBLIC NOTICES**PUBLIC NOTICES****PUBLIC NOTICES**

LEGAL NOTICE FOREST PARK PUBLIC LIBRARY ADVERTISEMENT FOR BIDS Bid Package #01 – Library Furniture

Sealed bids will be received by the Board of Library Trustees of the Village of Forest Park from Furniture Contractors for FF&E at the Forest Park Public Library, 7555 Jackson Blvd, Forest Park, IL 60130. Sealed bids will be received on or before, but not after 10:00 AM on Wednesday October 9, 2019 at the Forest Park Public Library, 7555 Jackson Blvd, Forest Park, IL 60130. Bids received after that time will not be considered. All Bids shall be addressed and delivered to the circulation desk inside the building on or before the time set forth above. Sealed envelopes or packages containing the Bid Forms shall be transmitted to the attention of the "Library Director" and shall be marked or endorsed with the title of Sealed Bid for Bid Package #01-Library Furniture and the Bidder's full legal name. The bids will be publicly opened and read aloud in the Teen Service Room at 10:00 AM on Wednesday October 9, 2019. Bids shall be submitted in the form and manner contained in the Bidding Requirements.

Contractors may obtain copies of the Bidding Documents from Williams Architects, 500 Park Blvd, Suite 800, Itasca, IL 60143 cakotera@williams-architects.com or by calling 630-221-1212.

Each bid must be accompanied by a bid bond or a cashier's check in the amount of 10% of the total bid, made payable to Forest Park Public Library, as a guarantee that the successful bidder will promptly execute a satisfactory contract, will furnish a satisfactory performance bond and payment bond and proceed with the work. Upon failure to do so, the bidder shall forfeit the amount deposited as liquidated damages and no mistakes, errors, exclusions, or omissions on the part of the bidder shall excuse the bidder or entitle the bidder to a return of the aforementioned amount.

No bid will be considered unless the bidder shall furnish evidence satisfactory to the Board of Trustees that the bidder has the necessary facilities, abilities, experience, equipment, financial and physical resources available to fulfill the conditions of the Contract and execute the work, should the Contract be awarded such bidder.

Bidders will examine the plans and specifications and the location in which said work is to be done and judge for themselves all the circumstances and surrounding known and reasonably foreseen conditions affecting the cost and nature of the work, and all bids will be presumed to be based on such examination, familiarity, and judgment.

The successful bidder shall be required to provide a Performance Bond and a Material and Labor Payment Bond in the amount of 100% of the Contract Amount, as well as liability and property insurance as required by the Bidding Requirements before commencing work.

The successful bidder shall enter into a formal contract based on the conditions and requirements in the Bidding Requirements and the Bidding Requirements will be incorporated into the Contract.

Not less than the prevailing wage shall be paid for labor on the work to be done as required by law.

The successful bidder will be required to comply with the provisions of all State of Illinois and federal laws concerning public works projects as well as the State of Illinois Human Rights Act and the regulations of the Illinois Human Rights Commission.

The Board of Trustees reserves the right to reject any and all bids, and to waive any technicalities and irregularities in the bidding and to hold the bid proposals for a period of ninety (90) days from the date of opening set forth above.

Questions about the bid documents should be submitted, in writing, to Carrie Kotera, Williams Architects at cakotera@williamsarchitects.com.

By order of the Board of Trustees of the Forest Park Public Library, Cook County, Illinois.
Dated at Forest Park, Illinois this 25th day of September 2019.

Pilar Shaker, Library Director

Published in Forest Park Review
9/25, 10/2/2019

LEGAL NOTICE ZONING BOARD OF APPEALS RIVER FOREST, ILLINOIS

Public Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals (ZBA) of the Village of River Forest, County of Cook, State of Illinois, on Thursday, October 17, 2019 at 7:30 p.m. in the First Floor Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois on the following matter:

The ZBA will consider an application for major zoning variations submitted by Bayard & Michele Elfin, owners of the property at 535 Monroe Avenue, who are constructing an addition onto the existing home.

The applicants are requesting major variations to Sections 10-9-5 and 10-9-6 of the Zoning Ordinance for the purpose of allowing the attic addition to remain which had been inadvertently constructed in violation of the Floor Area and Building Height regulations.

As constructed, the attic includes approximately 474 square feet of area which is defined as Floor Area by the Zoning ordinance, increasing the floor area ratio to 0.454. Section 10-9-5 (10-9-5) of the Zoning ordinance limits the floor area ratio to a maximum of 0.40.

As constructed, the knee walls at the north and south sides of the attic are approximately 3'-4" high. The definition of "Half Story" from section 10-3-1 of the Zoning ordinance limits the height of perimeter knee walls to 2 feet, and any level which exceeds the limits of the definition is considered to be a full story.

Consequently, the attic level is considered to be a third story. Section 10-9-6 (10-9-6) of the Zoning ordinance limits the height of buildings to two and one-half stories.

The legal description of the property at 535 Monroe Avenue is as follows: LOT 18 IN BLOCK 6 IN THE SUBDIVISION OF THE NORTH 600 FEET OF BLOCK 6 AND BLOCK 13 (EXCEPT LOT 1 IN THE COUNTY CLERK'S DIVISION OF SAID BLOCK 13) IN QUICK'S SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF LAKE STREET, IN COOK COUNTY, ILLINOIS.

A copy of the application and meeting agenda will be available to the public at Village Hall and on the Village's website at www.vrf.us / zoningvariation no less than 15 days prior to the public hearing. The Zoning Board of Appeals meeting packet will also be available at www.vrf.us/meetings no less than 48 hours prior to the public hearing. All interested persons will be given the opportunity to be heard at the public hearing. For public comments to be considered by the Zoning Board of Appeals and Village Board of Trustees in their decision, they must be included as part of the public hearing record. Interested persons can learn more about how to participate in the hearing by visiting www.vrf.us/zoningvariation.

Sincerely,
Clifford Radatz
Secretary, Zoning Board of Appeals

Published in Wednesday Journal
10/2/2019

**LEGAL NOTICE**

The Village of Oak Park is soliciting
Request for Proposals
Solicitation # 19-P787:
2019 PARKING LOT
IMPROVEMENTS

For further information or a copy of the Request for Proposal contact:
Parking and Mobility Services
Division
Village of Oak Park,
123 Madison Street,
Oak Park, Illinois, 60302
Tel.: 708/358-7275, Ext 5752
E-mail: parking@oak-park.us

Published in Wednesday Journal
10/2/2019

PUBLIC NOTICE

Notice is hereby given, pursuant to "An Act in relation to the use of an Assumed Business Name in the conduct or transaction of Business in the State," as amended, that a certification was registered by the undersigned with the County Clerk of Cook County. Registration Number: Y19002194 on September 18, 2019 Under the Assumed Business Name of ALAN FOX CONSULTING with the business located at: 747 S HARVEY AVE, OAK PARK, IL 60304. The true and real full name(s) and residence address of the owner(s)/partner(s) is: ALAN FOX, 747 S HARVEY AVE, OAK PARK, IL 60304.

Published in Wednesday Journal
9/25, 10/2, 10/9/2019

Certificate of the Publisher

Wednesday Journal, Inc. certifies that it is the publisher of the Wednesday Journal. Wednesday Journal is a secular newspaper, has been continuously published weekly for more than fifty (50) weeks prior to the first publication of the attached notice, is published in the City/Village of River Forest, County of Cook, Township of River Forest, State of Illinois, is of general circulation throughout that county and surrounding area, and is a newspaper as defined by 715 ILCS 5/5.

A notice, a true copy of which is attached, was published one time(s) in Wednesday Journal, namely one time per week for one successive weeks. The first publication of the notice was made in the newspaper, dated and published on October 2, 2019, and the last publication of the notice was made in the newspaper dated and published on October 2, 2019. The notice was also placed on a statewide public notice website as required by 715 ILCS 5/2.1.

In witness, the Wednesday Journal, Inc. has signed this certificate by Dawn Ferencak, its publisher, at Oak Park, Illinois, on October 2, 2019.

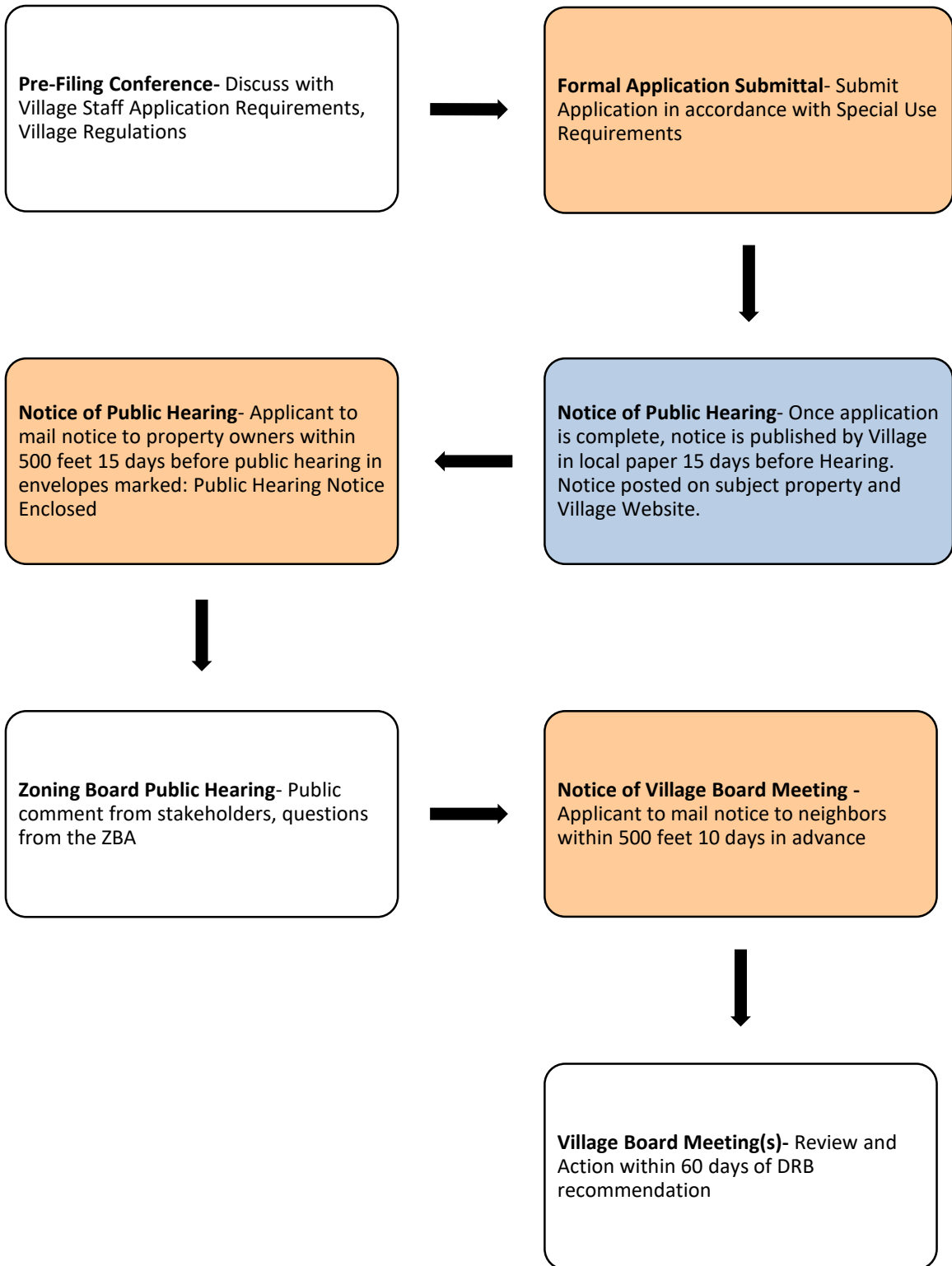
Wednesday Journal, Inc.

By: Dawn Ferencak

Dawn Ferencak

Publisher

Village of River Forest Special Use Permit Process



Applicant Responsibility

Village Responsibility

Meeting Dates

ZBA – 2nd Thursdays

VB – 2nd & 4th Mondays



Village of River Forest

Village Administrator's Office

400 Park Avenue
River Forest, IL 60305
Tel: 708-366-8500

MEMORANDUM

Date: August 23, 2019

To: Eric Palm, Village Administrator

From: Lisa Scheiner, Assistant Village Administrator

Subj: Recreational Cannabis Business Establishments

Issue: Governor Pritzker recently signed House Bill 1438, known as the Cannabis Regulation and Tax Act (CRTA), which allows cannabis to be sold at licensed facilities, and consumed for recreational purposes for adults age 21 and over. These changes will become effective January 1, 2020. The CRTA includes a number of provisions that impact municipalities. The purpose of the Village Board discussion on August 26th will be to discuss the main policy question before the Village Board of Trustees:

- *Should the Village of River Forest ban the sale of recreational cannabis in River Forest and all recreational cannabis business establishments within its corporate boundaries?*

- OR -

- *Should the Village of River Forest explore allowing the sale of cannabis and the location of cannabis business establishments within its corporate boundaries?*

Analysis: Please note the following items, which are addressed in greater depth in the attached documents. State law:

- Does not allow the Village to ban cannabis use or possession within its boundaries (medical or recreational) but does allow the enforcement of applicable state and local laws.
- Limits the amount of cannabis an individual may possess and where they may possess it; recreational cannabis possession is not allowed for individuals under the age of 21 and medical cannabis is only allowed for individuals who qualify.
- Limits where cannabis may be consumed. For example, it may not be consumed in public places, in locations where smoking is prohibited by the Smoke Free Illinois Act, and knowingly in proximity to individuals under the age of 21.
- Imposes certain minimum restrictions on the location and operation of cannabis business establishments. For example, they must be located at least 1,500 feet from each other, they cannot be located on properties zoned for residential use, they may not operate if staffing,

video monitoring, and other conditions are not met, they may not have a drive-through window, etc.

- Allows the Village to enact additional local ordinances to prohibit or limit a recreational cannabis business establishment's location, impose restrictions on the process that must be followed to locate a business in River Forest, and to impose restrictions on a business's operations. Earmarks certain revenue collected from cannabis sales for local law enforcement activities, regardless of whether River Forest permits or prohibits cannabis business establishments within its boundaries. If permitted, the law also allows the Village to impose a local tax on these businesses.
- Allows property owners to prohibit the growth and use of cannabis on their properties.
- Allows individuals who are registered with the State's medical cannabis program to grow up to five cannabis plants. The Village does not have the authority to stop this, but may enforce certain regulations regarding the location and security of home grown plants.
- Allows the Village to require a safe, drug-free workplace to protect employee and public safety.

Should the Board decide to ban the sale of recreational cannabis, an Ordinance will need to be adopted before January 1, 2020 prohibiting cannabis business establishments from locating in River Forest.

Should the Board decide to explore allowing the sale of recreational cannabis, the Board should hold a public meeting on September 9, 2019 prior to its regular meeting, to take public comment on the matter. Following that discussion, if the Board chooses to proceed to continue exploring allowing cannabis sales, the Board will need to:

- Direct the Zoning Board of Appeals to hold a public hearing in October to consider possible text amendments to the Zoning Ordinance that would identify what process would be used to locate a cannabis business establishment in River Forest (e.g. Special Use) as well as any other appropriate zoning restrictions. The Zoning Board's recommendation would be presented to the Village Board of Trustees in late November for a final decision.
- Pass an Ordinance imposing a 3% retailers' occupation tax on cannabis sales in River Forest before October 1, 2019 so that it would be imposed prior to January 1, 2020.

Staff will also provide analysis regarding the potential impacts of the Board's decision and will advise the Village Board of any other actions or Village Code amendments that will be required to permit cannabis business establishments in River Forest.

Attachments:

- Village of River Forest FAQs
- Informational materials prepared by Klein Thorpe Jenkins
- Informational materials prepared by the Illinois Municipal League

Requested Action:

Opt out: Direct staff to prepare an Ordinance prohibiting cannabis business establishments from locating in River Forest.

- OR -

Opt in: Direct staff to organize a public meeting on September 9, 2019 at 6:00 p.m. (prior to the regular Village Board meeting), to take public comment on the matter. At the subsequent Board Meeting, if the Board wishes to pursue allowing cannabis business establishments in River Forest, it will need to direct the Zoning Board of Appeals to hold a public hearing to consider Zoning Ordinance amendments, and it will need to pass an Ordinance imposing the retailers' occupation tax prior to October 1, 2019.



RECREATIONAL CANNABIS FAQs

The State of Illinois approved the use and possession of recreational cannabis (with restrictions) for adults 21 years of age and older effective January 1, 2020 when it passed [House Bill 1438](#). This law does not automatically change the provisions of the Village of River Forest Zoning Ordinance or Municipal Code. The Village Board of Trustees is considering how these Ordinances will be amended as a result of the changes in state law and encourages community education and input. Below is a list of FAQs regarding cannabis in the Village of River Forest. Please contact Lisa Scheiner, Assistant Village Administrator, at lscheiner@vrf.us or at (708) 714-3554 if you have any further questions.

When was cannabis made legal in Illinois? On June 25, 2019, Governor JB Pritzker signed [Illinois House Bill 1438, better known as the Cannabis Regulation and Tax Act \(CRTA\)](#), legalizing the consumption and possession of cannabis for adults 21 and older in Illinois.

Can the consumption/possession of cannabis be banned by the Village of River Forest? No, municipalities cannot ban or override the CRTA.

Who can legally purchase and consume cannabis? As of January 1, 2020, the recreational consumption of cannabis will be treated similar to the consumption of alcohol or tobacco with any Illinois resident, or non-resident. Only those individuals age 21 or over, may purchase and consume cannabis. The purchase and consumption of medicinal marijuana is already allowed for qualifying individuals.

Who can legally grow and sell recreational cannabis? Only licensed businesses will be able to legally grow and sell recreational cannabis. Medical cannabis patients will be allowed to grow up to five plants within their home but they may not sell it. Owners/lessors of residential properties may prohibit the cultivation of cannabis by a lessee.

How much cannabis may an individual possess? Effective January 1, 2020, Illinois residents may possess up to:

- 30 grams, or just over one ounce of “flower”
- 5 grams of cannabis concentrate
- 500 milligrams of THC (the chemical that makes users high) in a cannabis infused product such as candy, other consumable products (referred to as “edibles”), or tinctures, and lotions
- Non-Illinois residents may legally possess up to ½ of these amounts.

Where is possession of cannabis prohibited? Cannabis is prohibited on school buses, on the grounds of any preschool, primary or secondary school unless approved as a medical cannabis patient, correctional facilities, in a private residence where licensed child care or other similar social service care is provided on the premises, and in a vehicle unless it is in a sealed, secured, tamper-evident container and reasonably inaccessible while the vehicle is moving.

Where is cannabis consumption prohibited? Cannabis consumption is prohibited:

- On a school bus
- On the grounds of any preschool, primary or secondary school unless authorized in the medical cannabis program
- In any correctional facility
- In any motor vehicle
- In any private resident that is used at any time to provide licensed child care or other similar social service care on the premises



RECREATIONAL CANNABIS FAQs

- In any public place or knowingly in close proximity to anyone under 21 years of age and in any public place where a person could reasonably be expected to be observed by others
- In any building owned in whole or part, or leased by, the State or Village
- In any location where smoking is prohibited by the Smoke Free Illinois Act, including hospitals, restaurants, retail stores, offices, commercial establishments, etc.

Universities, colleges, and other post-secondary education institutions can restrict or prohibit cannabis use on their property.

If the Village allows dispensaries to be located in River Forest, the Village Board will consider whether or not to permit consumption of those products within the dispensary. The Village may also prohibit the consumption of recreational cannabis in other places such as bars and restaurants.

How will the Village of River Forest work respond to the potential public safety impacts of the State's decision to allow recreational marijuana usage? Public safety is the Village's top priority. The Police Department will:

- Enforce the laws, including all applicable Village Ordinances, regardless of whether or not it is grown and sold in River Forest
- Rely on the training and technology that has already been provided to officers, and will continue to be advanced and developed, to identify impaired motorists and take them off our roadways.
- Continue to partner with and monitor all businesses in the community to address safety and security concerns. For example, the Police Department conducts regular premise checks of banks and shops in River Forest, both during and outside business hours.

The legalization of cannabis may increase the demand for police services state-wide as well as the number of drug impaired drivers on our roadways, due to the state-wide allowance of marijuana, regardless of whether or not such a facility is located within the limits of River Forest. There are currently medical marijuana dispensaries located in neighboring communities and throughout the state of Illinois. Preliminary data from these communities does not support the need to modify existing public safety strategies as a result of the presence of these dispensaries. Further, the data does not support that these facilities generate greater traffic volumes than any of the uses currently permitted in commercial locations by the Village. The Police Department has not seen any increase of impaired drivers or cannabis related offenses due to Medical Marijuana Dispensaries being in operation in bordering and near-by communities.

All Village Departments, including the Police Department, will continue to address security and public safety concerns with all new business establishments that seek special zoning approval from the Village. Through this process, staff and the Village Board can implement conditions of approval that seek to address a project's impact on the community, particularly those surrounding public safety. If cannabis business establishments are allowed in River Forest, the Chief of Police will keep the Village Board of Trustees and Village Administrator apprised of any trends, patterns, or anomalies that occur with regard to allowing cannabis business establishments in River Forest.

Will the Village have any regulatory abilities? Yes. Municipalities have the ability to:

- Ban or permit the cultivation, growth and sale of recreational cannabis within the Village by prohibiting or allowing recreational cannabis use establishments in River Forest.
- If dispensaries are permitted, River Forest can:



RECREATIONAL CANNABIS FAQs

- Dictate the number of legal dispensaries within the Village
- Determine how cannabis businesses are operated such as hours of operation
- Dictate the location of cannabis businesses as they relate to points of interest such as schools, government buildings, and liquor stores.
- Regulate the zoning of cannabis businesses in specific districts

If the sale of recreational cannabis was allowed in River Forest, how many licenses would be issued? If River Forest allows recreational cannabis facilities (dispensaries) to be established, it may choose to limit the number of facilities that may exist, where they may be located within the commercial zoning districts, and how far they may be from other uses. River Forest is part of a larger Bureau of Labor Statistics Region within the state called the [Chicago-Naperville, Elgin region](#). The State is allowing up to 47 licenses within the region, in 2020.

What regulatory abilities, if any, do business owners and landlords have? Any person, business, public entity, or landlord may prohibit the use of cannabis on their private property.

What will the Village's role be in the licensing process? The licensing process is administered by the Department of Financial and Professional Regulation to select and process those attempting to obtain a license. As a non-home rule community, River Forest cannot require a cannabis business establishment to obtain a local business license. However, the Village may require these establishments to register with the Village.

Are there any changes to existing medical cannabis laws? Yes; the list of conditions that are covered under the use of medical cannabis was expanded to now include chronic pain, autism, migraines, irritable bowel syndrome, osteoarthritis, and anorexia.

Is the sale of medical cannabis currently allowed in River Forest? Any entity that desires to open a medical dispensary in River Forest would be required to undergo a public hearing and approval process by a zoning advisory body (Zoning Board of Appeals or Development Review Board) and the Village Board of Trustees. The Village cannot ban medical dispensary facilities outright. These requirements will not change regardless of whether or not the Village of River Forest prohibits or permits recreational cannabis business establishments.

Is River Forest considering allowing recreational cannabis business establishments? The Village Board of Trustees will discuss this matter on August 26, 2019, and determine whether to proceed with the process of prohibiting or considering permitting cannabis business establishments in River Forest.

What action is required by the Village Board to allow recreational cannabis to be sold in River Forest? If the Village Board of Trustees opts to proceed with the consideration of permitting cannabis business establishments the Village Board will host a community meeting on September 9, 2019 at 6:00 p.m. at the Village Hall (400 Park Avenue) to hear resident input and gather more information. If they choose to move forward, the Village Board will direct the Zoning Board of Appeals to conduct a public hearing to consider amendments to the Zoning Ordinance. The Zoning Board of Appeals would then conduct the hearing and make a recommendation to the Village Board of Trustees. The Village Board of Trustees would then consider that recommendation and make a final determination about how to amend the Zoning Ordinance. The Village Board would also consider any other sections of the Village Code that would need to be amended relative to the changes in the law effective January 1, 2020. The Village Board would also need to consider an Ordinance imposing a 3% excise tax on cannabis sales in River Forest.

What efforts will the Village take in communicating to the public about this topic? The Village Board will advertise all public meetings and public hearings on its [website](#) (including the [meeting calendar](#)), [Facebook page](#),



RECREATIONAL CANNABIS FAQs

[Village e-news](#), and by posting meeting notices at the Village Hall. All public hearing notices will be distributed according to the Village Code. The public is encouraged to participate in this process. If any resident cannot attend one of these meetings they are encouraged to contact Village staff (Ischeiner@vrf.us) or their elected officials through the [contact us](#) section of the Village's website.

How is cannabis taxed? Sales will be taxed at 10% for cannabis with THC levels at or less 35%; 25% for cannabis with THC levels above 35%; and 20% for cannabis infused products such as edibles. This is in addition to standard state and local sales taxes. Additionally, the Village may add a special tax of up to 3% and counties may add a special tax up to 3.75% in unincorporated areas.

How will the potential tax revenue generated be used? Within the bill, government proceeds for the sale of recreational cannabis are:

- 20% to State mental health services and substance abuse programs
- 10% to pay unpaid State bills
- 35% to the State General Revenue Fund
- 2% to public education and safety campaigns
- 8% to the Local Government Distributive Fund, for prevention and training for law enforcement (after State administrative costs are accounted for)
- 25% for identified social equity programs

If cannabis business establishments are permitted in River Forest, the Village Board would consider whether to impose a local tax of 3% on sales. If the Board wishes to explore permitting these uses in River Forest additional information will be provided regarding possible annual revenues. Since the Board has not determined whether or not to permit cannabis establishments, no decisions have been made regarding the use of funds generated, however, the Village remains committed to protecting public safety, stabilizing property taxes and improving property values.

How do federal laws affect Illinois' law? Although cannabis remains illegal at the federal level, federal law enforcement has rarely interfered with individuals possessing the State regulated legal amount or businesses complying with state enforced programs. Any questions related to Federal or State regulations should be directed to the proper agencies.

Are Village employees permitted to use cannabis? No. The Village has an obligation to ensure a safe working environment and that employees who report to work are capable of safely performing their jobs. The Village has a drug-free workplace policy that is strictly enforced and prohibits employees from being under the influence of illicit or illegal drugs, unauthorized prescription drugs, alcohol, or controlled substances while on duty or on Village premises. While permitted by the state, cannabis remains illegal at the federal level. Employees in certain safety sensitive positions (i.e. police officers and firefighters) cannot obtain medical marijuana cards. Depending upon the position, most Village employees are subject to drug and alcohol tests in certain situations. All employees who are prescribed drugs or who are taking over-the-counter medications are required to consider medication-related work restrictions and discuss these matters with their supervisors. Any employee who is reasonably suspected of being under the influence of drugs or alcohol, including prescription medications, may be sent for testing. Supervisory staff are trained to identify when an employee may be under the influence.

How does recreational cannabis affect criminal records? The Act includes a schedule of expungement provisions that requires local law enforcement to automatically expunge all criminal history records of an arrest, charge not



RECREATIONAL CANNABIS FAQs

initiated by arrest, order of supervision or order of qualified probation for a "minor cannabis offense" if: 1) one year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and, 2) no criminal charges were filed relating to the arrest or law enforcement interaction or criminal charges were filed and subsequently dismissed or vacated or the arrestee was acquitted. "Minor Cannabis Offense" as defined in the Act means a violation of Section 4 (possession) or Section 5 (delivery) of the [Cannabis Control Act \(available via this link\)](#) concerning not more than 30 grams of any substance containing cannabis, provided the violation did not include a penalty enhancement under Section 7 of the Cannabis Control Act and is not associated with an arrest, conviction or other disposition for a violent crime as defined in subsection (c) of Section 3 of the [Rights of Crime Victims and Witnesses Act \(available via this link\)](#).

July 16, 2019

VIA ELECTRONIC MAIL

Village President Cathy Adduci and Board of Trustees
Village of River Forest
400 Park Avenue
River Forest, Illinois 60305

Re: Illinois Cannabis Regulation and Tax Act

Village President Adduci and Board of Trustees:

Public Act 101-0027, which creates the Illinois Cannabis Regulation and Tax Act ("Act"), was signed into law on June 25, 2019. By legalizing the sale of recreational cannabis in Illinois effective January 1, 2020, the Act will have immediate and significant impacts on local governments.

Attached for your reference is a Frequently Asked Questions document ("FAQ Document") we have created as a resource for local governmental clients of Klein, Thorpe and Jenkins, Ltd. relative to the Act.

We are also creating a "Cannabis Legislation Checklist and Toolbox" that will help you implement the Act consistent with the policy direction you decide is in the best interests of the Village. The policy decisions will guide us in assisting you through the drafting of any or all of the following:

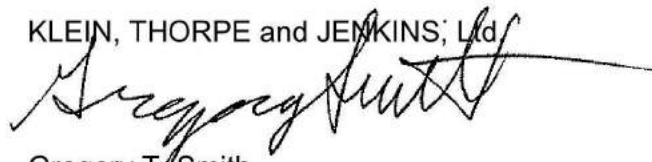
- An "opt-out" ordinance (should you choose not to allow recreational cannabis establishments)
- Zoning and business license code amendments, procedures and forms for allowing and regulating and/or prohibiting cannabis business establishments
- Municipal sales taxation ordinance
- Ordinance amendments for local enforcement of DUIs and other cannabis related violations
- Updates to employment policy manual
- Updates to department general orders
- Assistance in addressing other aspects of the Act subject to local municipal control

We hope you find the FAQ Document helpful. Should you have any questions, please contact me.

If you have any questions, please contact me.

Sincerely,

KLEIN, THORPE and JENKINS, Ltd.



Gregory T. Smith

Enclosure

cc: Eric Palm, Village Administrator (via e-mail; w/ encl.)

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC
ACT 101-0027**

UPDATED JULY 10, 2019

Provided by:



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**

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**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

INTRODUCTION

This Frequently Asked Questions Document is intended as a resource for local governmental clients of Klein, Thorpe and Jenkins, Ltd. relative to Public Act 101-0027: the Cannabis Regulation and Tax Act (referred to throughout this document simply as the “Act”). This document will be updated frequently from now until the Act becomes effective on January 1, 2020, and thereafter as implementation issues arise and can be specifically addressed, so be sure to check with your KTJ attorney from time to time to ensure you are using the most current version (see cover page for date).

The Act is over 600 pages long, and there are a number of additional requirements and details in the Act that are not included here due to space considerations. We have strived, in creating this document, to address the aspects of most interest to our local governmental clients. KTJ is happy to provide additional details and guidance on subjects within the Act not specifically covered here for clients who are interested.

As with any significant new State act awaiting implementation, there are a number of open issues that will only be clarified with time. The exact scope of local business licensing and enforcement authority is one example here. What would happen to existing recreational cannabis establishments should a local government repeal authority for their operation after they are operating is another example. Public health concerns and effects, the impact of the Act on healthcare and liability insurance costs, how workplaces will be impacted, and development of acceptable testing protocols for impairment are other open issues or unknowns at this point.

Although the Act is by far the most sweeping measure ever taken by the State to legalize cannabis, there have been several other pieces of legislation in recent years related to the legalization and decriminalization of cannabis of which you should be aware. The Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1, *et seq.* (adopted in 2013) (the “Medical Cannabis Pilot Program Act”) was signed by Governor Patrick Quinn on August 1, 2013, as Public Act 098-0122, effective January 1, 2014. Under the Medical Cannabis Pilot Program Act the Illinois Department of Agriculture and Department of Financial and Professional Regulation adopted administrative rules regulating “registered qualified patients,” “medical cannabis cultivation centers” and “medical cannabis dispensing organizations.” In all the Medical Cannabis Pilot Program Act authorized 56 dispensaries and 20 cultivation centers state-wide. Additionally, the Illinois Cannabis Control Act was signed by Governor Bruce Rauner on July 27, 2016, as Public Act 99-0697, effective July 27, 2016. The Cannabis Control Act decriminalized the possession of cannabis. Under the Cannabis Control Act possession of up to 10 grams was now only punishable by a \$100 (minimum) to \$200 (maximum) fine and possession of 10 to 30 grams was classified as a Class B misdemeanor. These pieces of legislations are referred to throughout this document and discussed in conjunction with the Act.

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

ADVERTISING

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

- 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 1000 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.

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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 Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

Are craft growers inspected? How, and by whom?

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

To whom may craft growers sell cannabis?

- Craft growers can 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.

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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 Department of Agriculture, the Department of Public Health, local safety or health inspectors, and the Department of State Police.

To whom may cultivation centers sell cannabis?

- Cultivation centers can 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.

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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 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, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

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 dispensaries allowed to operate?

- Operation is allowed between 6 A.M. and 10 P.M.
- 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 2 people working.

What products are dispensing organizations prohibited from selling?

- Dispensing organizations cannot sell any product containing alcohol except tinctures, which are limited to containers no larger than 100 milliliters.
- They are prohibited from selling clones or other live plant material.
- Selling cannabis, cannabis concentrate, or cannabis-infused products in combination or bundled with each other for one price is prohibited.

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

- Dispensing organizations cannot transport cannabis or cannabis products across state lines.
- 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 THC in milligrams.

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

- A dispensing organization may not be located within 1500 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 was dispensed.
- A dispensing organization shall refuse to sell cannabis to anyone unless the person produces a valid identification showing that the person is 21 years of age or older. However, a medical cannabis dispensing organization may sell cannabis or cannabis-infused products to a person who is under 21 years of age if the sale complies with the provisions of the Compassionate Use of Medical Cannabis Pilot Program Act and rules.

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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 625 ILCS 5/11-501 of the Motor Vehicle Code 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, are 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 Vehicle Code or a similar local ordinance.
- The Act creates a DUI Cannabis Task Force to examine best practices for driving under the influence of cannabis enforcement and emerging technology in roadside testing.
- The Act creates various statutory presumptions applicable to cannabis DUIs:
 - Tetrahydrocannabinol 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 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.
- 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 .

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EMPLOYMENT CONCERNS

Can an employer maintain a drug-free workplace?

- 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.
- 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.

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

- An employer may consider an employee to be impaired 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.

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EXPUNGEMENTS

What records will be automatically expunged?

- The Act mandates that arrest records relating to offenses under the 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 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.

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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 Department of 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.

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FOIA

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 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 under FOIA.

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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 5 plants that are 5 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;
 - The medical cannabis patient may allow their authorized agent to tend to the plants for brief periods of time if the resident 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.

Can a landlord prohibit growth of cannabis on their property?

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

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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 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 Department of Agriculture, the Department of Public Health, local safety or health inspectors, and the Department of 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.

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LICENSING

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

- Yes. The State 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 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.

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

- While licensing is a function of the State under the Act, local governments can still 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 Department of Agriculture (DOA) and the Department of Financial and Professional Regulation (IDFPR):

- Early Approval Adult Use Dispensing Organization - A license that permits a medical cannabis dispensing organization licensed under the Compassionate Use of Medical Cannabis Pilot 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 Medical Cannabis Pilot 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.

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- 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 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 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 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 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 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 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 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 Department of Agriculture to transport cannabis on

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behalf of a cannabis business establishment or a community college licensed under the 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 Department and pay the required renewal fee.

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LOCAL GOVERNMENT

Can municipalities prohibit cannabis establishments within their boundaries?

- Yes. A unit of local government may enact ordinances to prohibit or significantly limit a recreational cannabis business establishment's location.
- NOTE: While recreational cannabis business establishments may be prohibited, the Medical Cannabis Pilot Program Act specifically provides that medical marijuana disbursement facilities may not be prohibited within municipal borders. For medical cannabis establishments, then, municipalities can only regulate location via “reasonable” zoning regulations (special use permits, etc.).

Can 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 Office of Cannabis Control, Department of Public Health, Department of Financial and Professional Regulation, and 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 conditional use permits.

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

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

Can 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?

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- A dispensing organization may not be located within 1,500 feet from another dispensing organization
- NOTE: These distance restrictions are different than those imposed by the Medical Cannabis Pilot Program, Act. Under the Medical Cannabis Pilot 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)). Under the Act, a unit of local government may enact rules governing minimum distance limitations between cannabis establishments and locations it deems sensitive.

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

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

Can 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 in the jurisdiction of the unit of local government.

Can 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 can 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?

- 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.](#)

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- “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. “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]

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

- They can, but only in 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 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 recreational cannabis dispensaries?

- The Act in Section 15-70 contains a list of specific business operational rules for recreational cannabis dispensaries that provide a clear base-line of regulatory guidelines for these establishments. Municipalities can 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 must be limited to containers that are no larger than 100 milliliters.
 - 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 dispensary may operate between 6 a.m. and 10 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;

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- 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 Compassionate Use of Medical Cannabis Pilot Program, and the individual is registered under the Compassionate Use of Medical Cannabis Pilot Program or the purchaser has been verified to be over the age of 21;
- Enter into an exclusive agreement with any adult use cultivation center, craft grower, or infuser.
- Refuse to conduct business with an adult use cultivation center, craft grower, transporting organization, or infuser that has the ability to properly deliver the product and is permitted by the Department of Agriculture, on the same terms as other adult use 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 dispensary if its video surveillance equipment is inoperative;
- Operate a dispensary if the point-of-sale equipment is inoperative;
- Operate a dispensary if the State's cannabis electronic verification system is inoperative;
- Have fewer than 2 people working at the dispensary at any time while the dispensary is open;
- 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 State rules.

SOCIAL JUSTICE

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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, and individuals who have been consumers of social programs administered by the State or local jurisdictions and local leaders from all sectors.

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TAXATION, REVENUES AND APPROPRIATIONS

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

- Beginning on January 1, 2020, a Cannabis Cultivation Privilege Tax is imposed 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 Pilot Program Act will be deposited into the 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 recreational and medical cannabis cultivation.
 - All funds received by the 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 recreational purposes).

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

- Beginning on January 1, 2020, a Cannabis Purchaser Excise Tax is imposed upon purchasers for the privilege of using cannabis at the following rates:
 - Purchases of cannabis flower or products with less than 35% THC – 10% tax.
 - Cannabis-infused products (i.e., edibles) – 20% tax.
 - 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 tax on the full purchase price of the product.
- The purchase of cannabis is also subject to state and local sales taxes; it 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 Department of Revenue under the excise tax will be paid into the Cannabis Regulation Fund in the State treasury.
- 8% of state taxes collected on cannabis sales will be allocated to the Local Government Distributive Fund for the purpose of funding crime prevention programs, law enforcement training and drug interdiction efforts.

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How is cannabis going to be taxed on 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.
- For municipalities, the tax is imposed upon purchasers for the privilege of using 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.
- Non-home rule counties are authorized to impose a tax of up to 0.75% in incorporated areas and 3.75% on sales emanating from unincorporated areas.
- Cook County, the only home-rule county in the state, is authorized to impose a tax of 3% regardless of whether the sale occurs in an incorporated or unincorporated area.
- The tax shall not be imposed on cannabis that is subject to tax under the Compassionate Use of Medical Cannabis Pilot Program Act.
- The State Department of Revenue will collect and enforce this tax.
- 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 1st of any year, to be effective and enforced by the Department of Revenue on September 1st of that year.
- This tax 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.

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 will be created in the State treasury. Unless otherwise provided, all funds collected under the Cannabis Regulation and Tax Act and under the Compassionate Use of Medical Cannabis Pilot 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 Pilot Program Act and the Cannabis Regulation and Tax Act, the Department of Revenue shall certify the transfer of 1/12 of the fiscal year amount appropriated to the numerous agencies involved with the program;

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

- Second, after the above-noted transfers have been made, the remainder shall be transferred to the following funds:
 - 35% transferred to the General Revenue Fund
 - 25% transferred to the Criminal Justice Information Projects Fund to support Restoring, Reinvest and Renew Program for community reinvestment
 - 20% transferred to Department of Human Services Community Services Fund to fund mental health and substance abuse services at local health departments
 - 10% transferred to Budget Stabilization Fund to pay the backlog of unpaid bills
 - 8% transferred to Local Government Distributive Fund to create a “grant program” 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 are existing Retailers’ Occupation Taxes affected?

- Retailers’ Occupation Taxes, assessed on both a local and statewide level, will not be deposited into the Cannabis Regulation Fund. Nothing in the Compassionate Use of Medical Cannabis Pilot Program Act and the Cannabis Regulation and Tax Act affects the collection of these taxes, or their deposit in the State’s general funds and/or distribution to local 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 can a resident of the State of Illinois legally possess under the Act?

- For an Illinois resident who is 21 years 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 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).
 - If the plants produce more than the 30 grams of raw cannabis that one individual is allowed to possess, the excess cannabis product must remain in the residence.
 - Qualifying patients are allowed to possess any combination of the amounts indicated above for Illinois residents. Additionally, if they have plants that yield more than the 30 grams, 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 year 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, or;
 - 250 mg of THC contained in cannabis-infused products;
 - or 2.5 grams of concentrated cannabis.
 - NOTE: a non-resident may not possess cannabis plants.

Where is a person restricted from possessing cannabis?

- The Act will 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 will the use of cannabis be prohibited?

- The Act will not permit any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for, 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.
 - Note: Universities, colleges and other post-secondary educational institutions can 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.

Are there certain specific activities that you cannot 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

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

- 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 permit or a Commercial Driver's License while on duty.
- Driving under the influence of cannabis - DUI and reckless driving based on THC impairment may continue to be charged.

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CANNABIS REGULATION AND TAX ACT: MUNICIPAL CONSIDERATIONS

VILLAGE OF RIVER FOREST

August 26, 2019

CANNABIS REGULATION AND TAX ACT Basics

Illinois is the 11th State to Approve Private Recreational Use of Cannabis

- ☐ Legally authorizes private use and possession for adults, 21 years and up.
- ☐ Each municipality determines whether or not to allow sales at dispensaries and/or cultivation of cannabis within its boundaries.
- ☐ Currently authorized medical cannabis regulations remain intact.

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CANNABIS REGULATION AND TAX ACT Opt-Out?

- ▣ The Village may opt-out of allowing recreational cannabis establishments, which are dispensaries and cultivation centers, to operate in the Village.
- ▣ If the Village does so, it must take formal action to opt-out on or before December 31, 2019.
- ▣ If the Village opts-out, the possession and use of cannabis by individuals, within the limits of the Act, would remain legal within the Village under the Act.
- ▣ If the Village opts-out, medical cannabis regulations would remain in effect.

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Cannabis Regulation and Tax Act Village Zoning Authority

- ▣ Village can allow sales by dispensaries and/or cultivation in Village and regulate by zoning.
 - ▣ Can restrict by zoning district.
 - ▣ Can restrict hours of operation.
 - ▣ Can regulate proximity to school, parks, churches, etc.
 - ▣ Can prohibit in residential (except limited medical marijuana solely for use by the resident).
 - ▣ Can limit the number of establishments in Village.
 - ▣ Under the Act, a dispensing organization may not be located within 1,500 feet of the property line of a pre-existing dispensing organization.
- ▣ The Act further allows the creation of “cannabis cafes/lounges” in the discretion of the Village, which lounges are not deemed a public place within the meaning of the Smoke Free Illinois Act.

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Cannabis Regulation and Tax Act Village Zoning Authority

- ❑ If the Village allows recreational cannabis establishments, where should they be located?
- ❑ Lounges are a retail use – allow in any Zoning District?
- ❑ Dispensaries are a retail use – allow in one or more Zoning Districts?
- ❑ Cultivation centers are an industrial use – allow in one or more Zoning Districts?
- ❑ If allowed in one or more Zoning Districts, then what type of use: permitted, special or planned development?



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Cannabis Regulation and Tax Act State Application Process and Fees

Early Approval

- Existing medical cannabis cultivators and dispensers may apply for early approval to convert, in whole or part, to recreational cannabis cultivators or dispensers.
- For cultivators, the non-refundable permit fee is \$100,000, plus there is a development fund fee of the lesser of 5% of their revenue from 7/1/18 to 7/1/19 or \$500,000.
- For dispensers, the non-refundable permit fee is \$30,000, plus a development fund fee of the lesser of 3% of their revenue from 7/1/18 to 7/1/19 or \$100,000, for the first recreational license and a non-refundable fee of \$30,000 plus a development fund fee of \$200,000

New Entrants

- Processors and craft growers: \$5,000 non-refundable application fee plus \$40,000 licensing fee.
- Dispensers: \$5,000 non-refundable application fee plus \$10,000 licensing fee.

Background Checks

- Illinois State Police ("ISP") conducts background checks on everyone involved in the licensed cannabis sector.
- Background checks include criminal history check and finger prints check of all principal officers, board members and agents of licensees.

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Cannabis Regulation and Tax Act

State Restrictions on Operations of a Dispensary

Operation of a dispensary:

- Operation is only allowed between 6 A.M. and 10 P.M.
- No "delivery" service to any location.
- No drive-thru facilities.
- 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 2 people working.
- No alcohol products can be sold.
- Must be packaged and labeled with the dispensing organization, the contents, the weight of the raw cannabis (grams) or, for cannabis products, the amount of THC (mg).
- The age of the purchaser must be verified by checking a government-issued identification card by use of an electronic reader or electronic scanning device to scan the identification;
- Specific required sales information on each sale must be entered into the State's cannabis electronic verification system.

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Cannabis Regulation and Tax Act

State Restrictions on Advertising

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 .
- That promotes the overconsumption of cannabis.
- That displays cannabis.
- That shows someone under 21 consuming cannabis.
- That makes health or medicinal claims about cannabis.
- That includes the image of the cannabis leaf or bud.
- That includes any image that is likely to appeal to minors.
- On or in publicly owned or publicly operated property.
- On or in a public transportation vehicle or on a public transportation shelter.
- That is false or misleading.

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Cannabis Regulation and Tax Act

Prohibited Activities Under the Act

- No smoking cannabis in any public place where a person could reasonably be expected to be observed by others, in a healthcare facility or any other place where smoking is prohibited.
 - Note: public place means outdoors and in public buildings. Private residence is not a public place, unless it is used for child care, foster care or social services.
- No use of motor vehicle while using or under the influence of cannabis.
- No sales by the use of vending machines.

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Taxation / Revenue

How is the sale of cannabis going to be taxed on the State level?

A State tax is imposed upon cannabis purchasers at the following rates:

- Purchases of cannabis flower or products with less than 35% THC – 10% tax.
- Cannabis-infused products (i.e., edibles) – 20% tax.
- Products with a THC concentration higher than 35% – 25% tax.

8% of State taxes will be allocated to municipalities, through the LGDF, for crime prevention programs, law enforcement training and drug interdiction efforts.

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How is cannabis going to be taxed on the local level?

The Village can impose a Village tax on cannabis sales not to exceed 3% of the purchase price.

The State Department of Revenue will collect and enforce this tax. In addition, **State and local sales taxes still apply (10%).**

Municipal sales tax receipts from a single dispensary could be up to \$400,000 (per Village of Burr Ridge), which will vary based on sales volume and local tax rates.

Gross State-wide licensee revenue estimates range from \$1.6 billion - \$2.5 billion (per Sen. Steans study).

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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 625 ILCS 5/11-501 of the Motor Vehicle Code or a similar local ordinance by drivers suspected of driving under the influence of cannabis.

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CURRENT ILLINOIS PRACTICE

Illinois Compassionate Use of Medical Cannabis Pilot Program Act (eff. January 1, 2014)

- ❑ Medical marijuana dispensaries and cultivation centers may not be prohibited within municipal borders. Municipalities can only regulate medical cannabis establishment location via "reasonable" zoning regulations (special use permits, planned development permits, zoning district limitations, etc.).
- ❑ Medical Cannabis Act authorized total of 56 dispensaries and 20 cultivation centers State-wide.
- ❑ Cultivation is allowed in private residences by medical cannabis patients subject to limitations, including:
 - No more than 5 plants per household without a cultivation center or craft grower license.

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Illinois Compassionate Use of Medical Cannabis Act Requirements

Zoning Restrictions under the Medical Cannabis Act:

- **Registered cultivation centers cannot 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).**
- **Registered dispensing organizations may not be located 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).**

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Existing Area Medical Dispensaries

The Dispensaries Are Located In A Mix Of Industrial Parks, High Traffic Retail Corridors And Adjacent To Residential Neighborhoods

| | | |
|-----------------|--------------|---------------|
| Buffalo Grove | Romeoville | Worth |
| Mt. Prospect | Addison | Justice |
| Rolling Meadows | St. Charles | Posen |
| Schaumburg | Evanston | Naperville |
| Mokena | Elmwood Park | Oak Park |
| Joliet | Homewood | North Aurora |
| Mundelein | Chicago | Highland Park |

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Number of State Dispensing Licenses

First licenses anticipated to be issued to organizations
already operating existing medical dispensaries

| State | # of Licenses | Population |
|---------------|--|--------------|
| Illinois | Up to 140 (by 1/1/2020 - increasing over time) | 12.8 million |
| California | 261 | 36 million |
| Nevada | 61 | 3 million |
| Washington | 123 | 7.5 million |
| Massachusetts | 22 | 7 million |
| Colorado | 568 | 5.6 million |
| Oregon | 659 | 4 million |
| Alaska | 212 | 740,000 |
| Maine | None yet. | 1.3 million |
| Michigan | None yet. | 10 million |

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Questions?

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From: Brad Cole <bcole@iml.org>
Sent: Tuesday, July 16, 2019 5:44 PM
Subject: IML: Adult-Use Cannabis Resources

DATE: July 16, 2019

**TO: Mayors/Village Presidents/Town Presidents
Managers/Administrators
Municipal Attorneys/Corporation Counsels
Clerks/Deputy Clerks**

**FROM: Brad Cole, Executive Director
Illinois Municipal League**

RE: Adult-Use Cannabis Resources

As a service to our members, the Illinois Municipal League (IML) has compiled and drafted relevant information and resources to consider when determining the local regulation of adult-use cannabis.

[IML's Adult-Use Cannabis Resources are available via this link.](#)

On June 25, 2019, Governor JB Pritzker signed [Public Act 101-0027 \(available via this link\)](#), the Cannabis Regulation and Tax Act (Act). The Act legalizes private consumption and possession of cannabis for Illinois residents over 21 years of age. Non-residents may legally possess lower amounts of cannabis. The Act also provides for the state licensure and regulation of a variety of adult-use cannabis business establishments, preserves the legalization of medical cannabis and includes a provision allowing "home grow" of cannabis by medical cannabis program participants. Otherwise, "home grow" of cannabis is prohibited.

[Fact Sheet: Adult-Use Cannabis is available via this link.](#)

Municipal Cannabis Business Prohibition

Illinois municipalities may prohibit cannabis business establishments from locating in their jurisdiction by adoption of a local ordinance. IML recommends a public hearing in advance of the adoption of such an ordinance to create a record that supports that determination. While local governments are required to allow medical cannabis dispensaries subject only to local zoning provisions, adult-use cannabis business establishments may be prohibited.

The first state licenses for adult-use cannabis business establishments are anticipated to be issued to organizations operating existing medical dispensaries, authorizing retail sales of adult-use cannabis at those locations starting January 1, 2020. Municipalities with medical dispensaries operating in their jurisdiction may limit or prohibit adult-use cannabis business establishments through local ordinances, but may want to consider adopting those provisions in order to provide those existing dispensaries clear direction in advance of any application.

[Linked here is the model ordinance: Municipal Cannabis Business Prohibition.](#)

Municipal Cannabis Business Zoning

Local regulation of authorized adult-use cannabis business establishments is enabled by the Act, primarily through zoning as conditional uses. It is recommended that a cannabis regulatory ordinance be adopted as an amendment to your municipality's zoning code or zoning ordinance. A model ordinance has been provided for that purpose. If your municipality does not have a zoning code or zoning ordinance, you may want to consider adopting one in order to exercise the regulatory provisions available to your community.

[Linked here is the model ordinance: Municipal Cannabis Business Zoning.](#)

In addition to the conditional use authority for authorized adult-use cannabis business establishments, municipalities have the option of authorizing on-site consumption of cannabis and co-location of craft growers, infusers and dispensaries. These options are included in the model ordinance and may be deleted if those options are not supported by the municipality. Similarly, the model ordinance includes a number of minimum distance limitations that municipalities may want to adopt or adjust. Among the options municipalities may want to include would be minimum distance limitations between other cannabis establishments, liquor establishments, schools, daycare centers, nursing homes or other uses the municipality deems sensitive.

The Illinois Municipal Code requires a public hearing conducted by the local planning commission or committee designated by the corporate authorities before any amendment to a zoning ordinance is permitted. The municipality's zoning board of appeals can serve this function, or where a planning commission has been established, this function is usually delegated to it. Additional public hearings on cannabis regulation may be warranted if extensive community input is desired or would be helpful. As the state legislation allows for "reasonable" local regulation, public hearings will develop a record and provide a basis upon which courts may uphold local ordinances, if challenged.

Notice of the required zoning hearing must be given by publication not more than 30 days or less than 15 days before the hearing. Notice must be published in one or more newspapers in the municipality or, where no newspaper is so published, in one or more newspapers of general circulation in the community. All meetings of planning commissions and zoning boards of appeals are to be open to the public and subject to the Open Meetings Act.

For more information about zoning and land use issues in general, you may wish to consult our newly published [Zoning Handbook for Municipal Officials](#), available for purchase via [this link](#).

Municipal Cannabis Retailers' Occupation Tax

If your municipality has determined it will authorize the retail sale of adult-use cannabis by approved dispensing organizations, the Act allows for the imposition of a municipal tax under the Municipal Cannabis Retailers' Occupation Tax Law. The tax may be up to 3% of the gross receipts of cannabis products, and must be imposed in 0.25 % increments. While the law presently would allow for the tax to be effective not sooner than September 1, 2020, IML recommends that municipalities consider adopting the tax ordinance imposing the tax effective on January 1, 2020, and certify the ordinance to the Illinois Department of Revenue by October 1, 2019, in anticipation of a legislative amendment to the Act that may authorize the local tax as of January 1, 2020.

[Linked here is the model ordinance: Municipal Cannabis Retailers' Occupation Tax.](#)

The state will also derive revenues from state taxes and license fees imposed on cannabis business establishments, with a portion of those proceeds distributed to local governments, including municipalities, to fund crime prevention programs, training and interdiction efforts. These state taxes and license fees will be imposed in addition to the above described Municipal Cannabis Retailers' Occupation Tax, and all other occupation, privilege or excise taxes imposed by the State of Illinois or by any unit of local government.

The previously cited model ordinances are provided as reference materials, and will need to be adjusted to reflect the preferences and determinations of each municipality. It is essential that you review this information with your municipality's retained attorney or other qualified counsel to ensure appropriate provisions and procedural steps are included.

Employer Provisions Impacting Municipalities

The Act provides that employers may maintain "reasonable" Drug Free Workplace Policies, but the Act includes amendments to the [Right to Privacy in the Workplace Act, 820 ILCS 55 \(available via this link\)](#), which make it clear that discrimination against employees for using products that are lawful under state law is prohibited.

Employers may prohibit employees from use or possession of cannabis in the workplace and while on-call, but must have a good faith basis for disciplining employees who appear to be under the influence of cannabis while at the workplace. A review of your existing policy with an employment attorney is recommended. Any revisions to policies should be communicated to and acknowledged by all employees, and managers need to be trained on those revised policies.

Expungements of Local Law Enforcement Records

The Act includes a schedule of expungement provisions that require local law enforcement to automatically 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" if: 1) one year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and, 2) no criminal charges were filed relating to the arrest or law enforcement interaction or criminal charges were filed and subsequently dismissed or vacated or the arrestee was acquitted. "Minor Cannabis Offense" as defined in the Act means a violation of Section 4 (possession) or Section 5 (delivery) of the [Cannabis Control Act \(available via this link\)](#) concerning not more than 30 grams of any substance containing cannabis, provided the violation did not include a penalty enhancement under Section 7 of the Cannabis Control Act and is not associated with an arrest, conviction or other disposition for a violent crime as defined in subsection (c) of Section 3 of the [Rights of Crime Victims and Witnesses Act \(available via this link\)](#).

The schedule requires records created on or after January 1, 2013, to be expunged by January 1, 2021. Records created prior to January 1, 2013, but on or after January 1, 2000, shall be expunged prior to January 1, 2023. Records created prior to January 1, 2000, shall be expunged prior to January 1, 2025. Additional expungements will be subject to court orders. While there is some considerable time before the first expungement deadline, review of these requirements and development of an expungement process well in advance of those deadlines is recommended.

It is further recommended that local law enforcement officials discuss this matter with your municipality's retained attorney or other qualified counsel, as well as the state's attorney's office in your county to gain a full understanding of the issue and process and to be in compliance with what may be complicated expungement provisions. IML shall not provide direction or counsel on this aspect of the new law, due to the myriad factors that could impact each municipality differently.

Please feel welcome to contact us by phone at (217) 525-1220 or email at IMLLegal@iml.org, if you have additional questions or concerns. Thanks.

BRAD COLE | Executive Director
ILLINOIS MUNICIPAL LEAGUE

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Adult-Use Cannabis Resources

8/20/19

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Fact Sheet

Adult-Use Cannabis

Adult-Use Cannabis

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



7/15/19

LOCAL REGULATION OF CONSUMPTION

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

HOME GROW LIMITED TO MEDICAL PROGRAM PARTICIPANTS

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



ZONING

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

BUSINESS REGULATION

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



LOCAL REVENUE

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



SMOKE FREE ILLINOIS ACT

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

EMPLOYER PROVISIONS

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

STATE LICENSING

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

GRANTS AND INVESTMENT

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

SOCIAL EQUITY

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

DECRIMINALIZATION AND EXPUNGEMENTS

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

STATE REVENUE

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



IML has assembled these resources for your municipality's consideration. It is strongly recommended that you consult with your municipal attorney or other qualified counsel prior to considering or adopting any of the model ordinances. The model ordinances are being provided as a reference for use in drafting an ordinance for your community. The model ordinances may require adaptation and modification to conform to your community's determinations and specific code provisions.

It is further recommended that local law enforcement officials discuss the mandated expungements with your municipality's retained attorney or other qualified counsel, as well as the state's attorney's office in your county to gain a full understanding of the issue and process and to be in compliance with what may be complicated expungement provisions. IML shall not provide direction or counsel on this aspect of the new law, due to the myriad factors that could impact each municipality differently.

Municipalities who adopt a Municipal Cannabis Retailers' Occupation Tax on the sale of cannabis products, as allowed by [P.A. 101-0027, the Cannabis Regulation and Tax Act](#), must submit their certified ordinance to the Illinois Department of Revenue's Local Tax Allocation Division. Their mailing address is:

Local Tax Allocation Division (3-500)
Illinois Department of Revenue
101 West Jefferson Street
Springfield, Illinois 62702

State Agency Contacts

Illinois Department of Agriculture

Website: <https://www2.illinois.gov/sites/agr/Pages/default.aspx>

Phone: (217) 785-4789

Illinois Department of Financial and Professional Regulation

Website: <https://www.idfpr.com/profs/adultusecan.asp>

Phone: (888) 473-4858

Email: FPR.AdultUseCannabis@illinois.gov

Illinois Department of Public Health

Website: www.dph.illinois.gov

Phone: (217) 782-4977

These contacts are likely to be expanded and updated as additional agency resources are made available.

500 East Capitol Avenue | P.O. Box 5180 | Springfield, IL 62705-5180
Phone: 217.525.1220 | Fax: 217.525.7438 | iml.org



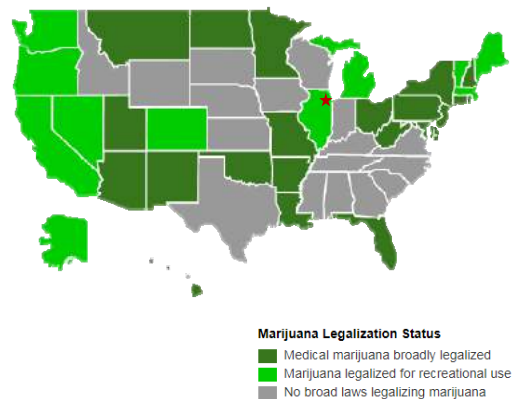
Illinois Cannabis Regulation and Tax Act - Recreational Cannabis

VILLAGE OF RIVER FOREST

AUGUST 26, 2019

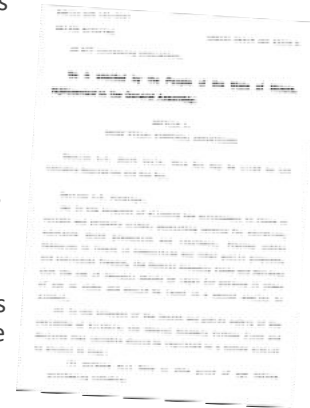
Discussion Points

- Recreational Cannabis Legislation Overview
- Local Issues – Recreational Cannabis in River Forest
- Policy Direction and Next Steps
 - Will cannabis business establishments be permitted or prohibited in River Forest?



Recreational Cannabis Legislation Overview

- Illinois Cannabis Regulation and Tax Act (CRTA): Effective 1/1/2020 adults age 21 and older may possess and consume recreational cannabis (with restrictions)
- Establishes regulations regarding how much recreational cannabis an individual may possess, where they may have it, and where they may consume it
- Expands the health conditions that qualify for medical marijuana; allows limited home growth by qualifying individuals
- Establishes how cannabis will be taxed
- Defines and establishes baseline regulations regarding cannabis business establishments (CBEs) and provides a framework for CBEs to obtain state licenses
- Gives municipalities authority to prohibit or permit CBEs in their community



Recreational Cannabis Legislation Overview

- Recreational possession and consumption is age restricted
- Recreational cannabis may not be present or consumed on school grounds and in other locations
- It may not be consumed
 - In a motor vehicle
 - Knowingly in close proximity to anyone under 21 years of age
 - In any public place
 - In any place where smoking is already prohibited by the Smoke Free Illinois Act

Recreational Cannabis in River Forest: Public Safety

- The RFPD can and will enforce the laws, including applicable Village Ordinances, regarding unlawful cannabis use and possession
- The RFPD will continue to be vigilant about identifying impaired drivers using existing and developing training and technology
- The RFPD will continue to partner with the business community to address safety concerns specific to each business
- The Village will continue to enforce a drug-free workplace

Recreational Cannabis in River Forest: Local Regulatory Authority

- The Village cannot:
 - Prohibit adult-use on private property or possession of cannabis in most locations
 - Prohibit growth of cannabis on private property by those who qualify to do so for medicinal purposes
- The Village Board can:
 - Prohibit recreational CBEs from locating in River Forest – OR –
 - Permit CBEs to locate in River Forest on commercially zoned properties
- The Village will receive a portion of the revenue collected by the state and may only use it for law enforcement activities, regardless of whether it permits or prohibits CBEs

Recreational Cannabis in River Forest: Prohibited?

- By 12/31/19, the Village Board must adopt an ordinance prohibiting adult-use recreational CBEs from locating in River Forest
- Neighboring communities may opt in, even if River Forest opts out
- Opting out would apply only to recreational CBEs
- River Forest would receive revenue from the LGDF but nothing more

Recreational Cannabis in River Forest: Permitted?

- May only be located on properties zoned for commercial use
 - North Avenue – C1
 - Harlem Avenue – C2
 - Lake Street (East of Lathrop) – ORIC
 - Lake Street (West of Lathrop) – C3
 - Madison Street – C2
- May not be located within 1,500 feet of another CBE and must meet other minimum state criteria



Recreational Cannabis in River Forest: Permitted?

- The Village may:
 - Establish local regulations by 12/31/19
 - Determine which CBEs may be located in River Forest (cultivation center, craft grower, dispensary)
 - Determine where they may be located within the commercial zoning districts
 - Determine the process by which CBEs are allowed to locate in River Forest (e.g. Special Use permit which allows the Village to impose conditions of approval)
 - Establish minimum distance requirements between CBEs and “sensitive uses” (as defined by the Village Board)
 - Limit the number of CBEs that may be located in the community
 - Impose a local excise tax on sales (3%) and determine how to use the revenue

Recreational Cannabis in River Forest: Permitted?

- If the Board chooses to pursue permitting CBEs:
 - Hold a public meeting on September 9, 2019 at 6:00 p.m. at the Village Hall to accept resident input and gather additional information
 - Following the meeting the Village Board can:
 - Direct the Zoning Board of Appeals to hold a public hearing to consider amendments to the Zoning Ordinance
 - Adopt an Ordinance imposing a tax on cannabis sales in River Forest up to 3%

Discussion Points

- Recreational Cannabis Legislation Overview
- Local Issues – Recreational Cannabis in River Forest
- **Policy Direction and Next Steps**
 - Will Cannabis Business Establishments be permitted or prohibited in River Forest?
 - Board direction is requested



Village of River Forest

Village Administrator's Office

400 Park Avenue
River Forest, IL 60305
Tel: 708-366-8500

MEMORANDUM

Date: September 6, 2019

To: Eric Palm, Village Administrator

From: Lisa Scheiner, Assistant Village Administrator

Subj: Recreational Cannabis Business Establishments

Issue:

Governor Pritzker recently signed House Bill 1438, known as the Cannabis Regulation and Tax Act (CRTA), which allows cannabis to be sold at licensed facilities, and consumed for recreational purposes for adults age 21 and over. These changes will become effective January 1, 2020. The CRTA includes a number of provisions that impact municipalities and action by the Village Board is required before the end of the year regarding local land use regulations related to cannabis business establishments (CBEs).

On August 26, 2019, the Village Board of Trustees directed staff to schedule a community meeting at 6 p.m. on September 9th regarding the possibility of permitting the sale of cannabis and the location of CBEs in River Forest. At its regularly scheduled September 9th at 7 p.m., the Village Board of Trustees is being asked to direct the Zoning Board of Appeals to hold a public hearing to consider text amendments to the Zoning Ordinance regarding zoning regulations related to CBEs within the Village's corporate boundaries.

Analysis:

Should the Village Board of Trustees wish to permit CBEs in River Forest, the following policy matters should be considered:

Location Regulations – Under the CRTA, there will be a limited number of licenses issued by the State within each region. River Forest belongs to the Chicago-Naperville, Elgin region, which will receive up to 47 licenses in 2020.

The CRTA also establishes certain minimum requirements for the location of CBEs which, combined with possible local regulations, will limit the location and number of facilities that may be located in River Forest if the use is permitted. The CRTA dictates that CBEs may only be located on properties zoned for commercial use. The Village's commercially zoned areas

consist of Madison Street (C2 Commercial District), Lake Street (primarily the C3 Central Commercial District West of Lathrop and the ORIC District East of Lathrop), North Avenue (C1 Commercial District) and Harlem Avenue (select properties are located in the C2 Commercial District).

The CRTA also requires that there must be a minimum distance of 1,500 feet between CBEs (measured from property line to property line). For example, there is currently a medical dispensary in Oak Park on Lake Street, east of Harlem Avenue that is applying to hold a recreational license as well. As a result, a CBE could not currently be located in Town Center because it is within 1,500 feet of another dispensary.

The CRTA gives the Village the authority to establish additional local regulations, provided they do not conflict with the state's minimum requirements. Staff recommends that the Village Board establish minimum distance requirements between recreational CBEs and "sensitive uses" and that those sensitive uses be defined as preschools, elementary schools, and secondary schools. Please note that the Village's current liquor restrictions prohibit anyone from holding a liquor license within 100 feet of a school (measured from property line to property line) and 100 feet from a church (measured building to building). Practically speaking, the churches that are currently located near the commercial zoning districts where CBEs could be located also operate schools, so defining schools as "sensitive use" would also incorporate those churches.

If the Board implements a distance restriction between CBEs and schools, when combined with the state's zoning district and minimum distance requirements, there are limited locations within the Village's commercial zoning districts where CBEs may be located. Attached please find an exhibit demonstrating where a recreational CBE could be located in River Forest if the Village Board implemented the proximity restriction recommended above. As demonstrated by the exhibit, there are no commercial properties on Harlem Avenue where a CBE could be located for the foreseeable future due to distance restrictions in the CRTA and current land uses. There are locations on Madison Street, North Avenue, and Lake Street where a CBE could be located, however, the proximity restrictions and limited licenses available under the CRTA, as well as market realities, make it unlikely the Village would have more than one or two recreational CBEs located within its boundaries.

With regard to medical dispensaries, the Village is prohibited from banning the use altogether, however, there is currently no location where the use can be accommodated in River Forest given the location restrictions established in the Medical Cannabis Pilot Program Act, passed in 2013. The MCPPEA currently states that a medical dispensary may not be located within 2,500 feet of the property line of pre-existing public/private preschools, elementary or secondary schools, daycare centers or home daycares or childcare facilities, or areas zoned for residential use.

Use Regulations - If permitted, the Village has the ability under the CRTA to determine which types of CBE uses may be located in River Forest. The CRTA establishes the following Adult Use Cannabis License categories:

- Cultivation Center: Facilities up to 210,000 square feet of canopy space where plants are cultivated, processed, and transported to provide cannabis and cannabis-unfused products

to other CBEs. Cultivation centers require large plots of land that River Forest is unlikely to be able to accommodate.

- Craft Grower: Facilities up to 14,000 square feet where adult use cannabis is cultivated, dried, cured, and packaged for sale at a dispensing or processing location. River Forest may have properties that can accommodate the space needs of this use.
- Dispensing Organization: Facilities where adult use cannabis is acquired from a craft grower, cultivation center, or another dispensary, for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies to purchasers. Current industry trends seek to locate dispensaries in busy commercial corridors and there is an emphasis within the industry on high-end design for these facilities. River Forest has properties that can accommodate the space and design needs of this use.

The state will also issue licenses for infuser organizations and transporter organizations, however, those licenses will likely be ancillary to the cultivation centers, craft growers and dispensaries and not standalone facilities. From a land use perspective, the Village Board of Trustees should concern itself with determining whether to permit the three main use types. Based on industry trends, space requirements, and state regulations, staff recommends that the Village Board only consider permitting dispensing organizations and craft growers in River Forest.

The CRTA allows, and Staff further recommends, that dispensing organizations and craft growers be considered a Special Use in the commercial zoning districts. The Village's special use process recognizes that there are certain types of uses which, because of their specific characteristics or the services which they provide, should not be permitted without consideration of the impact of the use upon neighboring land owners. The Special Use process allows the Zoning Board of Appeals to recommend and the Village Board of Trustees to attach conditions to the approval that are deemed necessary to have the proposed use meet the standards set forth in the Zoning Ordinance and to prevent or minimize adverse impacts to other properties in the immediate vicinity. Conditions may include, but are not limited to, size, bulk, and location, landscaping, signage, outdoor lighting, ingress and egress, hours of operation, and other conditions that are not in conflict with the CRTA. The Special Use process will also allow all Village Departments, including public safety, to review the application and recommend conditions of approval.

Please note that the CRTA establishes certain operating restrictions on dispensaries including the following: they may only operate between the hours of 6:00 a.m. and 10:00 p.m., there must be at least two employees on site at all times, they may not operate when video surveillance, point-of-sale equipment, and the State's electronic verification system are inoperative, they may not have drive-through windows or vending machines, and they may not transport or deliver cannabis to residences or other locations where a purchaser may be located. There are restrictions on what they can sell (alcohol is prohibited except tinctures), how products must be packaged, what steps they must take before cannabis is sold or dispensed, and more.

Finally, with regard to land use issues, under the CRTA the Village Board can determine whether or not it will permit consumption of cannabis in a "smoking lounge" inside a CBE.

Industry trends do not require that CBEs include a “smoking lounge” to be successful. Staff recommends that smoking lounges and on-site consumption be prohibited.

Whether the Village permits or prohibits recreational CBEs, the Zoning Ordinance should be updated to reflect the Village’s land use policy decisions regarding recreational cannabis facilities and the statutory requirement that medical cannabis facilities be allowed as a special use in the Village. Regulations should be enacted by the end of the calendar year and may require several amendments to the Zoning Ordinance. The Village Board should direct the Zoning Board of Appeals to conduct a public hearing to consider amendments to the Zoning Ordinance regarding zoning regulations related to CBEs within the Village’s corporate boundaries. A hearing will be conducted in October, findings of fact adopted in early November, and a recommendation brought to the Village Board of Trustees in late November for final action. The Village will utilize the recently approved public meeting notices when processing these text amendments.

Requested Action(s):

If the Board wishes to permit cannabis business establishments in River Forest, the following Board actions are requested: Motion to direct staff to submit an application for text amendments to the Zoning Ordinance regarding cannabis business establishments under the Illinois Cannabis Regulation and Tax Act (“CRTA”) and medical cannabis establishments under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act, with the proposed amendments being those which may receive the consensus of the Village Board at this evening’s meeting, including:

1. Allowing cannabis dispensaries and craft growers operating under the CRTA as a special use in the C1, C2, C3 and ORIC Zoning Districts;
2. Prohibiting cannabis cultivation centers, processing organizations and transporting organizations operating under the CRTA in the C1, C2, C3 and ORIC Zoning Districts;
3. Allowing medical cannabis dispensaries as a special use in the C1, C2, C3, and ORIC Zoning Districts;
4. Allowing medical cannabis cultivation centers as a special use in the in the C1, C2, C3, and ORIC Zoning Districts; and
5. Prohibiting consumption of cannabis on the premises of any cannabis business establishment

Attachment:

Exhibit 1: Possible CBE Locations in River Forest Commercial Corridors

Exhibit 1: Possible CBE Locations in River Forest Commercial Corridors

This exhibit assumes a 100-foot minimum distance requirement between preschools, elementary and secondary schools, and CBEs. Please note that CBEs are only permitted in commercial zoning districts under the CRTA, and that CBEs must be located no less than 1,500 from each other. All distances are measured from property line to property line. Properties inside the yellow boundaries indicate locations where a CBE could be located. Also note that the only uses that would be allowed in these corridors are for recreational CBEs, not medical, due to the current state restrictions.

North Avenue Corridor¹



Lake Street Corridor²



¹ The North Avenue commercial corridor measures approximately 4,900 feet from Thatcher Avenue to Harlem Avenue. The distance between Thatcher Avenue and west of St. Vincent's is approximately 2,300 feet. The distance between Harlem Avenue and east of Keystone Montessori is approximately 1,190 feet.

² The Lake Street commercial corridor measures approximately 5,600 feet from west of Thatcher Avenue to Harlem Avenue, and 4,300 feet from West of Thatcher to William Street. A CBE cannot currently be located in the Town Center (Lake Street east of William Street) due to the location of an existing dispensary in at 1132 Lake Street in Oak Park. There is a small commercially zoned pocket south of Hawthorne Avenue between Ashland Avenue and Lathrop Avenue. However, these properties are approximately 200 feet south of Lake Street. Under the CRTA, a dispensary located on Lake Street would likely prohibit a CBE on these properties because no two CBEs can be within 1,500 feet of each other.

Madison Street Corridor³



Harlem Avenue Corridor⁴



³ The Madison Street commercial corridor measures approximately 2,390 feet from the alley between Gale Avenue and Keystone Avenue east to Lathrop Avenue.

⁴ There are no commercially zoned properties on Harlem Avenue that could accommodate a CBE for the foreseeable future. The area south of Oak Avenue is within 1,500 feet of the dispensary in Oak Park, meaning that a dispensary could not currently be located there. Although the properties at 800 Harlem Avenue are commercially zoned and more than 1,500 feet away from another CBE, this is the site of The Sheridan senior living building that will be under construction shortly. Finally, the distance between Chicago Avenue and Oak Avenue is less than 1,500 feet so two dispensaries could not be located on Harlem Avenue under the CRTA's regulations.

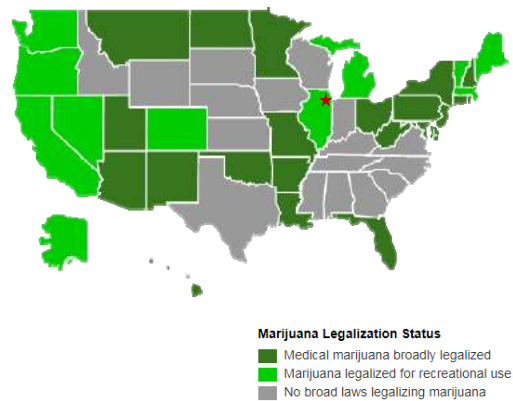
Illinois Cannabis Regulation and Tax Act - Recreational Cannabis

VILLAGE OF RIVER FOREST

SEPTEMBER 9, 2019

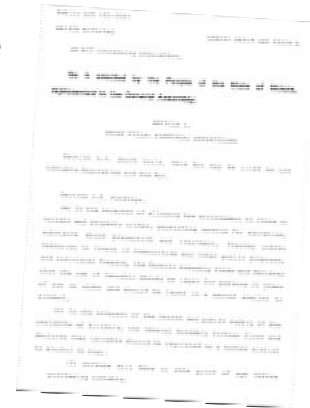
Meeting Overview

- Recreational Cannabis Legislation
- Recreational Cannabis in River Forest
- Public Comment
- Next Steps



Recreational Cannabis Legislation Overview

- Illinois Cannabis Regulation and Tax Act (CRTA): Effective 1/1/2020 adults age 21 and older may possess and consume recreational cannabis (with restrictions)
- Expands the health conditions that qualify for medical marijuana; allows limited home growth by qualifying individuals
- Establishes how cannabis will be taxed and guarantees that the Village will receive a portion of the revenue, but limits the use of the money to law enforcement activities



Recreational Cannabis Legislation Overview

- Establishes regulations regarding how much recreational cannabis an individual may possess, where they may have it, and where they may consume it
- Recreational cannabis may not be present or consumed on school grounds or other locations identified in the CRTA
- Recreational cannabis may not be consumed
 - In a motor vehicle
 - Knowingly in close proximity to anyone under 21 years of age
 - In any public place
 - In any place where smoking is already prohibited by the Smoke Free Illinois Act

Recreational Cannabis Legislation Overview

- The Village cannot ban adult-use possession or consumption of cannabis where allowed by the CRTA
- The CRTA defines and establishes baseline regulations regarding cannabis business establishments (CBEs) and provides a framework for CBEs to obtain state licenses
- It gives each community the authority to prohibit or permit CBEs and establish certain local regulations related to CBEs

Recreational Cannabis in River Forest: Public Safety

- The RFPD can and will enforce the laws, including applicable Village Ordinances, regarding unlawful cannabis use and possession
- The RFPD will continue to be vigilant about identifying impaired drivers using existing and developing training and technology
- The RFPD will continue to partner with the business community to address safety concerns specific to each business
- The Village will continue to enforce a drug-free workplace

Recreational Cannabis in River Forest: Local Regulatory Authority

- The Village Board will decide whether to prohibit or permit recreational CBEs from locating in River Forest and establish local regulations by the end of the calendar year
- State regulations restricting CBEs to commercial zoning districts and requiring a minimum 1,500 distance between CBEs result in a small number of CBEs that may be located in River Forest (likely 1 or 2)
- If permitted, the Village may determine which recreational CBEs may be located in River Forest (cultivation center, craft grower, dispensary)
- The Village can also establish minimum distance requirements between recreational CBEs and “sensitive uses” such as schools

Recreational Cannabis in River Forest: Local Regulatory Authority

- If permitted, the Village may determine which commercial zoning districts will allow CBEs
 - North Avenue – C1
 - Harlem Avenue & Madison Street – C2
 - Lake Street (West of Lathrop) – C3
 - Lake Street (East of Lathrop) – ORIC



Recreational Cannabis in River Forest: Local Regulatory Authority

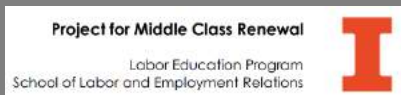
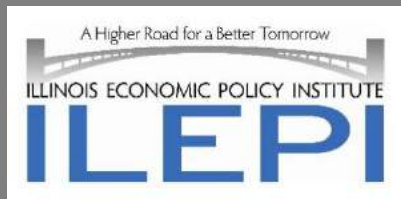
- If permitted, the Village may determine the process by which recreational or medical CBEs are allowed to locate in River Forest (e.g. Special Use permit which allows the Village to impose conditions of approval)
- Medical CBEs cannot be prohibited, but the State's current minimum distance requirements between medical CBEs and "sensitive uses" such as schools and daycares leave no sites in River Forest where an establishment can be located

Public Comment & Next Steps

- This meeting was scheduled so that the Board could accept public comment regarding the possibility of allowing CBEs in River Forest
- At its next regular meeting, the Village Board will discuss and be asked to direct the Zoning Board of Appeals to hold a public hearing to consider possible text amendments to the Zoning Ordinance regarding CBEs
- At its September 23rd meeting, the Village Board has the ability to adopt an Ordinance imposing a 3% tax on recreational cannabis sales

November 9, 2018

The Financial Impact of Legalizing Marijuana in Illinois



Frank Manzo IV, MPP
Jill Manzo
Robert Bruno, PhD



Executive Summary

There is significant public support for legalizing, regulating, and taxing recreational marijuana in Illinois. Fully 66 percent of registered voters in Illinois support legalizing marijuana, including a bipartisan majority of Democrats and Republicans. Furthermore, 10 states and the District of Columbia have already legalized recreational marijuana.

This report by the Illinois Economic Policy Institute (ILEPI) and the Project for Middle Class Renewal at the University of Illinois at Urbana-Champaign finds that high taxpayer costs for law enforcement and cannabis-related incarceration would be reduced by legalizing recreational marijuana. In total, Illinois taxpayers would save \$18.4 million annually in reduced incarceration costs, law enforcement spending, and legal fees from marijuana legalization. This revenue could be redirected to solve other crimes—such as homicides, robberies, and assaults.

The economy would also grow if Illinois were to legalize recreational marijuana. If marijuana were legalized, regulated, and taxed in Illinois, an estimated \$1.6 billion would be sold in the state, in part due to regional tourism. At a 26.25 percent state excise tax on retail marijuana in addition to the 6.25 percent general sales tax, Illinois would:

- generate \$525 million in new tax revenues, including \$505 million for the state and \$20 million for local governments— a move that credit rating agencies have called “credit positive;”
- create over 23,600 new jobs at more than 2,600 businesses in Illinois;
- boost the Illinois economy by \$1 billion annually; and
- allow the state to make additional pension payments and vital public investments in infrastructure, K-12 public schools, college tuition assistance programs, and drug treatment and prevention programs.

The benefits of legalization outweigh the social costs. While some legislators and constituents are concerned that legalizing recreational marijuana would increase consumption of other illicit drugs, increase motor vehicle crashes, and reduce workplace productivity, there is no evidence to support these claims. In fact, legalized cannabis has been found to reduce opioid use by as much as 33 percent, reduce traffic fatalities by as much as 11 percent, and have no effect on occupational accidents or rates of employee absenteeism. This is because marijuana consumption has not been found to increase after legalization.

Legalizing, regulating, and taxing recreational marijuana would reduce costs to taxpayers, spur economic activity, create jobs, and shrink the black market. While new tax revenues would be modest and would not solve Illinois’ fiscal issues, they would improve the state’s budget situation and credit rating outlook, fund investments in critical infrastructure and public education, and reduce criminal justice costs. Illinois *should* legalize, regulate, and tax recreational marijuana.

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About the Authors

Frank Manzo IV, M.P.P. is the Policy Director of the Illinois Economic Policy Institute (ILEPI). His research focuses on labor market analysis, prevailing wage laws, economic development, infrastructure investment, and public finance. He earned his Master of Public Policy from the University of Chicago Harris School of Public Policy and his Bachelor of Arts in Economics and Political Science from the University of Illinois at Urbana-Champaign. He can be contacted at fmanzo@illinoisepi.org.

Jill Manzo is a Midwest Researcher at the Illinois Economic Policy Institute (ILEPI). Her research focuses on income inequality, education policy, social justice, economic development, and infrastructure investment. She earned a Bachelor of Arts in Political Science and International Studies from Iowa State University. She can be contacted at jmanzo@illinoisepi.org.

Robert Bruno, Ph.D. is a Professor at the University of Illinois at Urbana-Champaign School of Labor and Employment Relations and the Director of the School's Labor Education Program. He also directs the Project for Middle Class Renewal at the University of Illinois at Urbana-Champaign. His research focuses broadly on working-class and union studies issues. He earned his Doctor of Philosophy in Political Theory from New York University and his Master of Arts in Political Science from Bowling Green State University. He can be contacted at bbruno@illinois.edu.

Introduction

In 2012, Colorado and Washington became the first states to legalize marijuana for recreational purposes. The passage of Colorado Amendment 64 led to the state becoming the first to tax and legalize recreational marijuana, with commercial sales beginning in January 2014. Since marijuana is a relatively safe drug with no documented deaths from a marijuana overdose, support for legalization, regulation, and taxation of marijuana has only grown over time. Support for legalizing marijuana among American adults was just 12 percent in 1969, 48 percent by 2012, and 64 percent by 2017 ([McCarthy, 2017](#)).

Although marijuana remains illegal under federal law, 10 states and the District of Columbia have legalized recreational marijuana: Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, North Dakota, Oregon, Vermont, and Washington. Each state has their own guidelines, with different rates of taxation, age restrictions, packaging regulations, and possession limits. Additionally, 13 states have decriminalized the drug and 33 states– including Illinois– have legalized medical marijuana ([Chappell, 2018](#)). Of the states which have legalized recreational use, all except Vermont allow commercial sales by private for-profit businesses ([Lopez, 2017a](#)).

The legalization, regulation, and taxation of recreational marijuana has already generated hundreds of millions of dollars in tax revenues for state and local governments. During the campaign to legalize marijuana in Colorado, proponents claimed that marijuana taxes would increase state revenues by \$70 million per year. Today, tax revenues have exceeded these projections. In 2017, marijuana taxes, licenses, and fees collected in Colorado totaled \$247 million, with \$40 million of these revenues deposited into the Building Excellent Schools Today (BEST) program– which funds public school capital construction projects– every year. The additional \$207 million is allocated to the Marijuana Tax Cash Fund, which is largely used for health care, education, drug treatment, drug prevention, and law enforcement programs ([Lopez, 2017b](#)). Colorado has generated more than half a billion dollars in revenues since it legalized recreational marijuana ([Pedersen, 2018](#)).

In addition to generating tax revenues that fund public services and programs for social good, marijuana has been a job creator across the United States. In fact, the cannabis industry already employs 165,000 to 230,000 workers across the United States at retailers, wholesalers, testing labs, and related companies ([McVey, 2017](#)). In June 2018, Colorado officials approved \$447 million for 35 school construction projects using money that is partially funded by legal marijuana sales, creating thousands of blue-collar construction jobs ([Whaley, 2018](#)).¹

This Illinois Economic Policy Institute (ILEPI) and Project for Middle Class Renewal report does not discuss the moral implications of legalizing marijuana, but does present the effect on criminal justice and incarceration costs. The tax revenue and economic impacts of legalizing, regulating, and taxing recreational marijuana in Illinois are also evaluated. Evidence on the social costs of legalizing marijuana are considered. This report differs from previous studies assessing the impact of legalizing recreational

¹ In Illinois, every \$500 million in public construction project funding creates about 5,200 total jobs, including 3,000 direct construction jobs (e.g., see [Craighead & Manzo, 2017](#)).

marijuana in Illinois because it evaluates the market for legal recreational marijuana in Illinois using actual economic data and evidence from Colorado's experience, updates taxpayer savings estimates from reduced incarceration costs, illustrates potential public investments that could occur using new tax revenues, and forecasts impacts on private sector sales, business openings, and job creation.

Consumption of Marijuana and Support for Legalization in Illinois

Millions of dollars are already spent illegally in Illinois on the purchase of cannabis on the unregulated black market. According to the Marijuana Policy Project, a pro-legalization advocacy organization, an estimated 750,000 adults in Illinois reported consuming marijuana in the past month— representing nearly 6 percent of the total population in the state. Accordingly, proponents contend that the legalization of recreational marijuana would allow the State of Illinois to safely regulate the activity while collecting new tax revenues ([MPP, 2017](#)).

Marijuana is currently decriminalized for recreational use and legally permitted for medical use in Illinois. In 2016, legislators in Illinois decriminalized the possession of up to 10 grams of marijuana for individuals 21 years old or older ([Pedersen, 2018](#)). Illinois' Medical Cannabis Pilot Program, which began accepting applications in September 2014, now has more than 46,000 qualifying patients and 55 licensed medical cannabis dispensaries— about 837 patients per dispensary ([State of Illinois, 2018](#)). On March 22, 2017, state lawmakers proposed bills to legalize marijuana in Illinois ([McCoppin, 2017](#)).

The Illinois General Assembly did not pass legislation to legalize, regulate, and tax recreational marijuana during the 2017-2018 legislative session, despite a clear majority of Illinois voters supporting full legalization. A 2017 survey of 1,000 registered voters conducted by the Paul Simon Public Policy Institute at Southern Illinois University Carbondale found that two-thirds (66 percent) support legalizing, taxing, and regulating marijuana like alcohol in Illinois, including 76 percent of Democrats and 52 percent of Republicans ([Paul Simon Public Policy Institute, 2017](#)). In addition, in March 2018, Cook County residents were asked their opinion on legalizing the cultivation, manufacture, distribution, testing, and sale of recreational marijuana by adults 21 years old or older at the state-level. Fully 68 percent voted "Yes" in support of legalization ([Pedersen, 2018](#); [Ballotpedia, 2018](#)).

Savings for Taxpayers: Reduced Law Enforcement and Incarceration Costs

Historically, the costs of police, law enforcement, and corrections associated with marijuana possession have been very high in Illinois. A 2013 report by the American Civil Liberties Union found 12,406 marijuana possession arrests were made in the state in 2010, with African Americans 7.6 times more likely to be arrested than white residents. As a result, Illinois taxpayers spent \$127 million to police marijuana consumption, \$72 million in judicial and legal fees, and \$20 million to house individuals in local jails and county correctional facilities for possession of marijuana in 2010 ([ACLU, 2013](#)).

After decriminalization, police made fewer arrests and wrote fewer tickets. In 2012, the City of Chicago decriminalized the possession of 15 grams or less of marijuana for anyone 21 years old or older. In the year prior to decriminalization, Chicago police officers made 21,000 arrests. By 2016, there were just 129 arrests and the Chicago Police Department issued fewer than 300 tickets for possession of small amounts of cannabis. In 2016, the State of Illinois decriminalized possession of 10 grams or less of marijuana for anyone 21 years old or older— making possession of small amounts of weed a civil offense rather than a crime, with fines as the penalty instead of jail time ([Main, 2018](#)).

Full legalization and taxation of recreational marijuana will further reduce taxpayer costs. In June 2016, Illinois still had 445 people incarcerated in prison due to a cannabis-related possession, manufacturing, or trafficking offense ([IDOC, 2016](#)). According to the Illinois State Commission on Criminal Justice and Sentencing Reform in a January 2017 report, it costs Illinois more than \$22,000 per year to incarcerate a prisoner ([ICJIA, 2017](#)). Using this cost estimate and adjusting it for inflation to constant 2018 dollars, Illinois could conservatively save \$10.2 million annually in reduced incarceration costs alone due to the legalization of recreational marijuana (Figure 1).

Figure 1: Estimated Taxpayer Savings from Legalizing Recreational Marijuana in Illinois

| Taxpayer Savings from Recreational Marijuana Legalization | Annual Estimate |
|--|------------------------|
| Reduced Incarceration Costs | \$10.24 million |
| Reduced Judicial and Legal Fees* | \$2.95 million |
| Reduced Policing Costs* | \$5.21 million |
| Total Savings | \$18.40 million |

* Estimates have been adjusted for inflation using the Consumer Price Index ([CPI, 2018](#)).

Source(s): 2013 American Civil Liberties Union ([ACLU, 2013](#)); Illinois State Commission on Criminal Justice and Sentencing Reform ([ICJIA, 2017](#)).

Figure 1 presents annual taxpayer savings from full legalization of recreational marijuana in Illinois. Estimates are based on findings from the American Civil Liberties Union and the Illinois State Commission on Criminal Justice and Sentencing Reform adjusted for 2017 data on cannabis-related incarceration in Illinois. The estimates are also adjusted for inflation to today's dollars. The analysis reveals that legalizing, taxing, and regulating recreational marijuana would reduce incarceration costs by \$10.2 million per year, decrease judicial and legal fees by about \$3.0 million per year, and lower policing costs by about \$5.2 million per year. In total, legalizing recreational marijuana would save Illinois taxpayers \$18.4 million annually (Figure 1). This is in addition to the hundreds of millions of dollars that were saved from marijuana decriminalization in 2016.

Tax Revenue Impacts of Illinois Legalizing Recreational Marijuana

Illinois is about twice as large as Colorado (Figure 2). There are 4.8 million households in Illinois compared to 2.1 million households in Colorado. Additionally, according to data from the Bureau of Economic Analysis at the U.S. Chamber of Commerce, the Illinois economy produced 2.4 times as much output as Colorado ([BEA, 2016](#)). However, Illinois collects more in state and local taxes than Colorado.

Figure 2 multiplies the total number of households by their average household income in both Colorado and Illinois and then adjusts total income for purchasing power after all state, federal, and local taxes. The result is that Illinois has 2.1 times as much purchasing power as Colorado. This means that recreational marijuana sales in Illinois could feasibly be about 2.1 times as much as in Colorado.

Figure 2: Purchasing Power of Resident Households, Colorado vs. Illinois, 2016 Data

| 2016 Economic Data | Colorado | Illinois |
|--|------------------|------------------|
| Total Households (2016) | 2,108,992 | 4,822,046 |
| Average Household Income (2016) | \$88,246 | \$84,561 |
| Total Household Income After All Taxes* | \$129.89 billion | \$275.20 billion |
| Illinois Purchasing Power as a Multiple of Colorado | | 2.12 x |
| *Based on data from 2015 <i>State and Local Government Finances</i> by the U.S. Census Bureau and average federal income tax rates (Census, 2015). Note that this estimate is not the same as total labor income, which would include benefits, and not the same as gross state product (GSP). | | |

Source(s): 2016 American Community Survey by the U.S. Census Bureau (Census, 2016); 2015 *State and Local Government Finances* by the U.S. Census Bureau (Census, 2015).

The Colorado Department of Revenue is required by law to report marijuana tax data to the public (Colorado Department of Revenue, 2018a). Colorado currently taxes recreational marijuana at a 32.9 percent effective tax rate. This includes a 2.9 percent state sales tax on both medical and retail marijuana, a 15 percent state retail marijuana excise tax, and a 15 percent state retail marijuana sales tax that was increased from 10 percent on July 1, 2017. Over the fiscal year from July 2017 through June 2018, the state collected \$251.0 million in total marijuana taxes— not including license and application fees paid by retailers and individuals to sell recreational marijuana. Based on the effective tax rate, this means that Colorado residents and visitors spent \$762.8 million legally on recreational marijuana in Colorado over 12 months (Figure 3).

Figure 3: Estimating the Market for Legalized Recreational Marijuana in Illinois, By 2020

| The Markets for Recreational Marijuana in Colorado and Illinois | Data or Estimate |
|---|--------------------|
| Total Marijuana Sales in Colorado Annually | \$762.81 million |
| Total Marijuana Tax Rate in Colorado* | 32.9% |
| Total Marijuana Taxes Collected in Colorado Annually | \$250.97 million |
| Illinois Purchasing Power as a Multiple of Colorado | 2.12 x |
| Total Estimated Annual Sales in Illinois (After Legalization) | \$1,616.20 million |
| *Total marijuana revenue in Colorado includes a 2.9 percent state sales tax on medical and retail marijuana, a 15 percent state retail marijuana sales tax, and a 15 percent state retail marijuana excise tax. | |

Source(s): Authors' estimates based on Marijuana Tax Data from the Colorado Department of Revenue (Colorado Department of Revenue, 2018), using purchasing power estimates from Figure 2.

It is estimated that about \$1.62 billion of recreational marijuana would be sold in Illinois if the state were to legalize, regulate, and tax the substance at similar levels as Colorado (Figure 3).² This is based

² The \$1.62 billion recreational marijuana market may be a *conservative* estimate. For example, there were 46,018 qualifying patients in Illinois' Medical Cannabis Pilot Program who spent \$10.8 million per month at licensed medical cannabis dispensaries from January 2018 through September 2018— or \$235.40 per patient per month (State of Illinois,

on the total sales in Colorado adjusted for the purchasing power of Illinois households. Additionally, Illinois would benefit from being one of the only states in the region to legalize recreational marijuana. Like Colorado, tourism would be expected to increase modestly as consumers from neighboring states travel to Illinois for legalized cannabis, boosting business sales in Illinois.

Illinois taxes tobacco and alcohol at higher rates than clothes, food, and services. In addition to the 6.25 percent general sales tax, Illinois levies excise taxes of \$0.23 per gallon for beer, \$1.39 per gallon for wine, \$8.55 per gallon for liquor, and \$1.98 per pack of 20 cigarettes ([SalesTaxHandbook, 2018](#)). The legalization, regulation, and taxation of marijuana would be no different.

Figure 4 presents estimated tax revenues from the State of Illinois levying a proposed 26.25 percent state excise tax on retail marijuana. Combined with the 6.25 percent general sales tax, this would make the total effective tax rate on recreational marijuana 32.5 percent in Illinois— slightly lower than in Colorado (32.9 percent). In general, consumers tend to buy more of a product if it is taxed at a lower rate, but Figure 4 conservatively uses the total marijuana sales estimate of \$1.62 billion for Illinois, based on Colorado’s total effective tax rate.

If the state were to impose a 26.25 percent excise tax on recreational marijuana in addition to the 6.25 percent general sales tax, Illinois would generate an estimated \$525.3 million in new tax revenues (Figure 4). Fully \$505.1 million would go to the state government while local governments would receive \$20.2 million.³ This revenue estimate falls in the middle of the \$350 million to \$700 million range projected by some proponents of legalizing recreational marijuana in Illinois ([Driscoll, 2018](#)). It also exceeds the \$354 million in revenue projected by researchers at the conservative-learning Tax Foundation ([Bishop-Henchman & Scarboro, 2016](#)). Note, however, that the revenue estimate from Figure 4 does not include tax revenue from licenses and application fees paid by retailers and individuals to sell recreational marijuana.

Figure 4: Estimated Tax Revenues from Legalizing Recreational Marijuana in Illinois, By 2020

| Estimated Sales, Proposed Tax Rate, and Expected Tax Revenues | Annual Estimate |
|---|--------------------|
| Total Estimated Marijuana Sales in Illinois | \$1,616.20 million |
| Illinois State Marijuana Excise Tax (Proposed) | 26.25% |
| Illinois Sales Tax: State Share | 5.00% |
| Illinois Sales Tax: Local Share | 1.25% |
| Total State Taxes Collected | \$505.06 million |
| Total Local Taxes Collected | \$20.20 million |

Source(s): Authors’ estimates based on Marijuana Tax Data from the Colorado Department of Revenue ([Colorado Department of Revenue, 2018](#)), using purchasing power estimates from Figure 2.

2018). If 750,000 adults in Illinois consume marijuana at the same monthly quantities as qualified patients ([MPP, 2017](#)), estimated sales would be \$176.5 million per month, or a market size of \$2.12 billion.

³ In Illinois, the general sales tax is 6.25 percent. The state keeps 80 percent of the revenue from the sales tax (or 5 percentage points of the tax) in the General Fund and transfers 20 percent (or 1.25 percentage points of the tax) to local governments.

State lawmakers could stipulate how new tax revenues collected from legalized marijuana are spent. Figure 5 outlines potential public investments that could occur using the new tax revenue, assuming that half of the revenue is used to reduce pension debts by about \$250 million per year.

The remaining revenue could be distributed evenly at 10 percent to fund five government functions annually at about \$50 million each.

- Lawmakers could follow Colorado's lead and deposit 10 percent of recreational marijuana tax revenues in the **School Infrastructure Fund**. The additional state funding could potentially be used by local school districts to slightly reduce property tax burdens. Compared to actual revenue of \$72.1 million in fiscal year 2017, \$50 million would represent a *70 percent* increase in school construction funding provided by the state ([Illinois Comptroller, 2017](#)).
- Lawmakers could allocate 10 percent of recreational marijuana tax revenues to the **State Construction Account**. This money is used to fund road, bridge, transportation, and similar infrastructure projects. Compared to actual revenue of \$506.6 million in fiscal year 2017, \$50 million would represent a *10 percent* increase in funding ([Illinois Comptroller, 2017](#)).
- 10 percent of recreational marijuana tax revenues could be appropriated to the **Illinois State Board of Education** to support elementary education at Illinois' public schools. The additional state funding could also be used by local school districts to slightly reduce property tax burdens. Compared to an enacted budget of \$6.8 billion for evidence-based funding of schools, \$50 million would represent about a *1 percent* increase in total funding ([ISBE, 2018](#)).
- 10 percent of recreational marijuana tax revenues could be dedicated to the **Illinois Student Assistance Commission** to help students pay for college education through the Monetary Award Program (MAP) grants. In the 2019 fiscal year, MAP grant funding was \$401.3 million ([ISAC, 2018](#)). \$50 million in new revenue would represent a *12 percent* increase in higher education tuition assistance for students to attend Illinois' public universities and community colleges.
- 10 percent could be appropriated to the **Department of Human Services** to fund drug treatment and drug prevention programs, including to help combat the current opioid crisis. These programs were among the hardest hit by the 736-day budget impasse in Illinois. Compared to the \$230.7 million enacted for the Division of Addiction Treatment, \$50 million in new revenue would represent a *22 percent* increase in funding for substance abuse treatment and prevention programs ([Illinois OMB, 2018](#)).

Though not shown in Figure 5, the approximately \$20 million in recreational marijuana tax revenues that are transferred to local governments could be used either to fund law enforcement and hire additional officers or to pay down local police and fire pension debt obligations. The administration and regulation of legal marijuana could be funded entirely by license fees and application fees paid by retailers and individuals to sell recreational marijuana. These fees generated \$8.8 million for the State of Colorado from July 2017 through June 2018 ([Colorado Department of Revenue, 2018b](#)). Elected

officials and voters in Illinois could expect to double that revenue to pay for administering and regulating the legalized marijuana law.

Figure 5: Potential Public Investments Using New Tax Revenues from Legalized Marijuana

| Potential Public Investments Based on New Tax Revenues | Annual Estimate |
|---|------------------|
| Total State Marijuana Taxes Collected | \$505.06 million |
| <u>Potential Public Investments for the Public Good</u> | |
| 50 Percent to Pension Payments | \$252.53 million |
| 10 Percent to School Infrastructure Fund | \$50.51 million |
| 10 Percent to State Construction Account | \$50.51 million |
| 10 Percent to K-12 Public Schools | \$50.51 million |
| 10 Percent to Monetary Award Program (MAP) | \$50.51 million |
| 10 Percent to Drug Treatment and Prevention Programs | \$50.51 million |

Economic Effects of Illinois Legalizing Recreational Marijuana

Convenient access to dispensaries, consumption lounges, and licensed marijuana businesses is essential to a successful and safe market for legal marijuana. If consumers cannot easily purchase cannabis from the regulated legal market because local governments prevent dispensaries or retail stores from selling the substance, they will again turn to the unregulated black market. For example, Denver allows one cannabis retail establishment per 3,091 residents, which has caused the illegal market share to fall to 30 percent. Seattle, on the other hand, limited retail licenses to 21 firms, or one dispensary per 30,373 residents. Illegal activity was still estimated at 70 percent of the total cannabis market in Seattle due to the lack of access to the regulated market. Research finds that states need at least one legal cannabis retail storefront per 7,500 residents to limit the illicit black market ([Beals, 2018](#)).

This section uses IMPLAN to assess the economic effects of legalizing recreational marijuana in Illinois. IMPLAN is an input-output software that is considered the “gold standard” in economic impact analyses ([Vowels, 2012](#)). IMPLAN uses U.S. Census Bureau data to account for the interrelationship between businesses and households in a regional market, following a dollar as it cycles through the economy. The software uses multipliers to estimate how much a policy change— such as legalizing recreational marijuana— would affect the economy.

The results reveal that legalizing marijuana would boost the Illinois economy (Figure 6). If Illinois were to legalize cannabis at an effective tax rate of 32.5 percent, total recreational marijuana sales would be expected to be \$1.62 billion at over 2,600 businesses— approximately one cannabis dispensary, retailer, or manufacturer for every 4,900 residents in the state. This would be a higher density of points of sale per person than Seattle but a lower density than Denver ([Beals, 2018](#)).

Legalization would directly create nearly 19,500 jobs at marijuana dispensaries, retailers, and manufacturers. Additionally, the Illinois workers who are newly employed at marijuana-related businesses would earn incomes that they spend back in the economy. This additional consumer

demand would save or create another 4,100 jobs at restaurants, stores, and other local businesses. Overall, the Illinois economy would grow by an estimated \$1 billion annually due to the consumption of recreational marijuana by both residents and tourists (Figure 6).⁴

Figure 6: Estimated Annual Economic Impacts of Legalizing Marijuana in Illinois, By 2020

| Impact on Sales, Businesses, Employment, and Gross State Product | Annual Estimate |
|---|---|
| Total Estimated Marijuana Sales in Illinois | \$1,616.20 million |
| Number of Establishments (Firms Created) | 2,633 businesses |
| Total Employment (Jobs Created) | 23,618 jobs |
| <ul style="list-style-type: none"> • Direct Jobs at Marijuana Dispensaries and Manufacturers • Induced Jobs from Higher Consumer Demand | <ul style="list-style-type: none"> • 19,486 jobs • 4,132 jobs |
| Net Economic Impact (Annual Gross State Product) | \$1,000.17 million |

Source(s): Authors' estimates from an economic simulation using IMPLAN (IMPLAN, 2018) based on legal recreational marijuana market estimates from Figure 4.

Finally, information from the 2016 *County Business Patterns* dataset by the U.S. Census Bureau is used to compare the estimated number of marijuana dispensaries and related establishments to the current number of smoke shops and alcoholic drinking places in Illinois (Figure 7). As of 2016, the state had nearly 500 tobacco stores primarily engaged in selling cigarettes, cigars, pipes, and other smokers' supplies that employed nearly 1,300 workers. Similarly, the state had nearly 2,700 drinking places serving alcoholic beverages— such as bars, distilleries, and wineries— where over 21,600 bartenders, cooks, servers, barbacks, and other individuals worked. Note that this does not include restaurants which primarily sell food but may also offer alcoholic beverages. The legalization, regulation, and taxation of recreational marijuana would create about the same number of jobs— at a similar rate of pay (about \$19,600 annually for mostly part-time workers)— in Illinois as there are at bars and other alcoholic drinking places.

Figure 7: Estimated Marijuana Stores Compared to Similar Establishments in Illinois, 2016 Data

| Sector of the Economy (NAICS code) | Number of Establishments | Paid Employees | Annual Payroll | Payroll Per Employee |
|---------------------------------------|--------------------------|----------------|------------------|----------------------|
| Estimated: Marijuana Dispensaries | 2,633 | 19,486 | \$383.57 million | \$19,588 |
| NAICS 453991: Tobacco Stores | 479 | 1,265 | \$24.63 million | \$19,470 |
| NAICS 7224: Alcoholic Drinking Places | 2,668 | 21,623 | \$365.97 million | \$16,925 |

Source(s): Authors' estimates from Figure 6; 2016 County Business Patterns from the U.S. Census Bureau (Census, 2016).

⁴ The net effect on the overall economy (\$1.00 billion) is less than total sales (\$1.62 billion) because annual gross state product is the difference between all sales and the production cost of all products. As an example, consider a toy bought by an Illinois consumer at a local store for \$10. Suppose that the toy was manufactured in New Mexico for \$4. The difference between the sales price (\$10) and the cost that the local store paid for the toy (\$4) is \$6. In this case, total sales are \$10 in Illinois, but the Illinois economy only grows by \$6 due to the local business activity. The New Mexico economy grows by the remaining \$4 from manufacturing the product. The same logic applies for recreational marijuana.

Addressing Concerns on Alcohol Consumption, Health, and Safety

Marijuana consumption rates do not rise following legalization. In Colorado, for example, “marijuana use [among Colorado residents] has not changed since legalization either in terms of the number of people using or the frequency of use among users” and marijuana consumption has remained lower than daily alcohol or tobacco use ([Colorado Department of Public Health & Environment, 2016](#)). While more research is needed, the evidence suggests that cannabis consumption does not change due to legalization.

Nevertheless, some legislators and constituents in Illinois are concerned about the unintended consequences of legalizing and taxing recreational marijuana. One concern is the relationship between marijuana use and the consumption of other drugs, including alcohol. Studies consistently show that marijuana is less addictive and less risky than alcohol. Alcohol is the leading risk factor for death among people aged 15-49 and is linked with violent behavior. Conversely, there have been no documented deaths from cannabis use and there is some evidence that marijuana users may actually be less likely to commit violence against a partner ([Brodwin, 2018](#)). The research is mixed as to whether legalizing recreational marijuana would increase or reduce alcohol consumption ([Kilmer & Smart, 2018](#)). Of 39 academic studies reviewed on the topic, 16 supported the idea that alcohol consumption would decrease (41 percent), 10 supported the claim that alcohol consumption would rise (26 percent), and 13 found no effect (33 percent) ([Subbaraman, 2016](#)).

Studies have found that legalized cannabis mitigates opioid use and abuse. Over the past two decades, an increasing number of fatal drug overdoses have been related to prescription opioid medications. In 2014, 40 percent of all opioid overdose deaths involved a prescription opioid, with 46 people dying every day from an opioid overdose ([CDC, 2018](#)). A recent study published by researchers at the University of Kentucky and Emory University found that opiate-related deaths decreased by about 33 percent in 13 states in the six years after medical marijuana was legalized ([Wen & Hockenberry, 2018](#)). Additionally, a report conducted by the Minnesota Department of Health found that 63 percent of patients taking opioid medication for pain reduced or eliminated their opioid use once treated with medical cannabis ([Singer, 2018](#)).

Would legalizing recreational marijuana increase the number of car accidents due to motorists driving under the influence of cannabis? Studies have failed to find a correlation between car accidents and marijuana usage in Colorado since legalization ([Ingraham, 2017](#)). In fact, traffic fatalities have been found to drop by between 8 percent and 11 percent on average in states that legalized medical marijuana, although the reason for this finding is unknown ([Cohen, 2016](#)). One explanation may be that marijuana consumption rates do not statistically increase following legalization.

Lastly, some groups say that that marijuana legalization would have negative economic impacts from higher workplace injury rates, increased absenteeism, and additional homelessness— costing the state hundreds of millions of dollars per year ([SAM, 2018](#)). However, the National Academies of Sciences, Engineering, and Medicine has concluded that there is no evidence to support the claim that cannabis use increases occupational accidents or injuries and academic studies do not corroborate the claim that employee absenteeism would worsen ([Miller, 2018](#)). Meanwhile, there is no evidence that legal

cannabis contributes to an increase in homelessness ([Zhang, 2018](#)). Because marijuana consumption does not rise following legalization, each of these social costs is not expected to be any higher than current levels in Illinois.

Conclusion

There is significant public support for legalizing, regulating, and taxing recreational marijuana in Illinois—where lawmakers have decriminalized possession of up to 10 grams of cannabis for individuals 21 years old and older. Fully 66 percent of registered voters in Illinois support legalizing marijuana. This includes 76 percent of Democrats and 52 percent of Republicans.

Historically, the costs of police, law enforcement, and corrections associated with marijuana possession have been very high in Illinois. After decriminalization, police made fewer arrests and wrote fewer tickets. However, Illinois still has people incarcerated in prison due to a cannabis-related possession, manufacturing, or trafficking offense. By fully legalizing recreational marijuana, Illinois taxpayers would save \$18.4 million annually in reduced incarceration costs, law enforcement spending, and legal fees.

The State of Illinois is also in dire need of revenue enhancements. Following a 736-day budget impasse from the summer of 2015 to the summer of 2017, Illinois still has a \$8.1 billion backlog of unpaid bills and \$130 billion in unfunded pension liabilities ([Illinois Comptroller, 2018](#); [CTBA, 2017](#)). One policy change that has been proposed to raise state tax revenues is to legalize and tax recreational marijuana. Moody's Investors Service, a credit rating agency, calls legalizing recreational marijuana a "credit positive" potential change in tax policy ([Moody's, 2018](#)). As of November 2018, eleven states and the District of Columbia have legalized recreational marijuana.

If Illinois were to legalize marijuana, an estimated \$1.6 billion of recreational marijuana would be sold in the state, in part due to regional tourism. At a 26.25 percent state excise tax on retail marijuana in addition to the 6.25 percent general sales tax, Illinois would generate \$525 million in new tax revenues, create over 23,600 new jobs at more than 2,600 businesses, boost the Illinois economy by \$1 billion annually, and reduce law enforcement and incarceration costs. With new tax revenues, Illinois could fund additional pension payments while making vital public investments in new school construction projects, road and transportation construction projects, K-12 public school education, the Monetary Award Program (MAP) grants for tuition assistance for college students, and drug treatment and prevention programs.

Legalizing, regulating, and taxing recreational marijuana would reduce costs to taxpayers, spur economic activity, create jobs, and shrink the black market. While new tax revenues would be modest and would not solve Illinois' fiscal issues, they would improve the state's budget situation and credit rating outlook. Illinois should legalize, regulate, and tax recreational marijuana.

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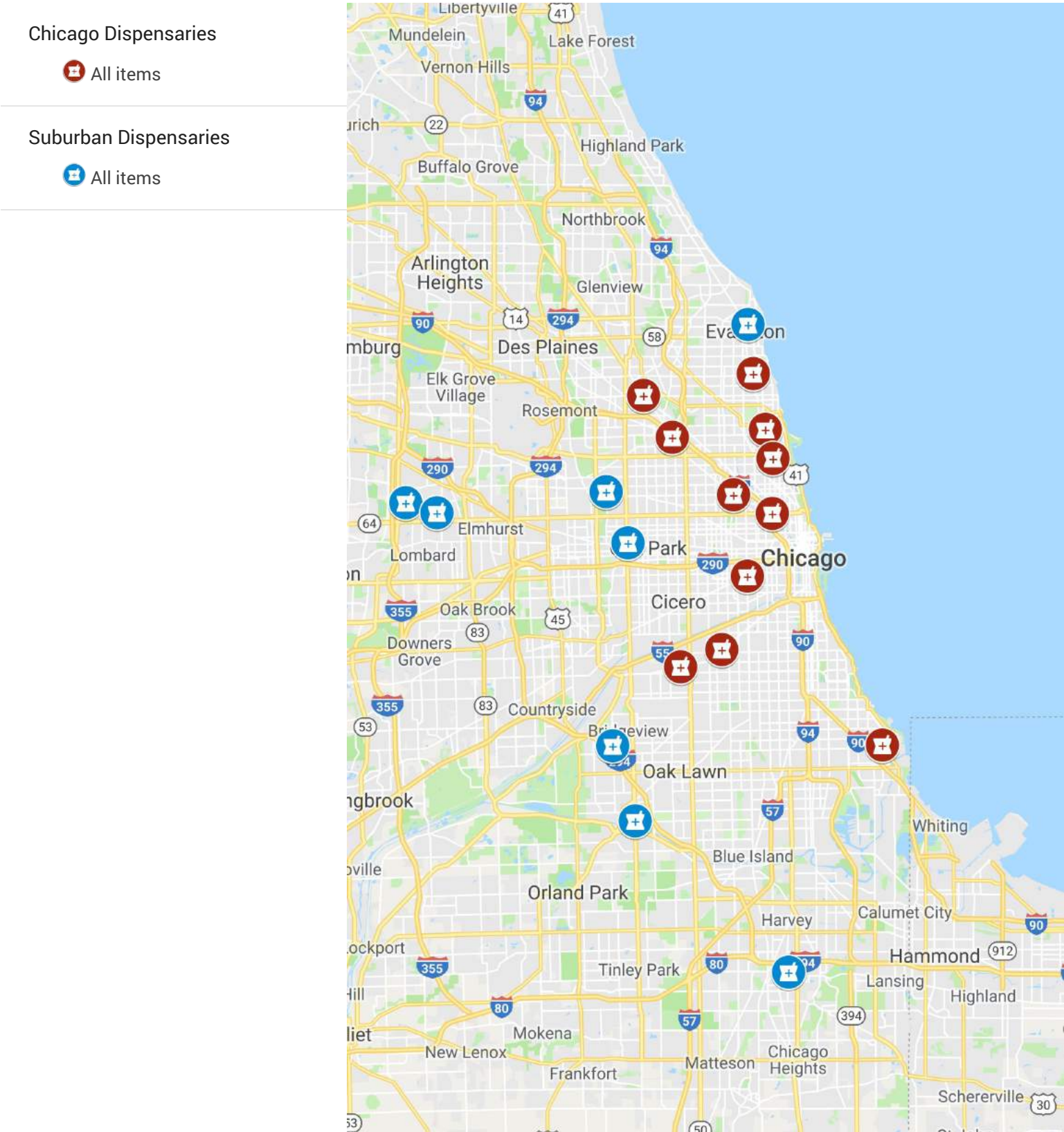
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Mapping Medical Marijuana Dispensaries



Local Impacts of COMMERCIAL CANNABIS

The last two decades have brought waves of significant change to state laws regarding medical and recreational cannabis. Though cannabis remains illegal at the federal level, these state policy decisions have implications for local governments who must decide how to regulate the cannabis industry in their communities.

With support from the City of Half Moon Bay, California, ICMA provides Local Impacts of Commercial Cannabis to assist the growing number of municipalities and counties faced with these decisions. Based on interviews with leaders from 14 communities across the country, available local and state data sources, and other research, we highlight potential impacts of legal cannabis activities spanning several thematic areas. A series of case studies provide further insight into local processes and lessons learned, and yield summary recommendations for other local governments faced with similar decisions.

This report presents key findings related to:



Economic Development



Public Health



Public Safety



Environment

"It's one of the most complex public policy issues I've faced as a local government manager given the political and societal dynamics."

Featured Profiles

- City of Carpinteria, California
- City of Durango, Colorado
- City of Fort Collins, Colorado
- City of Grover Beach, California
- Jackson County and City of Ashland, Oregon
- City and Borough of Juneau, Alaska
- City of Kirkland, Washington
- City of Pacifica, California
- City of Santa Rosa, California

Each unique case study lays out local motivations, decisions and processes, and early industry impacts. We also identify recommended practices for facilitating local decision-making on cannabis policymaking:

1. Assess the federal, state, regional, and local context for your decision(s).
2. Assemble a diverse, coordinated leadership team.
3. Plan for deliberate, transparent community engagement.
4. Regularly monitor indicators and review your regulations.

To access the full Local Impacts of Commercial Cannabis report, visit icma.org/documents/commercial-cannabis-report

Economic Development

- Some local governments see potential for the cannabis industry to support **redevelopment or economic growth**, offering opportunities for local entrepreneurship or adaptive reuse of vacant infrastructure.
- State leaders often tout the **revenue from cannabis licensing fees/taxes**, but the local share of state revenue tends to be less impactful. As a result, many local governments impose their own license fees and/or additional taxes on the cannabis industry to offset the substantial costs of administration, regulation, and enforcement.
- Cannabis's federal status limits **industry access to banking** and other auxiliary services. All-cash offers on property may place pressure on its availability to other industries.
- **Tourism** is a significant economic sector in the early states to legalize recreational cannabis. Initial research suggests a neutral to favorable impact of legalization on tourism.

Public Health

- Debate on legalization tends to be charged with conflicting claims about the relationship between cannabis and **public health indicators**, and in many cases the evidence is insufficient for drawing conclusions. Resources assessing the strengths of these claims are available to local governments and may be helpful in talking through community concerns.
- Perspectives on **adult use of cannabis** and its health implications are often informed by a blend of evidence and personal values and may compare the substance with alcohol, tobacco, or opioids. But even in states where recreational adult use or medical use is legal, all laws and regulations concerning what one cannot do under the influence of cannabis still apply.
- Opponents and proponents of legalization are often united in concerns about potential increases in **youth use of cannabis**, as abuse may be associated with lower graduation rates and increased risk of addiction or mental health issues. Youth surveys conducted in Washington and Colorado did not capture significant changes in use or abuse post-recreational legalization.

Public Safety

- State and local regulators generally build a range of precautions into cannabis **licensing and land use standards**, such as requirements for security systems, lighting, and employee background checks to protect the businesses themselves as well as local communities.
- Providing a path to compliance may open the door for **relationship building** between local enforcement and industry operators, increasing adoption of best practices.
- While residents may be concerned about potential issues related to legal cannabis businesses, **unauthorized cannabis activities** often pose a bigger public safety and security threat.
- Some communities report higher-than-anticipated **trip generation and parking demand** associated with cannabis businesses, but it is likely too soon to tell in most cases whether or not these impacts are permanent.

Environment

- State and local requirements will mandate **buffering from sensitive uses** such as schools, child care facilities, parks, and other youth-serving centers. Local governments may choose to enhance and/or relax some of these requirements based on local preferences and conditions.
- **Odor issues** along the cannabis supply chain are legitimate concerns, and local regulations can provide a means for enforcement against nuisance odors by requiring mitigation or preventing public consumption. Local governments recently authorizing commercial cannabis activities conceded that while odor issues may be more common at the onset, they tended to dissipate as businesses “mature” and were given a chance to improve their systems.
- Cannabis cultivation, manufacturing, and processing have potential to strain **utilities and natural resources**. Local governments can mitigate these concerns through code enforcement, pricing structures, and public education about best practices and regulations.
- Local governments can also regulate elements such as signage, fencing, size, or location of businesses to limit cannabis industry influence on **aesthetics** of the natural and built environment.

Local Impacts of COMMERCIAL CANNABIS

ICMA, the International City/County Management Association, advances professional local government management worldwide through leadership, management, innovation, and ethics. Through expansive partnerships with local governments, federal agencies, nonprofits, and philanthropic funders, the organization gathers information on topics such as sustainability, health care, aging communities, economic development, cybersecurity, and performance measurement and management data on a variety of local government services—all of which support related training, education, and technical assistance.

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Local Impacts of COMMERCIAL CANNABIS

INTRODUCTION

The last two decades have brought waves of significant change to state laws regarding medical and recreational cannabis, which in turn have implications for local governments.

Since the passing of California's Proposition 215 in 1996, another 30 states plus the District of Columbia, Guam, and Puerto Rico have followed with their own measures legalizing medical cannabis. Voters in nine of those states—Colorado, Washington, Alaska, Oregon, Massachusetts, Maine, Nevada, California, and Vermont—plus the District of Columbia have also legalized adult recreational use of cannabis.¹

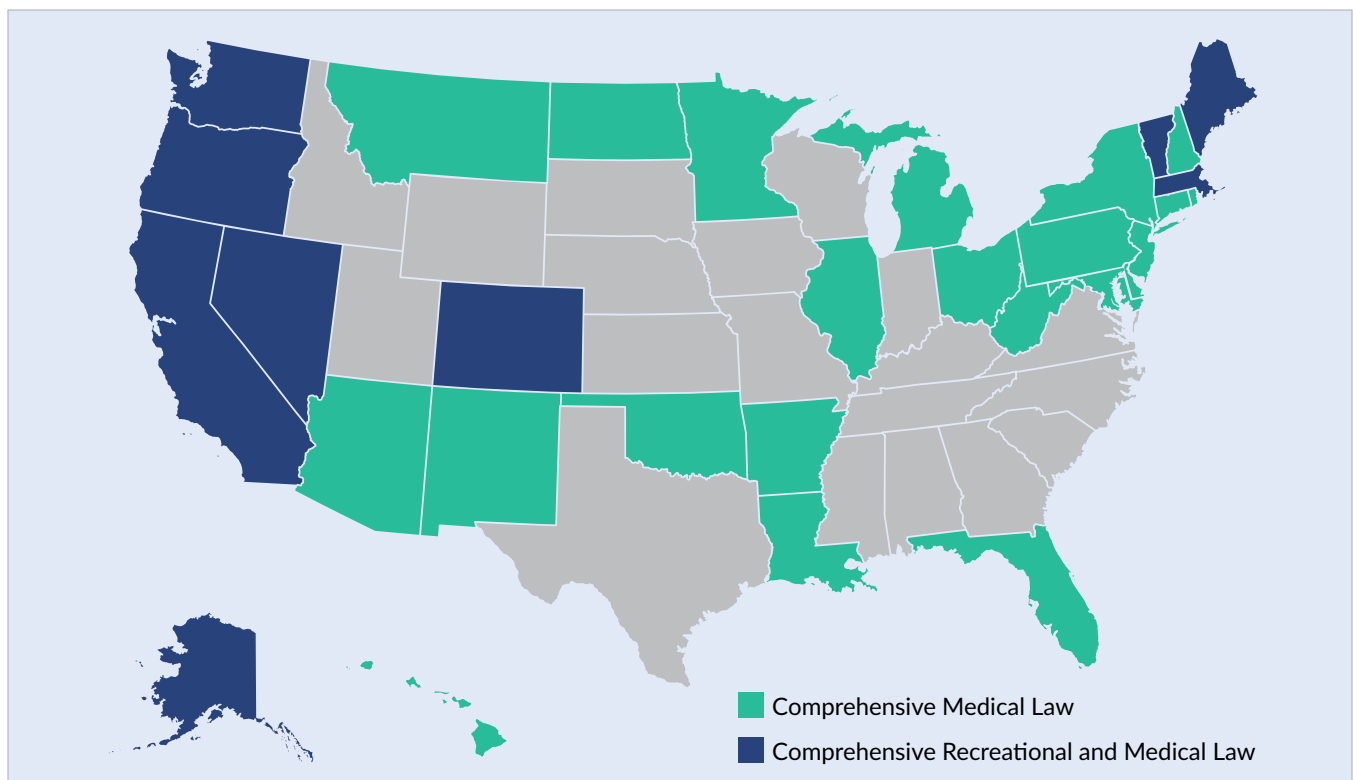
At the federal level, cannabis remains a Schedule I drug according to the U.S. Controlled Substances Act, reserved for “substances ... with no currently accepted medical use and a high potential for abuse,” a classification also applied to heroin, lysergic acid diethylamide

(LSD), methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote.²

Under the Obama administration, the Department of Justice issued a series of guidelines regarding federal prosecution of medical and recreational cannabis activities, the best known being Deputy Attorney General James Cole's 2013 memo. The Cole Memo provided some assurance to states and localities permitting medical or recreational cannabis activities that the federal government would not challenge these states' laws, provided they aligned with federal high-level priorities such as keeping marijuana away from children and upholding protections against public health and safety threats associated with use and distribution.

In early 2018, the new Attorney General Jeff Sessions issued a memo to all rescinding the Obama administration's guidance on federal prosecution of medical and recreational cannabis activities.³ Despite the Justice Department's about-face, additional states

State Cannabis Laws as of July 2018



Source: National Conference of State Legislatures

such as Oklahoma and Michigan have since proceeded with their plans to vote on medical and recreational cannabis, respectively. The Canadian government overwhelmingly passed a national measure to legalize and regulate cannabis, becoming the second nation worldwide to do so. In the United States, public polling on the issue shows a dramatic shift over the past decade in favor of legalization.⁴

In the meantime, increasing numbers of local governments are faced with decisions about whether and how they want to regulate medical and/or recreational cannabis in their communities. These decisions are extremely complicated and have implications across many local government departments and systems. Public debate is emotionally charged and not all questions can be answered given the youth of a legal cannabis industry.

ICMA provides this resource to assist local governments in considering implications of legal commercial cannabis activities in their communities. Findings and recommendations are drawn primarily from interviews with local government administrators and staff and review of available data and reports (emphasizing neutral sources whenever possible) from early adopters of legal cannabis legislation.

A note on terminology: Cannabis is the biological genus or generic name for multiple species of plants also popularly referred to as marijuana, hemp, and no shortage of other slang terms. Although early U.S. legislation on this topic used the spelling “marihuana,” some have argued this term and its variants, specific to use of the plant for smoking, were introduced in an attempt to marginalize migrant populations.⁵ Despite cannabis being the scientific term, marijuana prevailed in common vernacular. This report gives preference to the scientific term cannabis but uses marijuana interchangeably in some case studies to be consistent with the relevant state and local legislation.

IMPACT AREAS

Economic Development

Redevelopment and Growth Potential

While not guaranteed, it is certainly possible to capitalize on peak interest in this industry as an opportunity for redevelopment and economic growth. Across the state of California, the declining cut flower industry is causing some producers to consider a shift toward cannabis cultivation.⁶ Small-scale food growers on the rural outskirts of Cape Cod, Massachusetts, find themselves in a similar situation.⁷ Grover Beach, California realized its underused industrial land would be marketable to cannabis product manufacturers, and imposed additional requirements for public improvements on those sites to such users. The small town of Cotton Plant, Arkansas—a far cry from progressive coastal enclaves—sees potential for a legal medical cannabis industry to resurrect a waning local economy.⁸

Industry Characteristics

Cash-based businesses. Regardless of lenient state and local policy, the illegal status of cannabis at the federal level renders it effectively an all-cash industry, as the federally insured banking system is extremely limited on how, if at all, it can service these businesses. It can also be challenging for businesses to access auxiliary financial (e.g., accounting) or legal services that other types of businesses take for granted. For local governments, this means being prepared to accept massive cash payments for taxes and fees, which could include purchasing cash-counting machines and/or increasing security to protect staff and facilities. And for local economies, all-cash offers on land can place pressures on availability and have pricing consequences for other industries as well.

Who are operators? The high cost of licenses, permits, land, security, other startup requirements, as well as a lack of access to financing present significant barriers impacting who can enter the industry. But the industry is attracting a wide range of operators, from those with a history in agriculture to tech-savvy entrepreneurs. Google employees own one of the few cannabis retail stores in Kirkland, Washington, while a large start-up in Grover Beach, California is connected to a well-known Los Angeles rapper and TV personality. In Santa Rosa, California, city staff discovered through

their licensing processes that many cannabis businesses were operated by female heads-of-households.

Industry employment. The Washington State Institute for Public Policy, charged with evaluating the state's implementation of its legalization measure, estimated the average of its 700 active cannabis businesses employed approximately nine full-time equivalent (FTE) employees at an average hourly wage of \$16.45 (median of \$13.44) in the final quarter of 2016. The majority of retailers, processors, and producers were classified as small, employing less than nine FTE. Producers and processors tended to be even smaller, employing four or fewer FTE.⁹

Revenue Generation

State leaders in favor of a regulated legal cannabis industry often tout the associated economic opportunities from license fees and sales and excise taxes. States have earmarked this revenue for specific needs such as schools (including construction, early education, and anti-bullying measures), public health (substance abuse prevention/treatment, mental health), and public safety.

Slices of revenue are also passed through to local governments where cannabis activities are permitted. Revenue distribution formulas may account for population, number of licensed businesses, and other factors, and are regularly subject to challenge or change; cultivation hotspot Jackson County, Oregon is urging its state to weigh total canopy size more heavily in its revenue-sharing calculations. Some states, such as Oregon, also prescribe how locally shared revenue should be spent (on public safety, in the Oregon example). For multiple reasons, the local share tends to be significantly smaller and thus less impactful.

In light of this, and to offset local administration, regulation, and enforcement costs, many communities have elected to impose their own license fees and/or additional local taxes on the cannabis industry. State legislation may set restrictions on the rate and process for doing so, and state municipal leagues are often useful resources in parsing those regulations. Specific guidelines for setting such rates are beyond the scope of this report, but general observations from our research include the following.

- Explore this option as early as possible. Durango, Colorado waited until the industry had been operating locally for multiple years before introducing a dedicated tax proposal, which they were forced to drop in the face of overwhelming opposition.

- It can be tempting to overreach with projections. Early analyses on the potential economic impacts of the cannabis industry are fraught with assumptions that can multiply into gross exaggerations and unrealized expectations (true for any industry, but particularly so for one just emerging from underground).
- Avoid taxing the industry back underground. The city of Grover Beach, California actually adjusted its tax rates downward as the industry came online to maintain a competitive overall effective tax rate.
- Consider your costs, which likely spread far across your organization. The City of Santa Rosa, California provides a detailed breakdown of the estimated steps and costs associated with just the review of business applications, which are substantial.¹⁰ Fort Collins, Colorado is carefully trying to monitor and cover its costs, which also include staff support from a licensing coordinator and dedicated police officer. In contrast, the small city of Hines, Oregon believed it was seizing an economic opportunity as the only city in its county to allow commercial cannabis businesses, but the administrative burden on its limited staff has left them questioning the net benefit.

Of the communities we interviewed for this report, those enlisting the help of external consultants with cannabis industry expertise were typically pleased with the support provided.

Tourism

Tourism is a significant economic sector in virtually all of the early states to legalize recreational cannabis, so it warrants special attention. While individual opinions vary as to whether cannabis is a deterrent to tourism, research suggests a more neutral-to-favorable impact. In 2016, the Colorado Tourism Office included a new series of marijuana-related questions in its annual research on visitor behavior. A contracted research firm queried individuals as to whether legalization of marijuana influenced their perceptions on living/working, visiting, or purchasing goods/services from those states. According to their findings, a majority of visitors' opinions of states where marijuana was legalized did not change. Approximately 30 percent of respondents viewed those states more positively, and approximately 1 in 10 had a more negative view based on legalization of marijuana. Results were also stratified by whether

the respondent resided in Colorado and/or had taken a leisure trip in Colorado over the past year. Among nonresidents visiting Colorado in the year of this study, 47 percent said that legalization of marijuana positively influenced their consideration of states to visit. Another study commissioned by the Colorado Tourism Office estimates that 15 percent of Colorado tourists engaged in a marijuana-related activity during their visit, with a third of those citing that activity as a motivation for their trip.¹¹ It is worth noting that state and local tourism offices generally do not promote cannabis-related activities due to explicit or ambiguous regulations based on federal legal status and/or limiting advertising to minors.¹²

Laws restricting smoking or consumption can present a complication for local cannabis-related tourism, while at the same time alleviating some concerns of residents. State and local laws vary, but restrictions similar to those targeting the use of tobacco or alcohol use often apply, as do new regulations prohibiting on-premises cannabis consumption. Private property owners and operators can also impose their own restrictions on cannabis consumption. Tourists may be surprised to discover they are prohibited from consuming cannabis products in public spaces, in rental cars (even as passengers), in hotels, and at the point of sale, not to mention that they cannot bring cannabis products in or out of the state. It would be reasonable to anticipate a learning curve while tourists and residents adjust to any changes in local and state laws. Cities and states have developed public education campaigns and materials addressing frequent questions and assumptions.¹³

Local government leaders in communities electing to allow commercial cannabis activities observed entrepreneurial operators tapping into tourism interests. Many of the states out front early on legalized recreational cannabis are home to craft-oriented beer and/or wine production, which some view as complementary to high-quality, locally produced cannabis. Cities and regions have also seen a rise in “green tourism” services such as taxis/limousines and travel/tour agencies.

Public Safety

Property and Personal Crime

Local governments can anticipate concern that cannabis businesses may attract criminal activity such as burglary, theft, or more serious offenses. The persistence of a cannabis black market—the only market in some states—and

the cash-based nature of the industry do present conditions that could encourage such activity. These risks have not been lost on state and local regulators, who have built a range of precautions into cannabis licensing and land use regulations, such as requirements for security systems, lighting, and employee background checks to protect the businesses themselves as well as local communities.

As the sector generally most accessible to the public, retail businesses (or medical cannabis provisioning centers or dispensaries) are often a primary concern to municipalities. Communities implementing these protective operating and siting requirements reported overall satisfaction with their local legal operators and noted that providing standards for compliance shifts more of the responsibility from law to code enforcement. The City of Fort Collins dedicated a police officer to the industry whose work is characterized mainly as relationship building rather than punitive; police in the City and Borough of Juneau, Alaska also assist businesses with implementing best practices. The police chief in Pacifica, California, notes that previously illegal businesses avoided reporting burglaries and other crimes against their property for fear of exposing themselves. Now, they meet local safety standards and enjoy added protection from the police department—which hasn’t seen any significant increase in the calls for service.

Complementing these anecdotal reports from city administrators, the Washington State Institute for Public Policy provides statistics on several types of crime in the state since the legalization of recreational cannabis.¹⁴ Arrests for drug or narcotic violations decreased by approximately 15 percent since 2012. “Incidents” (or investigations, whether resulting in an arrest or not) identified as marijuana-related decreased by 63 percent from 2012-2015. Drug-only Driving Under the Influence (DUI) arrests, which do not differentiate marijuana from other drugs, decreased by about a third to approximately 1,200 for 2015. Among drivers involved in a traffic fatality who are tested for drugs or alcohol, there have been no significant growth or decline in those testing positive for marijuana alone or in combination with other drugs or alcohol. During that time, incidents identified as amphetamine/methamphetamine- or heroin-related increased by 72 percent and 41 percent, respectively. A follow up report released in 2017 found no evidence linking

Washington counties' retail cannabis sales with drug-related convictions.¹⁵

Safety Hazards

Cannabis product manufacturing/processing often involves chemical extractions, through which solvents are used to remove resin from plants and convert it into hash oil. The high-concentrate oil can then be infused into edibles, tinctures, and other products, or consumed by smoking or vaporizing. Because of the volatile solvents used, the extraction process should only take place in regulated environments using proper equipment and safety precautions—otherwise, risk of explosion is high. This is enough to dissuade some local governments from wanting to allow such activities in their communities.

Increased opportunities for legal cultivation of cannabis, including at the personal scale, may tempt amateur processors to attempt these extractions in unregulated settings such as residential neighborhoods. Beyond the threats to individuals involved and to first responders, the extraction process poses the additional risk of a fire spreading to other nearby structures. The City and County of Denver experienced nine hash oil explosions between January and September 15, 2014, and the state's primary burn center has seen a spike in extraction burn patients since 2012.¹⁶

An Important Distinction

To be sure, commercial cannabis-related crimes or safety hazards make the local news, and local government administrators acknowledged examples ranging from mundane to violent. A common theme, however, is their tendency to involve unauthorized cannabis activities, such as illegal grow operations in homes or on other private land.¹⁷ A black market exists, though its presence varies across communities, so even communities electing to ban cannabis to the fullest extent possible are vulnerable to these crimes.

Traffic

A more practical matter, predicting circulation impacts of commercial cannabis activities, is an emergent focus for transportation engineers. The County of Santa Barbara, California, provides an example of a detailed analysis estimating the potential impacts of seven different types of activities along the supply chain.¹⁸ Jackson County, Oregon observed increased traffic in rural neighborhoods since cultivation (both authorized and unauthorized) began to proliferate. The Seattle sub-

urbs of Kirkland and Issaquah also noted slightly more intense circulation and parking demand than anticipated for their early retail businesses. Interim Issaquah City Administrator Emily Moon noted, "In terms of trip generation, retail marijuana is similar to fast food in some ways. It's fairly constant traffic."

Public Health

Most states that have legalized adult use of recreational cannabis are dedicating a portion of their tax and fee revenues to public health initiatives, often with a particular youth focus.

Debate on legalization tends to be charged with conflicting claims about the relationship between cannabis and public health indicators. The Colorado Retail Marijuana Public Health Advisory Committee, a body of experts appointed by the Colorado Department of Public Health and Environment to provide unbiased and transparent evaluation of scientific literature and data on marijuana use and health outcomes, notes the complexity of evaluating these associations for strength (or lack thereof) and causality. Its reports break down the validity of common claims made about youth and adult use of cannabis and may be helpful to local governments in talking through community concerns.¹⁹

Youth Impacts

Public health experts, including the Colorado committee, do tend to agree that youth abuse of cannabis can be associated with lower graduation rates and increased susceptibility for addiction and mental health issues. Likewise, opponents and proponents of legalization are often united in concerns about potential increases in use/abuse among young people. But evidence that legalization of cannabis significantly changes patterns of youth use/abuse is lacking.

According to the biennial Washington State Healthy Youth Survey, rates of current marijuana use stayed relatively consistent for sixth, eighth, tenth, and twelfth graders from 2012 to 2016 (recreational legislation passed in 2012). Rates do increase across the age groups, from about 1 percent of sixth graders up to about a quarter of twelfth graders. Ease of access also increases by grade, but perception of access remained relatively consistent over time. Four percent of all Washington state students were suspended or expelled during the 2015-2016 school year. Of those, 9 percent (less than half a percent of all students) were suspended or expelled due to marijuana possession.²⁰

Colorado's youth surveys yielded similar results.²¹ Multiple analyses of the biennial Healthy Kids Colorado Survey agreed that marijuana use among statewide youth remained essentially unchanged from 2013 to 2015, though recreational adult use became legal in 2014. These same types of surveys are conducted across the country, regardless of cannabis' current legal status. Results of each state's youth surveys are used to inform and target education and prevention strategies that can be funded through legal cannabis revenues.

State requirements will also mandate buffering of sensitive uses, such as schools, child care facilities, parks, and other youth-serving centers. Typically, local governments will have the right to modify some of these provisions according to local preferences and conditions, though legal opinions vary about the flexibility to do so. Washington State allows local governments to reduce this buffer for everything except elementary and secondary schools and public playgrounds; the City of Kirkland exercised this option to accommodate businesses around 600-plus feet of licensed child care centers, given the layout of its zoning map. Communities may elect to impose additional restrictions, as was done in Grover Beach, California, which extended its buffers along designated school walking routes.

From 2015 through April 2018, the state of Washington logged approximately 200 violations for marijuana sale/service to a minor. Approximately one-third of those were issued in unincorporated areas; the rest were scattered across approximately 50 municipalities over the 3-plus year period. Reflecting on the strict requirements of Colorado's state inventory tracking system, Durango city staff noted that minors' access to cannabis was easier to regulate than alcohol.

Adult Use

Perspectives on adult use of cannabis and its health implications are much more divergent. With a majority of states now permitting some degree of medical cannabis use, clearly there is strong support for its therapeutic properties in certain situations. But discussions about cannabis as a recreational substance—informed by a blend of evidence and personal values—often conflate it with alcohol, tobacco, or opioids. Some argue that cannabis is less harmful or habit-forming than these other substances; others believe it to be a gateway to more serious substance abuse. The National Institute on Drug Abuse (NIDA) acknowledges that

habitual cannabis use can lead to “marijuana use disorder” or addiction in its most severe form, but these types of problems afflict a minority of reported cannabis users.²² NIDA also notes some evidence suggesting links between marijuana and other drug use for a minority of cannabis users, but that there are many complicating factors and further research is needed.²³

There is less dispute that the mind-altering chemicals in cannabis impair judgement, coordination, and reaction time. Depending on the form of consumption, the effects can be delayed and prolonged for hours; traces of the chemicals—though unfelt—can remain detectable in the bloodstream for weeks.²⁴ Even in states where recreational adult use or medical use is legal, it is important to remember that all laws and regulations concerning what one cannot do under the influence of cannabis—e.g., operate a vehicle, show up to work—still apply. The police department in Kirkland, Washington, was given explicit instructions not to “de-police” these sorts of behaviors that fall under its purview. Local law enforcement may benefit from additional training in how to identify and confirm potential violations, since assessing the influence of cannabis will typically require a blood test and may not be possible in the field.²⁵

Recent studies of states post-legalization have seen some upticks in public health statistics related to cannabis use. For example, annual average calls to the Poison Control Center in Washington increased by 73 percent in the years following legalization.²⁶ Colorado also saw increases in marijuana exposure calls, as well as in marijuana-related hospitalizations and emergency department visits.²⁷ These may be indications of legitimate concerns, such as a need to regulate concentration and packaging of edible cannabis products (which was done in Colorado), and they may be influenced by changes in patient honesty or medical billing practices. And as with all statistics on the industry, it is too soon to tell whether trends will continue, level off, or reverse. Fortunately, researchers will have access to more time-series data from more states as the legal landscape expands.

Environment

Odor

It can be a tough call as to which is more pervasive—cannabis odor or the concerns about it. Odor concerns, whether tied to the plants themselves or the smoke from consumption, are legitimate. For some, odor may

trigger allergies or asthma, for others it may simply trigger a reaction based on one's personal views about an historically taboo substance. It is possible for local regulations permitting cannabis uses to be a recourse for those most opposed to its odor, though there are some complicating factors.

In addition to siting activities in appropriate locations relative to other uses, land use regulations permitting activities along the cannabis supply chain will almost certainly include stipulations about odor control, aiming to reduce the likelihood of a nuisance issue. Regulations provide a means for enforcement; a neighbor can complain if aggrieved. Formal litigation of odor nuisance cases has had mixed outcomes, as it can be difficult to determine the nuisance threshold or to pinpoint the precise source. However, local governments recently authorizing commercial cannabis activities conceded that while odor issues may be more common at the onset, they tended to dissipate as businesses became "more professional" and are given a chance to improve their odor mitigation systems.

From a consumption perspective and as mentioned in the earlier discussion on tourism impacts, many local governments already have bans in place regarding smoking indoors and/or in public places. Land use regulations for commercial cannabis retail can and typically do prohibit onsite consumption.

Resource Impacts

Cannabis cultivation (and to some extent processing) also raises concerns about water, soil, and light/energy use, the specifics of which will vary depending on the local capacity (climate, infrastructure, etc.) for commercial cultivation. Some regulations, whether specific to cannabis or generally applicable to agriculture, will be set at the state level, and state departments of agriculture and natural resources have developed answers to frequently asked questions about regulations governing cannabis as an agricultural activity and water use.²⁸ Local governments may wish to direct prospective local growers to pertinent recommendations and regulations and clarify where additional local requirements (related to permitting siting, fencing, etc.) may apply, as Jackson County, Oregon has done.²⁹

The Department of Environmental Health for the City and County of Denver, Colorado developed a comprehensive guide to best practices on energy, water, and waste management for indoor growing facilities.³⁰ Though specifically developed in context of Denver's

sustainability goals, climate, and infrastructure, it provides useful overviews and metrics for the resource systems involved in cultivation.

Local governments will likely apply building and fire safety codes to regulate potential environmental nuisances and safety concerns related to lighting and compliance. Light pollution from outdoor cultivation, volatile extraction processes in manufacturing facilities, and the extent of personal cultivation allowed in multifamily facilities are all issues that local governments have dealt with using local codes.

Aesthetics

Finally, local governments will want to consider cannabis' implications on aesthetics of the natural and built environment. Jackson County, home to a significant share of Oregon's cannabis production, provides an aerial view of the use's significant impact on its landscape.³¹ Illegal, and to a lesser extent legal, grow operations there pose challenges to maintaining government survey corners, riparian buffers, and drainage. Municipalities may be more concerned about signage, fencing, and generally ensuring that the cannabis industry not overtake the character of an urban or suburban environment. Fort Collins, Colorado prohibited the use of cannabis-affiliated phrases and images in signs for cannabis businesses. Many municipalities prevent the creation of a cannabis district through clustering by including some method of business-to-business setbacks in their regulations. Alternatively, others intend to cluster all cannabis businesses in one or few districts, in order to prevent siting in the majority of the municipality while ceding only part.

Summary and Recommendations

Based on our research, ICMA offers the following recommendations to local governments considering whether and/or how to allow commercial cannabis activities.

- 1. Assess the federal, state, regional, and local contexts for your decision(s).** While the letter of federal cannabis law has not changed for some time, interpretation and enforcement priorities continue to shift. But more urgent are conditions at the state level and below. Some sample questions to consider:
 - a. Does current or pending state law prescribe any decision points? *Must you opt in or out of default situations?*
 - b. How did your community vote on past cannabis ballot measures? *Do those results entitle*

you to different powers (such as the ability to tax or the ability to impose a complete ban)? Does your community lean one way or the other in its opinion on cannabis?

- c. What's happening in surrounding communities that may impact you? *Are the county and its municipalities talking with each other about this issue? Are your priorities complementary or in conflict?*
- d. To what extent can you lean on state regulations and enforcement? *Are regulations specific enough? Do you believe resources are adequate to perform state-level responsibilities?*

2. Assemble a diverse, coordinated leadership team.

Local administrations successfully navigating the early legal cannabis landscape credited clear, steady direction from their elected officials—including rationale or objectives for local regulation—as extremely helpful.³² In addition to elected officials and chief administrative officers, planning, police, legal, and finance staff tended to serve in critical leadership roles. But cast a wide net across your organization, as the industry has potential to impact many additional systems and functions.

3. Plan for deliberate, transparent community engagement.

Even communities voting strongly in favor of cannabis legalization can still struggle with implementation.³³ Provide multiple ways outside of formal meetings and public hearings for community members to review and comment on potential regulations, such as community surveys or other online platforms and in neighborhood/community-wide events.³⁴ Expect questions, expect fears, and be willing to demonstrate how proposed regulations have accounted for community concerns. Maps showing eligible locations for cannabis businesses as well as sensitive uses are very helpful tools, as are summaries of key steps taken and reference documents posted on your website. While time-consuming, local governments following this model were comfortable reflecting on their processes and were later able to make decisions without significant debate.

4. Regularly monitor indicators and review your regulations.

This is a new industry that will continue to experience growing pains, especially as the state and federal context continue to shift.

While states and local governments adopting early legislation are beginning to generate data, figures should still be considered preliminary. Even in states where legalization passed several years earlier, businesses are just starting to open, following long processes to develop regulations and process applications, and local leaders are standing by to watch for indications that the industry needs more (or less) regulation. “Start early and walk a slow path,” suggested one California city manager—a sentiment echoed by many of his peers’ actions. Be wary of doors that are difficult to close once opened; consider sunset provisions or temporary caps as ways to test your local market and assure residents that you will continue to revisit regulations and make adjustments as necessary.

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The background of the entire page is a close-up photograph of several green cannabis leaves with serrated edges, resting on a dark, textured wooden surface. The leaves are vibrant green, while the wood is a mix of dark brown and black tones with visible grain and some lighter patches.

Local Impacts of Commercial Cannabis CASE STUDIES

The following case studies describe the motivations, processes, and decisions of 10 local governments to regulate commercial cannabis activities in their communities. Though selected from states with longer histories of recreational and medical cannabis laws, these local governments are continuing to monitor the industry and adapt their strategies.

CASE STUDY:

Carpinteria, California

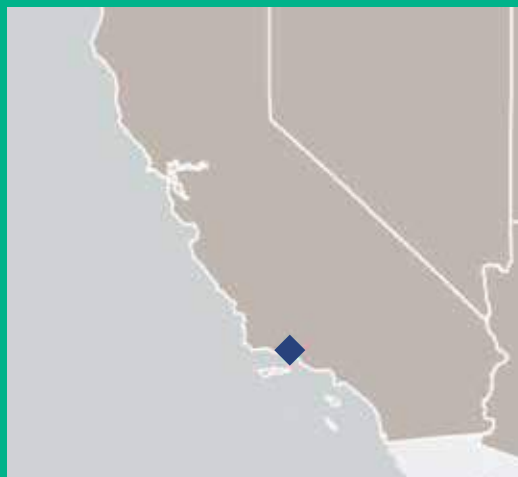


Carpinteria is bordered by the Pacific Ocean to the southwest and rural oceanside hills to the southeast, while the areas north and northwest of the city are agricultural zones dotted with greenhouses primarily for the cut flower industry. That industry was once a thriving sector in California's economy, but many years of competition have decimated it. Greenhouses that once grew flowers are now prime real estate for recreational cannabis cultivation.

The marijuana industry has been moving into Carpinteria Valley greenhouses for years, but the pace of turnover increased once flower growers began to look for more profitable ventures. Some greenhouse tenants and owners turned to growing vegetables or even stayed with flowers, but many others have converted to growing cannabis or sold their stake to someone who does.

City and County

The City of Carpinteria has instituted a moratorium on legal marijuana businesses through May 2019 while it continues a deliberate process of determining regulations for the city. In contrast, Santa Barbara County



COMMUNITY PROFILE

Population (2017): 13,622

Land area (in sq. miles): 2.59

Median Household Income: \$72,901

Source: United States Census Bureau

moved quickly to establish regulations for allowing cultivation and other cannabis businesses as soon as California licensing became available. Santa Barbara County is the home of the most cannabis cultivation licenses in California, outpacing the counties of Humboldt, Mendocino, and Trinity, counties known for their marijuana cultivation.¹ All of those licenses in the vicinity of Carpinteria, many of which were originally granted for growing medical marijuana, lie on Santa Barbara County unincorporated land. Carpinteria's incorporated area does not include the agricultural portion of the Carpinteria Valley, and the city does not regulate it.

After the passage of Proposition 64 in November 2016, Santa Barbara County first began the process of deciding how to approach locally regulating the cannabis industry. At that point, Carpinteria city officials were poised to work alongside Santa Barbara County officials and attended multiple meetings with county officials on the subject. However, it soon became clear that the city and the county were guided by different philosophies. Carpinteria's interest in potentially allowing and regulating cannabis businesses stemmed from public support within the community, but city officials and residents were, and still are, in favor of a cautious and deliberate approach to developing regulations. Santa Barbara County was under pressure to quickly establish its regulations in order to limit the impact from a large and growing number of unregulated or black-market cannabis operations, generate revenues, and create a commercially viable cannabis market as an alternative to lost jobs in the cut flower industry.²

These differences in approach forced Carpinteria into a reactionary position. As Santa Barbara County proceeded with its big-picture approach through the summer of 2017, tension was high in Carpinteria from a frustrating process of legal proceedings. The city was able to extract some of what it wanted from the county, such as a cap on greenhouse canopy size and a prohibition on outdoor cultivation.

Currently, the area's cannabis cultivation industry is operating in the California Coastal Zone, which includes the Carpinteria Valley, through county-issued interim permits until the formal permitting, regulation, and revenue-collection process passed by Santa Barbara County undergoes a legal review by the California Coastal Commission. Cannabis operations in Santa Barbara County outside the Coastal Zone are operating under the county's land use code and Cannabis Business License Ordinance as of June 2018.³

Preserving the Character of Carpinteria

Cut Flower Industry

The Carpinteria Valley cut flower industry had been struggling for years due to international competition. Low-wage workforces in South and Central America left California flower growers unable to compete on price, leaving many as the owners and lessees of empty greenhouses. A number of those greenhouse owners and lessees turned to cannabis cultivation due to the high value of the crop. The first to convert were medical cannabis cultivators under the previous regime of California medical cannabis law. Local governments had little to no regulatory or administrative authority over these operations, leaving unfixed problems that were generally foreign to flower growers, such as noxious odors and security issues. As Santa Barbara County registers and regulates these operations under the new commercial cannabis regulatory regime, those issues should subside.



Cannabis greenhouse

Economic Equilibrium

The City of Carpinteria's interest in strengthening the county's cap on cannabis cultivation is twofold. One concern is ensuring that agriculture in the Carpinteria Valley is not dedicated to a single use. The flower industry decline was especially painful as most greenhouses were entirely dependent on it.

Community character and aesthetics comprise the second motivating factor for a cap. In 2002, Santa Barbara County enacted an ordinance to preserve open field agriculture and limit unsightly piecemeal greenhouse construction, but Carpinteria was concerned that a lack of a regulatory cap on cannabis cultivation could undermine that ordinance. A boom-

ing cannabis cultivation industry could potentially take over the Carpinteria Valley's available greenhouses and increase the demand for the construction of even more greenhouses.

At this point in its lifecycle, the cannabis cultivation industry has different effects on local economic activity than the cut flower industry. Observations from Carpinteria show that cannabis cultivation generates less intensive industrial traffic than cut flowers. However, that may be offset by increased traffic from laborers. Greenhouse cannabis cultivation uses approximately 595 square feet per worker (FTE), compared to (conservatively) 38,314 square feet per worker for cut flower growing.⁴ This discrepancy is confirmed anecdotally in Carpinteria, with far more cars parked outside the greenhouses that have moved to cannabis cultivation as opposed to those growing flowers or vegetables.

Odor

Medical cannabis has been growing and generating odor just outside Carpinteria city limits for the past few years, but the problem worsened when recreational cannabis was authorized. Agriculture is typically not subject to odor complaints under Right to Farm protections, and Santa Barbara County regulated medical cannabis cultivation in this manner as well.⁵ This led to an underenforcement of nuisances like odor and the lack of a regulatory infrastructure at the onset of recreational cannabis, with many residents voicing their complaints. Carpinteria High School, across the street from several greenhouses that cultivate cannabis, was forced to air out classrooms and send home students who were negatively impacted by the odor.⁶

The odor situation has improved in Carpinteria over the past year as some of the greenhouse cannabis cultivators have started to take steps to prevent odors, investing significantly in odor mitigation technology. Santa Barbara County cited evidence from San Diego and established Carpinteria cultivators showing this technology, called a Vapor-Phase System, to be effective in mitigating odors from greenhouse cannabis cultivation facilities.⁷ There are limited number of greenhouses continuing to emit strong odors and operate without the preventative measures. Those greenhouses will either be required to mitigate odors in order to become compliant or will be shut down once Santa Barbara County begins to regulate cultivators within the Coastal Zone following the review by the California Coastal Commission.

Key Observations

The City of Carpinteria prohibited all commercial activity in the previous medical cannabis regulatory regime, but the city will potentially allow some commercial cannabis operations once their new regulations are developed and adopted. Those operations will likely be limited to manufacturing and testing to complement the already existing cultivation in the Carpinteria Valley. The Carpinteria City Council is not currently inclined to allow recreational cannabis retail stores and believes they would cause neighborhood problems, an assumption based on observing the previous iteration of medical cannabis stores that existed under the earlier state regulations. The council's preferred approach is to watch the results of recreational cannabis storefronts in other cities before deciding whether to allow them in Carpinteria.

Although Carpinteria's long-term priorities are clear, City Manager David Durflinger notes that it is challenging for a small local government to develop the expertise necessary to both interact in a regulatory process with an adjoining county and to develop its own regulations.

Interviewee:

David Durflinger, City Manager

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CASE STUDY:

Durango, Colorado

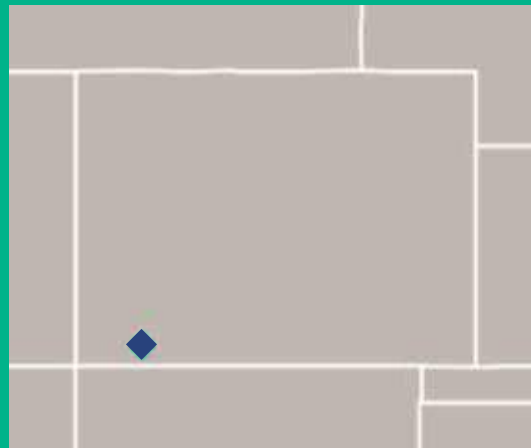


The City of Durango is located along a historic railway and the Animas River at the foot of the San Juan Mountains in southwest Colorado. Home to 18,000 residents and a key destination in the Four Corners region, tourists and commuters nearly double its population daily.

An Industry Emerges

In 2000, La Plata County and the City of Durango voters strongly supported an amendment to Colorado's state constitution legalizing medical cannabis. However, nearly a decade would pass before any legal commercial activity materialized due to uncertainty surrounding federal preemption. The Obama administration's initial issuance of guidelines for states with legal medical cannabis, which indicated that the Department of Justice would not prioritize prosecutions, provided a long-awaited green light to would-be operators.

Durango's staff was caught off-guard when the first business approached the clerk's office for a cannabis license in 2009. Quick consultations with the city attorney and administration confirmed a lack of any local restrictions at the outset, resulting in the issuance



COMMUNITY PROFILE

Population (2017 Census Estimate):
18,465

Land Area (square miles): 9.92

Median Household Income: \$60,334

Source: United States Census Bureau

of four early commercial medical licenses at just \$50 apiece (the general business license fee)—including to one cultivation operation.

This triggered an exhaustive process to determine the appropriate zoning, fees, and other local restrictions on such businesses. Multiple moratoria were implemented while the city engaged in research and discussion. While initial discussions were limited to medical marijuana, the legalization of recreational marijuana in 2012 extended the conversation such that the city was actively working on some aspect of local marijuana issues all the way through the end of 2017.

Though Durango residents voted in support of legalization in both 2000 and 2012, the process to develop regulations was contentious. Identifying appropriate setbacks from sensitive uses such as schools, daycare centers, and parks proved especially challenging, as the default state standards did not align well with the city's long and linear orientation and needed to be reduced (either by right or with a variance) in order to provide enough options for businesses. Other major concerns included the location and number of businesses within the Central Business District, potential issues with lights used by cultivators, and security and fire code compliance. Recognizing that land use decisions can be hard to revert once a door is opened, city staff feel this discussion was worthwhile.

The most significant progress was made in 2014, when a series of ordinances were passed establishing comprehensive land use standards and a local licensing process for commercial medical/nonmedical retail and testing businesses. License fees increased to as much as \$10,000 for a new business and \$8,000 for a renewal every year.¹ Commercial cultivation and manufacturing of infused products were prohibited based on a shared understanding with La Plata County about the types of uses best suited to county and city land.

Since then, the city has received annexation requests that would extend water and sewer services to marijuana cultivators located on fringe land. Following discussions with staff, the planning commission, and the city council, the city decided to extend water and sewer services in exchange for long-term control of land use planning. Reasoning that users—including marijuana cultivators—could come and go, city officials believed it would be advantageous to apply the city's more rigorous requirements for elements such as sidewalks, street trees, and signage.



Cannabis dispensary

A Regulated Industry: Initial Impressions

Though the city did not place explicit caps on the number of licenses allowed and did loosen some of the setback requirements, prospective businesses still had trouble finding locations because property owners were reluctant to lease for such uses. As a result, businesses were forced to turn to purchasing their own property at premium prices.

For those businesses that were able to secure locations, the initial licensing and enforcement process was challenging as the state provided little guidance and the rules continued to evolve. Durango's liquor licensing authority expanded its oversight to include marijuana licensing and devoted time to screening and rejecting applications from businesses whose employees had histories of criminal activity. Eventually, the city concluded that decision could be left to the operators who could be expected to act in the best interest of their legal businesses.

Code enforcement was also intense at first to ensure businesses were operating in line with the newly established regulations. While he can recall scattered specific incidents of crimes tied to marijuana activities in the early days of statewide legalization, City Manager Ron LeBlanc is not persuaded of a significant negative impact on public safety. From an enforcement perspective, staff feel the industry has actually been easier to regulate than liquor licenses.

Though Durango did not pursue a dedicated local tax on marijuana as a part of its 2014 regulations, the standard 3-percent local sales tax still applied to the industry. Revenues from marijuana businesses exceeded local expectations, suggesting the black mar-

ket had been much larger than the city had anticipated. Total sales and use taxes collected by the city jumped by approximately \$1 million from 2014 to 2015.²

The cash-based nature of those taxpayers presented an additional complication for Durango City Hall, which was not a fully secure facility when marijuana businesses first started to pay local taxes. Though security has since changed, finance staff were unnerved when the first businesses showed up to pay monthly tax bills with stacks of cash, and parking staff needed to accompany them when making transfers to the bank.

The Industry Matures

With no new business applications submitted in the last two years, the industry appears to have reached market saturation in Durango. Prices are coming down, businesses are consolidating, and protests from the vocal minority opposed to the industry have faded.

Durango's administration believes the impact on tourism has been a net positive, noting a steady stream of creative business proposals for transportation and green tourism experiences over the last few years. At the same time, ample restrictions on consumption, including in private social clubs, help to keep use out of public view.

In 2017, with marijuana sales responsible for about \$825,000 in sales tax revenue—just over 3 percent of the city's total sales tax collected—Durango floated the possibility of a dedicated marijuana excise tax.³ Already burdened with a significant increase in the State of Colorado's tax rate (with no additional pass-through to local governments), the industry responded in force against the proposal and city leaders were forced to abandon those plans.

Key Observations

Durango's 2017 attempt to further raise revenues from its successful marijuana businesses with a specific excise tax was met with strong industry opposition. Local governments should consider these issues early, before new taxes would burden the industry.

The marijuana black market in and around Durango was much larger and more active than the city realized, evident from the higher-than-predicted sales tax revenue. At the same time, other local governments have seen tax revenues fall short of expectations. Rather than predicting a specific number, a wide range of possible tax revenues should be analyzed.

Interviewees:

Ron LeBlanc, City Manager
Amber Blake, Assistant City Manager
Dirk Nelson, City Attorney
Amy Phillips, City Clerk
Chris Harlow, Deputy City Clerk
Ben Florine, Deputy City Clerk
Suzanne Sitter, Legal Coordinator

Endnotes

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CASE STUDY:

Fort Collins, Colorado

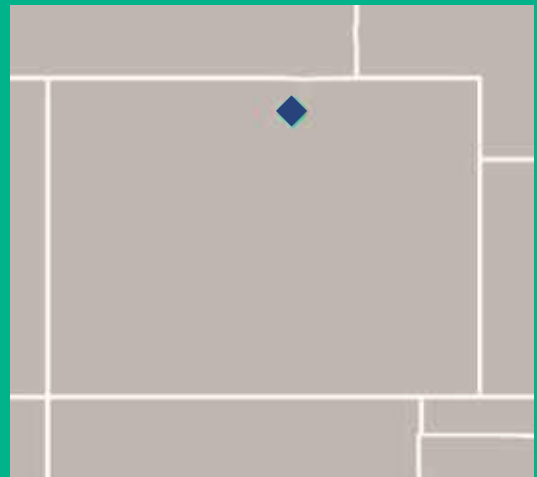


Fort Collins is a city in northern Colorado known for its picturesque landscape, craft breweries, and bicycle culture. Home of Colorado State University and campuses for the technology companies Hewlett-Packard, Intel, and Agilent, the city of 164,000 has made strides in smart city utilities innovations.

In 2000, Colorado voters passed Amendment 20, legalizing small amounts of medical marijuana in the state. A July 2009 language change by the Colorado Board of Health in the state medical marijuana law removed patient limits on medical marijuana caregivers, allowing them to become de facto dispensaries.¹ The change caused a rush in requests for the types of licenses that would allow people to be medical marijuana caregivers, such as home occupation licenses.

In December of 2010, Fort Collins enacted an emergency moratorium in order to end the rush of medical marijuana dispensaries, which had quickly outpaced the city's desire to evaluate and regulate this new business type.

In March of 2011, the Fort Collins City Council took action to proceed with licensing dispensaries, cultivation, and the entire medical marijuana process. By Octo-



COMMUNITY PROFILE

Population (2017): 165,080

Land Area (square miles): 54.28

Median Household Income: \$57,831

Source: United States Census Bureau

ber that year, Fort Collins was home to approximately twenty medical marijuana dispensaries.

The dispensaries were short-lived. In the odd-year election, Fort Collins voters passed a citizen-initiated ballot measure to ban all medical marijuana activities in the city. Enforcement was completed by February 2012.

The ban on medical marijuana lasted just one month longer than the first iteration of allowing dispensaries. In the 2012 election, another citizen-initiated ballot measure brought back the medical marijuana dispensaries. This city-wide ballot measure was separate from and concurrent with Colorado's Amendment 64, which legalized adult recreational use and retail sales throughout the state. However, since Amendment 64 included a local government opt-in provision, Fort Collins staff was able to focus on medical marijuana before taking on retail sales. Following the conclusion of the medical marijuana reinstatement, the City Council adopted regulations for a limited recreational marijuana business license process.

Regulations

The second citizen-initiated ballot measure for medical marijuana built in a cap for dispensaries tied to the number of cardholders: one medical marijuana dispensary would be allowed for every 500 medical marijuana cardholders in Larimer County. This cap was proposed by marijuana proponents as a way to make the second iteration of medical marijuana more palatable for the electorate. Currently, there are enough medical marijuana cardholders to allow for nine medical dispensaries in Fort Collins. However, due to a provision that grandfathered in any dispensary that had been shut down in February 2012, eleven licenses have been granted to medical marijuana dispensaries, ten of which also have a retail-recreational marijuana license.

Since Fort Collins requires a medical marijuana dispensary license before granting a retail dispensary license, the cap also acts as a limit on recreational marijuana licenses.

Fort Collins also grants cultivation licenses, but only to holders of another marijuana business license, such as retail or manufacturing. Personal cultivation in homes with shared walls, sheds, or detached garages and in mixed-use buildings is also banned in Fort Collins, due to safety and odor concerns. Greenhouses, while not banned, must follow the requirement that cultivation only be done in a "locked and enclosed" space. They are de facto banned for non-commercial cultivation, due to

the requirement that personal use cultivation not take place in outbuildings.

Despite these regulations, Fort Collins still has to combat illegal and unlicensed cultivation. Fort Collins' marijuana enforcement officer investigated approximately fifty complaints in 2017 and is on track to meet that number in 2018.

Fort Collins took additional steps to manage the divided community by restricting the locations of business through zoning, implementing setback requirements, and regulating the type and level of advertising that dispensaries can utilize.

Far exceeding the state's restrictions, Fort Collins broadly bans signage and advertising that would clearly associate the location with marijuana, as well as prohibiting portable advertising such as leaflets, flyers, and handheld signs.²

While the regulations are stringent and specific, they are not always easy to enforce, especially when it comes to odor complaints. Lots of industrial warehouse space in Fort Collins has been bought or rented for marijuana-related activity, creating clusters of marijuana businesses. Due to the way in which the spaces are divided and located, it can be difficult to pinpoint the source of odor issues.

Staffing

Fort Collins convenes an interdepartmental taskforce with representation from the fire department, planning department, clerks, police, and other departments as appropriate. This task force monitors the marijuana environment in Fort Collins and Colorado as a whole and makes recommendations to the council on any changes needed to the marijuana code, stemming from everything from upcoming state legislation to nuisance indicators.

Fort Collins hired an outside attorney through an open bid to serve as the retail marijuana licensing authority. The attorney performs duties such as receiving applications, making decisions on whether to grant licenses, and leading hearings. The cost of the attorney is covered through licensing fees. Fort Collins hired an outside attorney to perform these tasks because the municipal judge, who is also the liquor licensing authority, declined the authority to do so based on her workload.

The city has a single police officer dedicated to marijuana enforcement who performs pre-inspections and spot inspections. Originally, inspections were conducted by police officers who were not able to go out on patrol due to injuries, causing the task to be seen as undesirable. The dedicated marijuana enforcement officer, a well-respected and long-time Fort Collins police officer, emphasizes relationship building with license holders as well as the state marijuana enforcement division.

The Colorado General Assembly creates new types of marijuana licenses annually. Fort Collins has lobbied at the state level to ensure that these new licenses have opt-in provisions at the local level. With local government opt-ins, the Fort Collins task force has the ability to review new license options and weigh community impacts when determining whether to allow them.

Recent examples include the addition of a research license, which was desired by a local start-up company. The task force decided that the impact from the research license was manageable, as this license does not allow for the selling of marijuana and involves only a small number of plants. Alternatively, Fort Collins decided against approving a license for off-premises storage based on a task force recommendation. Additional storage of large quantities of marijuana was seen as undesirable by the task force, and the Fort Collins marijuana businesses did not express the need for this type of license.

A Community Divided and the Industry Today

Fort Collins residents are often split on issues, and marijuana has been no different. In the heavily values-based debate during the back-and-forth bans of 2011 and 2012, opponents of legal marijuana painted a doom-and-gloom picture while proponents focused on health aspects of medical marijuana and argued that prohibition is ineffective at reducing illegal activity. Years later, with new regulations in place, marijuana remains a lightning rod and a complex issue in Fort Collins. To avoid controversy and regulation fatigue, staff and the task force package issues together for council action, even for issues as simple as ordinance clean-up.

While opposition still exists in the community, the industry has been able to mature. City staff describe businesses as increasingly professional and better able to control for issues like odor and underage purchasing.

Development pressure on industrial land is palpable, but restrictions on licenses keep growth in check.

Key Observations

Fort Collins goes a long way to ensure that residents opposed to marijuana businesses are not burdened or bothered by them. These efforts are evident in the city's advertising restrictions, cultivation requirements, and method of bringing issues to the Council. Overall, the thinking in Fort Collins is to keep marijuana compliant with an "out of sight, out of mind" philosophy. By tying the number of dispensaries allowed to the number of medical cardholders in the county, Fort Collins was able to balance allowing marijuana businesses, in compliance with the results of the initiative, with managing the number of businesses. When considering additional types of licenses, Fort Collins checks with the existing businesses on what licenses they need and only approves what is needed. Instituting a needs-based cap on businesses and only allowing the licenses that existing businesses need, the city is better able to manage industry growth.

Through appropriate preparation, task-specific staffing, collaboration, and bringing in outside help, Fort Collins was able to properly manage its in-demand marijuana industry without being overwhelmed, as well as cover a significant portion of the costs of regulating the industry.

Interviewee:

Ginny Sawyer, Policy & Project Manager

Endnotes

- 1 "Auraria crowd stands up for access to medical marijuana," Denver Post, May 6, 2016. <https://www.denverpost.com/2009/07/20/auraria-crowd-stands-up-for-access-to-medical-marijuana/>
- 2 See the Article XIV of the Fort Collins Municipal Code, which implements provisions of the Colorado Medical Marijuana Code (https://library.municode.com/co/fort_collins/codes/municipal_code?nodeId=CH15LIBURE_ARTXVIMEMA) and Article XVII, which implements provisions of the Colorado Retail Marijuana Code (https://library.municode.com/co/fort_collins/codes/municipal_code?nodeId=CH15LIBURE_ARTXVIIREMA_DIV3LIFEREPR_S15-617SIAD).

CASE STUDY:

Grover Beach, California



Grover Beach is a small bedroom community on California's Central Coast, located along the iconic Pacific Coast Highway 1 and U.S. Highway 101, halfway between San Francisco and Los Angeles. The seaside city, along with the neighboring cities of Pismo Beach and Arroyo Grande and the wineries of San Luis Obispo County, is a popular tourist destination.

The City of Grover Beach's initial efforts to regulate commercial cannabis activities trace back to late 2015, after the state passed a package of bills outlining new medical cannabis regulations. California local governments were under the direction from the state to pass land use regulations that regulated or prohibited commercial medical cannabis activities; if local governments did not do so, the state would become the sole licensing authority in that municipality. The ultimatum caused many local governments, including Grover Beach, to pass indefinite or permanent moratoriums on commercial medical cannabis activities by the state's March 1, 2016 deadline.

While the moratorium was in effect, the Grover Beach City Council directed City Manager Matthew



COMMUNITY PROFILE

Population (2017 Census Estimate):
13,628

Land Area (square miles): **2.3**

Median Household Income: **\$58,895**

Source: United States Census Bureau

Bronson and his staff to draft regulations and a proposed tax structure for the purpose of allowing commercial medical cannabis activities in the future. Such activities were seen by the City Council as an economic opportunity for the city in attracting private investment and providing additional jobs. The tax structure, which covered both medical and recreational cannabis businesses if also allowed by state and local laws, was approved by 70 percent of voters in November 2016—the same election in which the statewide proposition to legalize recreational use passed.

Regulation Development

Between November 2016 and May 2017, Grover Beach crafted broad regulations that would allow a wide range of commercial medical cannabis businesses in the city. Cannabis was on the agenda of multiple public workshops and approximately ten to fifteen planning commission and council meetings, drawing the largest turnout ever for a council meeting in January 2017. Public engagement has decreased substantially over time, even though the regulations established in May 2017 continue to be modified to reflect changes made at the state level and the needs of Grover Beach. While initial regulations were limited to commercial medical cannabis activities only, in May 2018 they were expanded to the recreational or adult-use market through a series of amendments ultimately approved on the council's consent agenda.

The city allows every type of commercial cannabis license including cultivation, processing/manufacturing, testing, distribution, and retail. All cultivation must be conducted in an enclosed indoor space; both outdoor and greenhouse cultivation are explicitly prohibited in Grover Beach given concerns about security and ensuring architectural compatibility with buildings in an industrial zone. (Other cities ban greenhouse cultivation due to operating hours enforcement and the potential for a dispute over the definition of a greenhouse.)

Like some other built-out or compact cities, Grover Beach chose to reduce certain sensitive-use setbacks—in this case, setbacks related to youth centers. This is because the state's default setbacks would have resulted in a de facto ban on commercial cannabis businesses, given the proximity of Grover Beach youth centers to industrial zones where cannabis businesses would otherwise be allowed. With local regulations still restricting cannabis businesses to industrial areas, the

city felt comfortable in determining reasonable setback requirements to address community needs.

In addition to stringent cannabis-specific safety and security measures that exceed the state's requirements, Grover Beach mandates that commercial cannabis businesses make public improvement to their properties to meet code requirements, such as fixing curbs, sidewalks, and landscaping. This mandate is due to commercial cannabis businesses needing a discretionary use permit to operate in contrast to “allowed” uses that do not trigger the same level of code requirements. City Manager Bronson described these required improvements as an opportunity to “raise the bar” on the development standards and aesthetics of the city's industrial areas. Due to the strength of the retail applicants and stringent regulations, Grover Beach increased its original cap of two retail businesses set in May 2017 to a cap of four in December later that year. As of May 2018, the city has issued four retail permits and four manufacturing permits with several other manufacturing permits expected to be issued by mid-2018.

An Economic Development Opportunity

Grover Beach expects to be a production, distribution, testing, and retail hub for boutique cannabis products due to the city's available industrial land, proximity to major highways, and array of products already being produced in the area. With the opening of its first cannabis retail facility in May 2018, Grover Beach has the lone commercial cannabis location for well over one hundred miles.¹ It is anticipated to cause a significant increase in business from locals as well as tourists heading to the adjacent Pismo State Beach, many of whom are from the commercial cannabis-free California Central Valley.

“As a City Manager looking at economic development, I see the opportunity to create a cannabis ecosystem in our community given our unique niche in this field.”

— Matthew Bronson

Grover Beach has made a market-based choice to embrace the commercial cannabis industry in a thoughtful and safe manner. Existing businesses in the city are generally supportive of the move to allow commercial cannabis development, but there have been impacts from this changing market condition. The intention to create a free and open market for commercial cannabis



Courtesy of Grover Beach

Opening day for Grover Beach's first retail cannabis establishment.

has caused land value in the industrial park area to rise, and the rent for existing business owners has risen with it. Some businesses have had to relocate to other parts of the city, and some have left Grover Beach entirely. Nevertheless, the city expects a significant overall net increase in the number of businesses, jobs, and tax revenues due to the influx of commercial cannabis.

The coastal California city will be looking to multiple metrics for judging the initial success of commercial cannabis, mainly tax revenue and the number of new businesses. Grover Beach's tax structure is a 5 percent tax on gross retail receipts and 3 percent on gross receipts of manufacturers, distributors, and other commercial uses. It also includes a \$5 per square foot tax on cultivation uses.

One of Grover Beach's objectives was to not tax cannabis businesses back into the underground economy. The 5 percent tax on gross retail receipts was originally 10 percent, as approved by the voters. The City Council lowered the rate in order to follow the general rule of thumb to not exceed a 30-percent effective tax rate on an industry. Total revenues from commercial cannabis businesses are forecast to climb from approximately \$700,000 in the first fiscal year toward up to \$1.5 million annually once the industry matures, which would equate to nearly 20 percent of the city's general fund. The city conservatively estimates the recent expansion to the adult-use market may yield a 25-percent increase in revenue.

Key Observations

Grover Beach moved forward with the intention of treating this industry as a major economic development opportunity. The relative equidistance between Los Angeles and San Francisco, lack of commercial cannabis activity in the area, and available industrial land marked Grover Beach as an ideal location for commercial cannabis businesses to open distribution and manufacturing operations.

While motivated by economic development, the city's approach has been measured. Grover Beach has leveraged its industry assets to gain additional value from these businesses through required property improvements. At the same time, the city has continued to adapt its tax scheme to ensure the businesses aren't driven back underground.

It is also worth noting perhaps the biggest risk of making this industry part of an economic development strategy: it exists in the shadow of the federal government. Manager Bronson notes that any new or more aggressive enforcement has potential for a "chilling effect" on the industry both statewide and in Grover Beach. The inability of cannabis businesses to use the banking system, given federal restrictions, is also a continued challenge given the scale of the multi-billion-dollar cannabis industry.

Thus far, however, Grover Beach has instituted a thorough process to develop and tweak regulations that have helped the public and business community to buy in. The public has since complimented the city on how regulated the industry is, and as a result, has been supportive of its local growth. Evidence from this case and others suggests that starting with stringent regulations on commercial cannabis, and slowly relaxing them until the desired outcome is reached, is a more effective method than attempting to tighten already relaxed regulations.

Interviewee:

Matthew Bronson, City Manager

Endnotes

- 1 Monica Vaughan, Brad Branan, and Nathaniel Levine, "SLO county is a 'pot desert' now—but not for long. A dispensary will open soon," The Tribune, March 26, 2018. <http://www.sanluisobispo.com/latest-news/article206482199.html>

CASE STUDY:

Southern Oregon – Jackson County and City of Ashland



Oregon was the first state to decriminalize personal possession of marijuana in 1973, and its voters legalized medical marijuana cultivation and use in 1998 through the ballot with Measure 67. Multiple efforts to amend the state’s medical and recreational marijuana policies were proposed—and generally defeated—in the subsequent two decades, but the dynamic changed in 2014. Citizen-initiated Measure 91, which passed with 56 percent of the vote, authorized the commercial production, sale, purchase, and possession of marijuana for adult recreational use. It delegated recreational marijuana oversight to the Oregon Liquor Control Commission (OLCC) but provided for local governments to establish reasonable restrictions on the time, place, and manner in which the industry could operate in their communities.

As illustrated by the following two cases, the implications for Oregon counties have been distinct from those of municipalities.

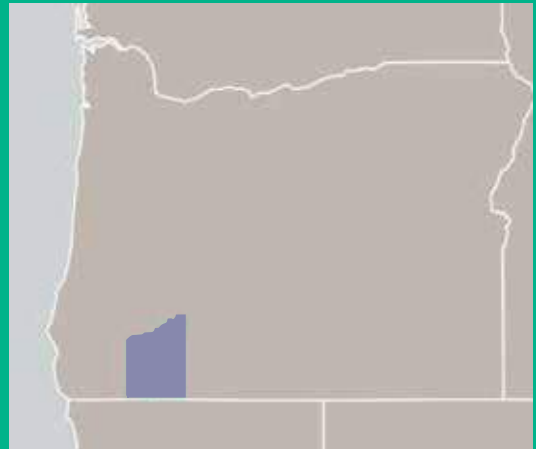
JACKSON COUNTY

Jackson County is a southwest Oregon county of 217,000 residents, home to numerous vineyards, campgrounds, and loggers. The county is part of the Southern Oregon American Viticultural Area and is an ideal environment for growing grapes.

Oregon has a unique land use system designed to encourage development in incorporated cities and keep unincorporated county land for farm and forest uses. Since 1973, the state has maintained a progressive farmland protection program through which counties inventory, preserve, and appropriately zone their agricultural resource lands.¹ The state's Right to Farm Law affords further protections from nuisance charges or local restrictions to agricultural activity on land zoned for such use.² Measure 91 was amended by the state legislature in 2015 in an attempt to resolve uncertainty about whether cannabis cultivation is a protected agricultural activity and what types of regulations/restrictions local governments could implement. However, this created more questions than answers. Every local government now has its own regulations on production of marijuana; these can vary widely, which creates state-level enforcement hardships.

Jackson County's rural residential zoning already prohibited commercial agriculture, but Jackson County was progressive and quick in developing its own regulations for marijuana production, processing, and wholesale and retail sales.³ The section added to its Land Development Ordinance in 2016 includes specifications on where marijuana activities can be sited, including buffering and fencing requirements; protections against nuisances such as odor or light pollution; and restrictions on hours of operation. Despite allowing most activities with appropriate regulations, the county has faced significant challenges in the face of legalization, largely tied to marijuana production.

Home to a number of vineyards and pear orchards in the area known as Rogue Valley, Jackson County has an ideal environment for agriculture.⁴ Medford, the county seat, averages 195 sunny days and 52 days of precipitation per year.⁵ The climate in Oregon, especially Jackson and Josephine counties, has attracted a large number of marijuana growers both before and after legalization. Jackson County alone produces over 100 tons of medical marijuana per year as tracked by the Oregon Health Authority; the OLCC does not yet have a complementary system to inventory recreational



COMMUNITY PROFILE

JACKSON COUNTY

Population (2017): 217,479

Land area (square miles): 2,783.5

Median Household Income: \$46,343

Source: United States Census Bureau

marijuana production.⁶ Though legalization has driven up the value of private resource land, arable land, and current farmland that is usable for marijuana, growers are increasing in number, with over 1,000 licensed producers in the state, 203 of which are located in Jackson County. On the sales front, Jackson County has only 34 of Oregon's 550 licensed retailers and 15 of 124 its licensed wholesalers.⁷

Since marijuana cultivation was authorized in Jackson County, code and planning complaints have spiked dramatically. In the 2016 to 2017 period, the first full fiscal year since authorization, the county received 1,038 planning violation complaints and 425 code enforcement complaints—45 of which went all the way to a hearing, close to triple the normal level for the county. In the first 11 months of the 2017-2018 fiscal year, Jackson County received 649 planning violation complaints and 383 code enforcement complaints, according to Jackson County Development Services.

Three important caveats apply to these statistics on complaints: (1) enforcement is complaint-driven and all complaints are investigated; (2) complaints received related to marijuana cultivation in Jackson County are



Courtesy of Jackson County

Aerial footage of Jackson County cannabis farms.

largely attributed to unauthorized growing, not to cultivation that attempts to follow the established regulations; and (3) many residents are hesitant to send in complaints about illegal growing for fear of retribution, so it is believed issues may be under-reported.⁸

Common complaints deal with such issues as the following:

- Excessive use of water and light pollution
- Theft and safety concerns in/around grow sites
- Aesthetics, odor, and/or noise
- Traffic and speeding
- Unpermitted grading, structures, uses, and/or equipment.

The industry has left its mark on the landscape since legalization in other ways. Surveyors must reestablish government corners graded over by illegal growing; assessors have seen an uptick in applications for farming-related tax reductions; and the surveyor's and assessor's offices as well as the road department face new land access challenges now that unauthorized marijuana cultivation, previously hidden on public land, has migrated to private land. Time and resources required in following up on all of these issues and complaints are significant. Though the county receives a share of state revenue collected from the industry, that ratio is weighted toward the number of licenses rather than the canopy size.

Key Observations

Whether Jackson County could have avoided these challenges is impossible to say. Impacts are felt locally

but largely require state-level solutions. Though increased foresight regarding the land use challenges specific to production would have been helpful, Oregonians ultimately advanced legalization, and Jackson County could not opt out of Measure 91 because less than 55 percent of voters opposed the measure. The county's local land use regulations address many of the problematic issues associated with illegal grow sites, providing a path to compliance, but the state's capacity for enforcement of licensed/unlicensed operations has been limited, constrained by the number of officers currently available to serve the region.

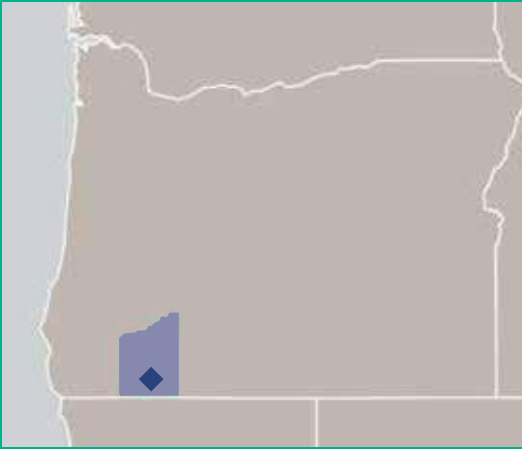
While the state's relatively young legal marijuana industry has yet to see a market correction, that may be about to change. Oregon producers and manufacturers may only sell legally in Oregon as federal law prohibits marijuana being transported or sold over state lines. The state reported that 550 tons of marijuana were produced in 2017, but just 170 tons were consumed.⁹ The massive oversupply has led to a dramatic decrease in price, with a number of small-scale businesses folding and the OLCC temporarily halting new license applications while it catches up on those already in the pipeline.¹⁰

Each of Oregon's thirty-six counties faces a unique set of circumstances in regulating this issue, and Jackson County's experience is clearly influenced by its high desirability for marijuana cultivation. Because the marijuana supply chain is still restricted within legalized states' boundaries, it is useful to understand the challenges faced by supply centers.

ASHLAND, OREGON

Located sixteen miles north of the California border and at the southern end of the Rogue Valley, the City of Ashland is home to Southern Oregon University and just over 21,000 residents. Tourists regularly visit Ashland to enjoy its cultural and natural amenities, such as the Oregon Shakespeare Festival and Lithia Park.

Located within Jackson County, the City of Ashland also moved quickly in exercising its ability to enact local commercial marijuana regulations. Many of Ashland's regulations were proactively developed in anticipation of Measure 91's passage to ensure the city was poised to handle potential changes that might occur at the state level.



COMMUNITY PROFILE

CITY OF ASHLAND

Population (2017): 21,117

Land area (square miles): 6.59

Median Household Income: \$47,314

Source: United States Census Bureau

Notably, Ashland addressed the ability to have a local tax on the marijuana industry. Measure 91 was expected to preempt local taxation of marijuana, limiting this ability to the state, but Ashland and other cities believed that local taxes would be grandfathered in if adopted prior to Measure 91's effective date.¹¹ The council approved a 10-percent tax on gross receipts from marijuana sales in August 2014.

Even earlier, in April 2014, the Ashland City Council approved a limited, temporary moratorium on the location and operation of medical marijuana dispensaries. State law already prohibited dispensaries from being located in residential zones, and Ashland's additional measure limited them from commercial/mixed use areas and bought the city time—approximately one year—to discuss potential longer-term regulations. In fact, the city lifted the moratorium just a few months later in August and passed permanent zoning requirements as well as time, place, and manner restrictions for dispensaries. Building on the state's buffering provisions, these zoning requirements further restricted dispensaries to strategic commercial/industrial loca-



Outdoor cannabis cultivation

tions in Ashland, required annual local permits, and addressed hours of operation and odor control.

Like many municipalities, determining the appropriate local regulations for marijuana dispensaries was a high priority. Ashland also accounted for concerns regarding cultivation, particularly in residential areas. Medical marijuana had been legally grown in Ashland for more than a decade, but recreational legalization was expected to increase interest and uncertainty around personal cultivation and provided an opportunity to review past and potential nuisance issues. After several months of meetings and gathering feedback from residents, the city established a set of regulations in January 2015 aimed at striking a balance between what the state had by then authorized and concerns raised by residents and staff. In the end, both indoor and outdoor cultivation were allowed in residential zones with limitations.

Commercial cultivation has been more of a wild card, as the city does not allow other forms of agriculture on commercial or industrial land. In its recommendations to the city council, the Ashland Planning Commission indicated concern about excessive use of electricity and water and about the long-term supply of commercial or industrial land versus job projections for this industry.¹² The city elected to test the waters on commercial indoor grow operations with a cap of 5,000 square feet, but thus far it has not approved any local permits.

Implementation

Voters in this progressive college town supported Measure 91 at a rate of 78 percent.¹³

Though Ashland was not alone in adopting a local tax scheme prior to Measure 91, the legality of these early regulations proved unclear. However, 2015 amendments to state law clearly authorized Oregon cities and counties to refer 3 percent of local taxes on recreational marijuana sales to their voters. Ashland's measure passed, and the council elected to dedicate those proceeds to an affordable housing trust fund. A guiding resolution directs marijuana tax revenue of up to \$100,000 annually to the fund, though with the significantly reduced tax rate the actual contributions thus far have been modest. Ashland also receives a share of the state's marijuana revenue, which is earmarked for public safety expenses per state statute.

Ashland's regulations on residential cultivation limited the number and placement of plants grown outdoors. Recognizing that some would seek to supplement or substitute with indoor cultivation, the land use ordinance requires these activities to comply with building codes, to confine light and glare, and to not overtake residential structures as the primary use. As a further, more readily enforceable layer of protection, the city added a new residential tier to its municipal electric utility rates. The \$0.125 rate applies to residential customer use of more than 5,000 kWh/month, effectively functioning as a penalty tier for extreme usage. (While not part of the original discussion, this measure also proved useful as Bitcoin mining grew in popularity throughout the region.)¹⁴

Tourism is a significant driver of the local and regional economy, and Interim City Manager Adam Hanks believes anecdotal indications of the marijuana industry's impact have been positive. A local ban on public smoking (tobacco-driven, but applicable to marijuana) in the downtown area curtails potential nuisance issues, and enforcement has been fairly routine. Hanks observed early signs of a niche market emphasizing a "craft" product, similar to the beer and wine industries, with tour operators designing regional experiences showcasing the local value-added food, wine, and marijuana producers.

Key Observations

Interim Manager Hanks feels Ashland was successful in its proactive approach to authorizing a legal marijuana industry within the city, and credits a collaborative effort by finance, administration, legal, and especially planning staff in navigating its approach.

Interviewees:

Danny Jordan, County Administrator, Jackson County
Adam Hanks, Interim City Manager, Ashland

Endnotes

- 1 Oregon Department of Land Conservation and Development, "DLCD Farmland Protection Program." <https://www.oregon.gov/lcd/pages/farmprotprog.aspx>
- 2 Oregon Department of Agriculture, "Land Use and Right to Farm." <http://www.oregon.gov/ODA/PROGRAMS/NATURALRESOURCES/Pages/LandUse.aspx>
- 3 Neighboring Josephine County did not disallow agriculture in rural residential zoning, creating a problem where marijuana farms started to open in rural neighborhoods. Josephine County attempted to disallow agriculture in rural residential zoning, and push the marijuana farms out, through an ordinance. This attempt was overturned by court, because the county failed to follow a procedure as the marijuana farms were grandfathered in. Josephine County is now attempting to eliminate marijuana farming within its jurisdiction through an injunction.
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- 5 Sperling's Best Places, "Medford, Oregon." <https://www.bestplaces.net/climate/city/oregon/medford>
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- 7 Oregon Liquor Control Commission, "Recreational Marijuana." <http://www.oregon.gov/olcc/marijuana/Pages/default.aspx>
- 8 Danny Jordan, Interviewed by Laura Goddeeris and Will Fricke, May 9, 2018
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- 14 Shepherd, Katie, "Bitcoin Miners Are Flocking to Oregon for Cheap Electricity. Should We Give Them a Boost?" February 21, 2018. <http://www.wweek.com/news/business/2018/02/21/bitcoin-miners-are-flocking-to-oregon-for-cheap-electricity-should-we-give-them-a-boost/>

CASE STUDY:

Juneau, Alaska



Juneau is a rainy and temperate city, with its population largely located along the banks of the Gastineau Channel or in the Mendelhall Valley. Over one million tourists arrive in Juneau annually to visit the Mendenhall Glacier and surrounding landscape.

The Alaskan legal landscape and popular opinion regarding marijuana have fluctuated for over forty years. In 1975, the Alaska Supreme Court ruled that the personal use of a small amount of marijuana was constitutionally protected by the Alaskan Constitution's right to privacy clause.¹ In 1990, a passed ballot initiative recriminalized marijuana in the state, a law that was once again overturned by the courts, this time the Alaska Court of Appeals, in 2003. Just three years later, with Governor Frank Murkowski at the helm and emboldened by a political environment emphasizing "family values," the Alaska state legislature recriminalized marijuana, this time as a misdemeanor punishable by jail time.²

This law stood until the most recent marijuana ballot measure passed in November 2014, allowing possession of up to an ounce of marijuana and legalizing the commercial retail sale, manufacturing, testing, and



COMMUNITY PROFILE

Population (2017): 32,094

Land Area (square miles): 2701.93

Median Household Income: \$87,436

Source: United States Census Bureau

cultivation of marijuana products.³ This ballot initiative is seen as an attempt to regulate marijuana in a similar manner to alcohol. Juneau taxes retail marijuana at an 8-percent effective rate, with identical language and effective tax rate for alcohol sales. According to an analysis from Juneau's Marijuana Committee, an 8-percent tax rate would mean anywhere from \$170,000 to \$455,000 in revenue from the marijuana sales tax per year.⁴

Juneau's motivation for allowing commercial marijuana businesses in the city was twofold. The simplest reason is that voters wanted it. Officials also hold the belief that being overly restrictive would encourage black market sales.

After the 2014 ballot initiative was supported by 63 percent of Juneau voters, the City and Borough of Juneau immediately passed an eleven-month moratorium period on marijuana businesses; this was eventually extended to thirteen months to give time for a marijuana committee made up of assembly and planning commission members to work through the pending issues.⁵ In this period, Juneau passed three ordinances: amending its indoor smoking ban to include marijuana, amending the "driving under the influence" definition to include marijuana, and amending the land use code to include regulations for marijuana businesses. Following the moratorium, Juneau passed additional regulations regulating marijuana oil extractions, allowing marijuana commercial business licenses, and requiring ventilation systems that prevent odor from being detected outside the premises.

One of the marijuana committee's key early decisions was to not cap the total number of licenses, effectively allowing the market to determine how many marijuana businesses Juneau could support. With this approach, it took about one year for the local market to approach equilibrium.

The next decision made was zoning for retail, manufacturing, and testing. Commercial property in Juneau is generally not in conflict with sensitive uses, leaving those categories of commercial marijuana businesses generally unrestrictive within commercial zoning. However, the governing body and community of Juneau struggled with zoning on cultivation. Commercial cultivation is permitted in large-lot rural residential zoning to supplement Juneau's limited industrial and commercial property. Local leaders cited strong citizen support of the state legalization measure in their decision.⁶ Despite fears of unintentionally zoning cultivation



Cannabis product manufacturing

out of the market by restricting it to only commercial and industrial zones, all current cultivation businesses are located in nonresidential zones by happenstance, without complaints from residents. Many residents feared an influx of crime surrounding new marijuana businesses, something that did not materialize. Nevertheless, Juneau may ultimately restrict cultivation in the residential zones in the future because of the evidence that it would not be a burden on the industry.

All cultivation in Juneau is indoors. The state of Alaska allows outdoor cultivation, though the climate and terrain are often less than ideal for it. Wide open spaces that are both suitable for large farms and far enough from residential areas are nearly nonexistent in Juneau. Outdoor or "sunlight" cultivators do exist in the Fairbanks area of the state, where the terrain and weather are far friendlier to outdoor crops.⁷

Alaska's state guidelines do not provide guidance on regulating onsite consumption of marijuana products. Juneau does not allow onsite consumption in an attempt to ensure its public smoking ban is not undermined. However, the city will be watching for state-level changes on the issue. In the future, there may be an opportunity to consider allowing sites with cultivation or manufacturing and onsite tasting, similar to many breweries and distilleries.

Early Issues

While Juneau does allow testing labs, none exist in Juneau due to the difficulties of traveling to and from the city. There are no roads that connect Juneau to the outside world; all travel takes place through air and sea, and all facets of marijuana in Juneau have some associated transportation issues. The retailers in Juneau all grow their own products, but the most convenient test-

ing facilities are in Anchorage, necessitating a ninety-minute flight.

That flight caused some minor problems. Alaska state troopers are under a directive to facilitate the intrastate transportation of marijuana and to make sure transporters follow the law. Early on and without direction from the state, Juneau local police were advising commercial pilots at the municipally-run airport about marijuana in their cargo as a professional courtesy, believing that it was appropriate to advise the pilots of the breach of federal transportation laws. The practice was ended after police determined that the notification was unnecessary and contradictory to the effort to regulate marijuana similar to alcohol.

Another early, unintended consequence of introducing a legal marijuana market was black-market sellers targeting tourists who passed by the marijuana retail storefronts after hours. Eventually, the problem was dealt with by the retail business owners who witnessed the problem on their security cameras, and the need for local police involvement was and remains minimal. With more urgent concerns related to opioids, methamphetamines, and heroin, enforcement of marijuana violations by the state and local police takes a back seat to the more serious drug use problems in Alaska.⁸ Overall, the local police work well with the marijuana businesses and assist with maintaining successful best security practices, treating commercial marijuana like any other business.

Effects on Other Industries

One of Juneau's biggest economic drivers is tourism, with over one million cruise ship passengers visiting Juneau in 2017 to take in the glaciers and picturesque islands, as well as spend money at local businesses.⁹ On any given day, tourists outnumber residents in Juneau's downtown area. An early concern was that some tourists would take the marijuana they buy to the parks, in violation of Juneau's public smoking ban. This concern did not end up materializing, either due to education about the public smoking ban or tourists being too busy with excursions.

Juneau has a medium-sized cadre of indoor vegetable growers, who do not appear to be affected by the marijuana growers. Marijuana growers tend to be more technology reliant and have more stringent security requirements, causing the overlap in desired properties and infrastructure to be minimal.

Key Observations

While Juneau proceeded with marijuana regulation primarily to implement the will of the people and reduce black market activity, several local economic development opportunities have emerged. Transportation challenges and the accompanying limited market potential have limited interest from nonresidents. As a result, the industry has provided a Juneau-centric business opportunity for local residents.

Juneau's unique situation has also resulted in locally anchored and vertically integrated supply chains. Local retailers and concentrate producers, who also double as cultivators, bring marijuana trim on their testing trips to Anchorage. The trim is then sold to Anchorage edibles manufacturers, of which there are none in Juneau, in return for credit that the visiting business owners put toward manufactured products to sell in Juneau.

Interviewee:

Rorie Watt, City Manager

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- 4 City and Borough of Juneau. "Potential 8% Sales Tax on Marijuana Retail Sales." <https://packet.cbjak.org/AttachmentViewer.ashx?AttachmentID=5315&ItemID=2936>
- 5 Office of the City Clerk, "CBJ Responds to Statewide Marijuana Initiative." https://www.juneau.org/beta_transfer/clerk/ASC/MARIJUANA/Marijuana_Committee.php
- 6 The City and Borough of Juneau Assembly, "Commercial Cultivation of Marijuana in Residential Zones," March 21, 2016. https://www.juneau.org/beta_transfer/clerk/ASC/MARIJUANA/documents/2016-03-22-Commercial_Cultivation_of_Marijuana_in_Residential_Zones.pdf
- 7 "Fairbanks famer prepares to grow cannabis," Anchorage Daily News, June 14, 2016. https://www.youtube.com/watch?v=mjUhWbN_a68
- 8 Rorie Watt, interviewed by Laura Goddeeris and Will Fricke, April 16, 2018
- 9 Cruise Lines International Association, "Cruise Visitor Outlook, Is Regional Planning Important?" February 14, 2018. <https://www.dropbox.com/sh/kj55a7e6qdp5gq/AABhD78QhmCp3ck-7gpf6WCa/Feb%2014%202018/John%20Binkley?dl=0&preview=Southeast+Conference+Feb+2018+v+2-13-18.pptx#>

CASE STUDY:

Kirkland, Washington



Kirkland is a large Seattle suburb on the shores of Lake Washington. It is the home of a Google campus, numerous beachfront activities, and nearly 90,000 residents. In 2010, Kirkland annexed unincorporated areas of King County, increasing its population by approximately 33,000.

In Washington, recreational marijuana was put on the ballot via initiative following an intense signature collection period. Initiative 502, which proposed to legalize adult recreational use of marijuana, was among a slate of hot-button issues and offices that drew 81 percent of the state's registered voters to the polls in November 2012, with 56 percent voting "yes."¹ In King County, where Seattle, Kirkland, and Issaquah are situated, 60 percent of voters supported the initiative.²

King County municipalities began to make decisions on whether to allow cannabis businesses within their borders during the thirteen-month statewide moratorium imposed by Initiative 502, which ended on December 1, 2013.³ The state allowed for municipalities to "opt out" via an extended or permanent moratorium, and many took the opportunity to enact such a ban. This change forced the issue of cannabis sales and produc-



COMMUNITY PROFILE

Population (2017 Census Estimate):
88,630

Land Area (square miles): 17.82

Median Household Income: \$95,939

Source: United States Census Bureau

tion in Kirkland, and the city council quickly decided against adopting a ban on commercial cannabis.

Community Concern

In Kirkland, support for the legalization of marijuana was even stronger than in the surrounding area, with Initiative 502 receiving a “yes” vote from 66 percent of voters. It also received bipartisan support from the city council, stemming mostly from a desire to eliminate unregulated black-market cannabis sales. The city council and administration interpreted the wide support from Kirkland voters for Initiative 502 as a sign to begin crafting new local regulations that would allow commercial cannabis in the city. However, they quickly learned that support for commercial cannabis in theory does not always translate to support in practice.

City staff initially proposed to treat commercial cannabis like any other commercial business. This philosophy was reflected in the first prospective zoning map and regulations developed, which proposed to allow cannabis production, processing, and retail businesses to locate anywhere the existing zoning standards would otherwise allow, save for the minimum buffers required by the Washington State Liquor and Cannabis Board and the state-imposed limit of four retail locations in the city. This map was met with strong opposition to prospective retail locations.

Chief among residents’ concerns was the exposure children and teenagers would have to cannabis through legal storefronts. By treating cannabis retailers like other commercial businesses, initial draft regulations allowed for the prospect of having cannabis retailers located near or interspersed within residential areas. After listening to these concerns from residents, Kirkland opted to create retail cannabis buffers along designated school walk routes as well as near schools, limiting children and teenagers from passing by the businesses with regularity.⁴

The bans on commercial cannabis being imposed in surrounding municipalities created additional fears among some residents. They were afraid of becoming a “destination” for cannabis, with thousands from the surrounding municipalities coming to Kirkland solely to make purchases, a fear that thus far has not materialized. Similarly, many communities have concerns about a transient population arriving to set up shop in the commercial cannabis industry. In this case, those setting up commercial cannabis businesses were already

residents of Kirkland and the surrounding area, including two Google employees who founded a cannabis retail shop as a side business.

“You cannot overestimate how much energy and concern there will be in the community over legalized marijuana....There is a lot more passion and concern in the community than we thought, so we spent a lot of time listening.”

— Kurt Triplett

Like other municipalities, Kirkland residents showed the highest interest in attending city council hearings in recent memory during the debate period for legal commercial cannabis. However, most were prevented from speaking because of standard time limitations on public comment during Kirkland City Council hearings.⁵ As a complement to the formal deliberation process, the city manager’s office, city council, and the planning director made a dedicated effort to engage with community members and talk through their concerns. A series of incremental changes made to the local regulations confirmed that residents’ input was being taken seriously and helped to dissipate fears following implementation.

Public Safety

Perhaps the biggest issue as Kirkland debated commercial cannabis was the fear of additional public safety concerns created by these businesses, including their cash-based nature. Kirkland’s police department reached out to colleagues from similar-sized jurisdictions in Colorado, where commercial cannabis had been up and running for over a year, to ask them for advice and evidence regarding adverse public safety effects. Their colleagues found that with common sense safety regulations, the commercial cannabis businesses seemed to add no additional public safety issues to the area.

The general opinion of the Kirkland Police Department (KPD) on commercial cannabis could be characterized as “skeptical” at the beginning of the debate period. Many rank-and-file officers were not supportive of the move to legalize commercial cannabis in Kirkland, but the prospect of an effective mechanism to do away with the local black market was attractive. When commercial cannabis businesses became legal, the KPD was instructed by the Kirkland administration to avoid “de-policing” cannabis as whole and looking the other



Cannabis products for sale

way on all activity, rather than appropriately enforcing control of the legal and illegal markets.

Current Landscape

The Washington State Liquor and Cannabis Control Board's database includes eleven records of administrative violations issued in Kirkland since 2015, most of which are related to product traceability, packaging, or advertising; two instances of sales to minors were cited.⁶

While public safety statistics since legalization have not caused significant concern, the traffic and parking demands associated with retail cannabis businesses have been slightly higher than the city anticipated.

Key Observations

Kirkland's work to legalize commercial cannabis locally illustrates the challenges of translating theory into practice.

Kirkland's residents, while supportive of legalizing commercial cannabis at the ballot box, were hesitant to embrace actual implementation of this new policy. Other communities would be wise to anticipate time for honest and open conversation with residents about their expectations and what changes they are comfortable with. Kirkland feels that the effort from the planning director, manager's office, and council to engage with and listen to community members outside regular meetings went a long way to unpacking the cognitive dissonance surrounding legal cannabis.

As the process continued, Kirkland continued to modify regulations based on local feedback and conditions. As a strategy to keep commercial retail cannabis businesses "out of sight and out of mind" with respect

to children and teenagers, Kirkland opted to expand the sensitive use buffers required by Washington to include walk routes leading to its schools.

City Manager Kurt Triplett feels that his community benefited from the state-imposed, year-long moratorium. This process allowed Kirkland to have a lengthy research and review process for developing its new ordinances. Other app-era services, like Airbnb, have caused disruption and confusion in some communities without ample time to prepare for them. Washington avoided this problem with commercial cannabis due to the required moratorium following the November 2012 initiative. Industry proponents may argue otherwise, but evidence from Kirkland and other communities suggests there are benefits in taking time to phase in change, either through a self-imposed moratorium, trial periods with sunset provisions, and/or other measures ensuring regular monitoring and revisiting of how this emergent industry functions in a community.

Interviewee:

Kurt Triplett, City Manager

Endnotes

- 1 Office of the Secretary of State, "Gregoire and Reed certify 2012 election, including marriage and marijuana laws," December 5, 2012. <https://www.sos.wa.gov/office/news-releases.aspx#/news/1065>
- 2 Office of the Secretary of State, "November 06, 2012 General Election Results." November 27, 2012. https://results.vote.wa.gov/results/20121106/Initiative-Measure-No-502-Concerns-marijuana_ByCounty.html
- 3 State of Washington, "Initiative Measure No. 502," filed July 8, 2011. <https://sos.wa.gov/assets/elections/initiatives/i502.pdf>
- 4 Raechel Dawson, "Kirkland imposes new temporary marijuana zoning regulations," Kirkland Reporter, March 19, 2014. <http://www.kirklandreporter.com/news/kirkland-imposes-new-temporary-marijuana-zoning-regulations/>
- 5 Only three speakers are permitted on each side of an issue; that is, three may speak on the pro side of an issue and three may speak on the anti side. To show their support in another way, proponents of legal commercial cannabis distributed supportive t-shirts to their supporters, causing the hearings to be the most colorful in recent memory as well as the most popular.
- 6 Washington State Liquor and Cannabis Board, "Violations Dataset," June 21, 2018. <https://data.lcb.wa.gov/dataset/Violations-Dataset/dx3i-tzh2>

CASE STUDY:

Pacifica, California

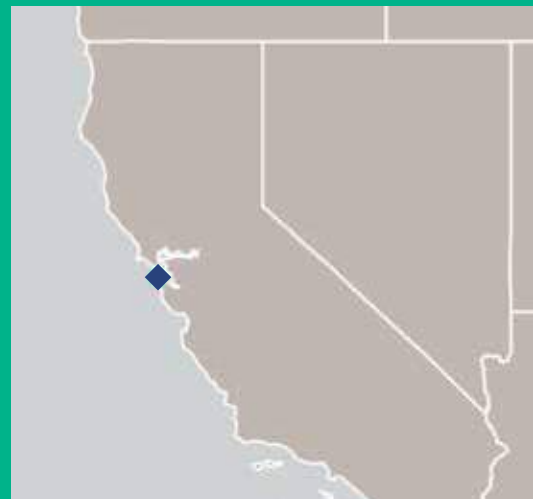


Pacifica is a seaside San Francisco suburb of nearly 40,000 residents. Lying on the Pacific Ocean side of San Mateo County, Pacifica is a popular surfing and hiking destination.

Cannabis legalization had overwhelming support from Pacifica residents as well as from the city council. The council acted swiftly in March 2017 to begin the process of allowing cannabis businesses in the city, holding a joint study session with the Pacifica Planning Commission. This study session was followed by planning commission and council meetings, which provided direction regarding the authoring of the ordinances that would allow commercial cannabis operations in Pacifica.

The ordinances, which were adopted in July 2017, would be triggered by the passing of a local excise tax on the gross receipts of cannabis sales. Seventy-nine percent of voters voted in favor of the tax, enacting the ordinances to allow legal cannabis operations.¹

Pacifica decided to allow retail, manufacturing, and testing businesses, but decided against allowing commercial cultivation in the city. Unlike its neighbor to the south, Half Moon Bay, Pacifica does not have greenhouses or agricultural business infrastructure. Outdoor cultivation of any significant scale would have been inconsistent with the suburban character of the city.



COMMUNITY PROFILE

Population (2017): 39,087

Land Area (square miles): 12.66

Median Household Income: \$103,545

Source: United States Census Bureau

The Ordinances

Pacifica has two ordinances regulating cannabis operations. The first is a public safety ordinance, administered by the Pacifica Police Department, which governs the operation and licensing of cannabis businesses, requires background checks of owners and employees, and includes other safety requirements such as technological and physical security systems. It also includes provisions to curb nuisances such as loitering.

Pacifica's ordinances are stringent with respect to nuisance effects, with applicants required to prove that their business will not be a nuisance.

The second ordinance governs the cannabis zoning regulations in Pacifica. The city created five overlay districts for retail cannabis businesses: Fairmont, Linda Mar, Park Pacifica, Rockaway Beach, and Sharp Park. Each overlay district is limited to two retail businesses, and in total no more than six retail businesses are permitted in the city.² Pacifica set these limitations due to concerns about overconcentration, particularly in economically depressed areas. Cannabis testing and manufacturing businesses are not restricted to the overlay districts; those businesses are allowed within certain existing commercial zones. Pacifica also reduced one of the state's default sensitive use setbacks, from 600 feet to 200 feet for day care centers, because that setback was perceived as overly restrictive. Finally, the ordinance clarified local regulations for personal cultivation, including a prohibition on the use of artificial light for plants grown outdoors.

Together, these ordinances created a four-phase process for establishing cannabis businesses in Pacifica, involving a license and land use entitlement:

1. Public safety license applications are submitted to the police department for review.
2. Security plans are submitted to the police department for review.
3. Use permit applications are submitted to the planning department for review and public hearing with the planning commission.
4. The police chief issues licenses after confirming compliance with preceding steps.

Pacifica launched this process directly after the enactment of the ordinances following the November 2017 election, when the local excise tax was passed. The local tax, initially set at 6 percent of gross receipts for the first two years, was projected by city staff to generate \$420,000 in the industry's first full year of

operation. Council retained the option to decrease or increase the rate up to 10 percent after two years.³

Upon launch of the licensing process, the city received over thirty applications for cannabis businesses.

Public Safety

While Pacifica has had illegal medical cannabis dispensaries operating since 2010, calls for service regarding illegal cannabis were few. The illegal establishments likewise were not a burden on law enforcement. However, those establishments did not report burglaries and other crime on their property due to the risk of facing charges themselves. With legalization, the now-legal businesses follow common sense safety regulations while falling under the protection umbrella of the Pacifica Police Department.

"Changes in culture statewide have caused a paradigm shift in the way cities and law enforcement are approaching decisions regarding cannabis businesses. Our community and council have expressed their desire for this program to exist in Pacifica. It is our job to administer the program in a way that promotes safety and fosters a positive and collaborative relationship with cannabis business owners."

— Dan Steidle

Key Observations

The city reached out for assistance and examples of how to regulate its cannabis industry. It looked to large cities in the area such as San Francisco, Berkeley, and Oakland, but the beach town nature and lack of a large commercial sector in Pacifica made comparisons difficult. A more beneficial route was working with experienced consultants on the business aspects of regulations.

Interviewees:

Lorenzo Hines, Assistant City Manager, Tina Wehrmeister, Planning Director, Dan Steidle, Chief of Police

Endnotes

- 1 County of San Mateo, Assessor-County Clerk-Recorder & Elections, "November 7, 2017 Consolidated Municipal, School, and Special District Election." <https://www.smcacre.org/post/november-7-2017-0>
- 2 Municipal Code, Article 17.5 "MO Marijuana Operation Overlay District." https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT9PLZO_CH4ZO_ART17.5MOMAPOVDI_S9-4.1753OVDICR
- 3 Municipal Code, Article 17.5, Sec. 9-4.1753, "Overlay districts created." <http://www.cityofpacific.org/civicax/filebank/blobdload.aspx?BlobID=12901>

CASE STUDY:

Santa Rosa, California



Santa Rosa is the largest city in Sonoma County and California's Wine Country. The city is known for its diversity, with a large Mexican-American and LGBT community. In October 2017, severe wildfires destroyed thousands of homes in Santa Rosa.

History/Background

Medical cannabis dispensaries have been allowed in Santa Rosa since 2005, but other aspects of the cannabis industry were only authorized in early 2016. Prior to the passage of Proposition 64 in California, the Santa Rosa City Council authorized the licensing of medical cannabis cultivation, manufacturing, testing, and distribution.

Santa Rosa was ahead of the curve with respect to California municipalities, making it clear after the passage of Proposition 64 that it wanted to broadly allow commercial cannabis businesses. City officials recognized the cannabis industry was already operating in Santa Rosa, both through black market activity and the "gray market" state-sanctioned medical dispensaries that operated without local input. In legitimizing the industry, the Santa Rosa City Council and administration saw an opportunity to ensure compliance with



COMMUNITY PROFILE

Population (2017): 175,269

Land Area (square miles): 51.29

Median Household Income: \$62,705

Source: United States Census Bureau

“It was important to have a clear direction from the council on what the approach was going to be.”

— Sean McGlynn

permitting, planning, and public safety standards and to create a revenue stream for the city. The city also reasoned that any part of the industry not officially permitted would continue to operate in Santa Rosa without regard for negative externalities, hence their decision to allow all elements of the supply chain from cultivation through retail sales.

Process and Regulations

“Bring certainty to a very uncertain landscape” was a driving philosophy in Santa Rosa’s efforts to carefully and thoughtfully regulate the commercial cannabis industry. The city council—leaning on its background in public safety—prioritized developing a path to compliance and building trust between the community and the industry.

“The motivation was to get more people to be compliant so that they could be legitimate. We could tax it, and actually make it part of our community.”

— Clare Hartman

City staff and the City Council’s Cannabis Policy Subcommittee members were tasked with learning all they could about the cannabis industry and its potential effects on infrastructure, health, services, and more. Setting up an interdepartmental work team, staff reached out to their counterparts in other communities in Colorado, Oregon, and Washington with experience in regulating cannabis. But as an early community to opt-in on legal cannabis, Clare Hartman, Santa Rosa’s deputy director – planning, acknowledged that “we were building the program as it was happening to us.”

Over the course of two years, Santa Rosa administrative and planning staff took time to attend community and neighborhood meetings in order to address concerns over specific land use permitting for cannabis businesses. The presence of former Santa Rosa Police Chief Tom Schwedhelm and Cannabis Policy Subcommittee member Ernesto Olivares, a former Santa Rosa police lieutenant, likely helped some residents feel more comfortable that the public safety aspect of cannabis businesses was being considered. Council took



Cannabis oil

up the issue at more than twenty full or subcommittee meetings and implemented a series of interim regulations before finally passing a comprehensive ordinance in early 2018. When it finally came up for public hearing, the pressing issues had been thoroughly discussed between residents and administrators, leading to an undramatic and anti-climactic vote.

Santa Rosa favored a transparent approach and decided against administratively approved permits for most cannabis businesses. Instead, it opted to issue use permits through a process requiring public notices and, in many cases, public hearings and action by the planning commission. It allows cannabis businesses to be located in the same areas as their non-cannabis counterparts. Recognizing additional concerns associated with cannabis, including those gathered from public outreach, the city was proactive in layering additional regulations related to security protections, standards to prevent odor, and sensitive use setbacks. While public interest has been piqued by businesses proposed in close proximity to residential areas, these regulations have generally provided sufficient assurances to neighborhoods’ nuisance concerns.

Growing a Compliant Industry

Thus far, Santa Rosa has approved over forty land use permits for cannabis cultivation (indoor only, including greenhouses), manufacturing, testing, distribution, and medical retail businesses. Commercial retail applications were accepted in April 2018 and will proceed through the evaluation and conditional use permit process through the rest of the year. There is no explicit limit on the number of cannabis business licenses, though 600-foot setback requirements for cannabis

retail businesses to prevent over-concentration and buffer sensitive uses implicitly cap that sector.¹

Many manufacturers of cannabis products were already operating in Santa Rosa when the city began creating its cannabis land use regulations and licensing the industry. The pre-existing businesses were often not operating in appropriate areas, such as in residences or in residential zones. Many have since found legitimate and licensed locations, and some existing businesses partnered to share the cost of moving and licensing. Providing a path to compliance has also enabled the city to learn more about the industry's operators, which notably include a share of single, female head-of-households.

Absent an explicit cap, the market for appropriate commercial and industrial land has proved to be a challenge for cannabis businesses in Santa Rosa, which compete against each other as well as with complementary boutique tourism industries such as breweries and wineries. Industrial land vacancy rates have dropped from 12.2 percent in 2014 to 4.6 percent in 2017.² But Santa Rosa is wary of letting cannabis businesses dominate its economy, as the region is in the process of rebuilding from the recent wildfires, and the city wants to ensure space for contractors and specialty trades, among many other industries. The city convenes an interdepartmental follow-through program to monitor the cannabis industry's growth and consider potential interventions in response to local effects or modifications to the state law.

Though Santa Rosa regulations intentionally direct commercial cannabis businesses away from residential land, the abundance of cannabis cultivation in the region is causing problems for law enforcement. Between February and May 2018, multiple home invasions took place in Sonoma County, including two in Santa Rosa. These crimes target private residences that legally grow cannabis for personal use, which are not required to follow the strict security regulations that licensed cannabis businesses abide by. Law enforcement believes the illegality of cannabis on the east coast and the resulting high street value is at the root of the problem.³

Key Observations

Santa Rosa believes that its permissive early approach was the correct one. Observations of other jurisdictions showed that a piecemeal approach, prohibiting certain sectors of the cannabis industry while allowing others, was ineffective in quelling the problem of black market businesses. Preferring to allow the industry to operate and regulate it led the city to permit indoor/greenhouse cultivation despite limited presence of any other agricultural activity within city limits.

Staff credit the council for its clear direction regarding a path to compliance, which provided the motivation and resources necessary to coordinate across diverse stakeholders, including an industry not accustomed to working with government. This process opened up opportunities to build trust and navigate ambiguity around public safety and code enforcement.

Other communities in the region have followed suit. Cloverdale, Cotati, and Sebastopol, incorporated cities with populations of 8,618, 7,265, and 7,379, respectively, decided to allow commercial cannabis activities such as cultivation and manufacturing after observing Santa Rosa and having conversations with Santa Rosa planning staff; like Santa Rosa, these communities have the intention of benefiting through regulatory control of commercial cannabis and associated tax revenue.

Interviewees:

Sean McGlynn, City Manager

Clare Hartman, Deputy Director - Planning

Endnotes

- 1 City of Santa Rosa, "Cannabis FAQ's: Distance to School." <https://srcity.org/DocumentCenter/View/18731/Distance-to-school>
- 2 City of Santa Rosa Planning & Economic Development, "Cannabis Permitting Update," January 12, 2018. <https://srcity.org/DocumentCenter/View/18714/2018-01-12-Cannabis-Permit-Activity-Update>
- 3 "Sonoma sees spate of marijuana-related home invasions," The Mercury News, May 4, 2018. <https://www.mercurynews.com/2018/05/04/sonoma-county-sees-spate-of-marijuana-related-home-invasions/>

About the Authors

Laura Goddeeris, AICP, oversees ICMA's applied research on local government practices, programs, partnerships, and policies as Director of Survey Research. Prior to joining ICMA, she gained over a decade of experience in research, outreach, and program administration around issues of community and economic development, local and regional food systems, and transportation science. While based in Michigan, she also worked closely with municipal staff for years as chair of her local planning commission and community development advisory committee. Laura holds a Master's in Urban Planning and Policy from the University of Illinois at Chicago.

Will Fricke is member of ICMA's Research and Policy Team, carrying out research projects and survey research. His work covers a wide array of topics such as service delivery, land use, and form of government. Will is a graduate of the University of Connecticut.



INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION

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MEMORANDUM

DATE: October 11, 2019

TO: Zoning Board of Appeals

FROM: Clifford E. Radatz *CER*
Building Official

SUBJECT: Variation Request – 535 Monroe Avenue

Bayard & Michele Elfvin, owners of the property at 535 Monroe Avenue, have submitted the attached application for variations to the Floor Area (Section 10-8-5) and Building Story Height regulations (Section 10-8-6) of the Zoning Code.

A Building Permit is in place for an Addition and Remodeling work at 535 Monroe Avenue. During construction, the roof of the existing primary building was re-constructed in a manner such that the story height of the building was increased to 3 stories and the floor area increased to exceed the maximum Floor Area ratio of 0.4.

Section 10-9-5 (10-8-5) of the Zoning Code limits the total floor area of a building, with its accessory buildings and structures to have a maximum floor area ratio of 0.4. Per the definition of floor area from section 10-3-1, floor area includes “Attic space having average headroom of seven feet or more”. Due to concerns of how to fairly and consistently calculate an “average” in such situations, in practice the floor space of an attic has been calculated to include only that space where the clear height from the top of the attic floor to the underside of the roof rafters is seven feet and more. The attic, as reconstructed, increased the floor area. As the project under permit was designed close to the 40% limit, the additional space pushes the project over the FAR limit.

Section 10-9-6 (10-8-6) of the Zoning Code limits the story height of the primary building to 2½ stories, subject to the definition of Half Story, as provided in Section 10-3-1 of the ordinance. Per that definition, any level which exceeds the limits of the definition is considered to be a full story. As constructed, the new attic structure exceeds the definition of a Half Story.

If the Zoning Board wishes to recommend the approval of these variations to the Village Board of Trustees, the following motion should be made:

Motion to recommend to the Village Board of Trustees the approval of the variations to Sections 10-8-5 and 10-8-6 of the Zoning Code at 535 Monroe Avenue.

If you have any questions regarding this application, please do not hesitate to call me.



**LEGAL NOTICE
ZONING BOARD OF APPEALS
RIVER FOREST, ILLINOIS**

Public Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals (ZBA) of the Village of River Forest, County of Cook, State of Illinois, on Thursday, October 17, 2019 at 7:30 p.m. in the First Floor Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois on the following matter:

The ZBA will consider an application for major zoning variations submitted by Bayard & Michele Elfvin, owners of the property at 535 Monroe Avenue, who are constructing an addition onto the existing home.

The applicants are requesting major variations to Sections 10-9-5 and 10-9-6 of the Zoning Ordinance for the purpose of allowing the attic addition to remain which had been inadvertently constructed in violation of the Floor Area and Building Height regulations.

As constructed, the attic includes approximately 474 square feet of area which is defined as Floor Area by the Zoning ordinance, increasing the floor area ratio to 0.454. Section 10-9-5 (10-8-5) of the Zoning ordinance limits the floor area ratio to a maximum of 0.40.

As constructed, the knee walls at the north and south sides of the attic are approximately 3'-4" high. The definition of "Half Story" from section 10-3-1 of the Zoning ordinance limits the height of perimeter knee walls to 2 feet, and any level which exceeds the limits of the definition is considered to be a full story. Consequently, the attic level is considered to be a third story. Section 10-9-6 (10-8-6) of the Zoning ordinance limits the height of buildings to two and one-half stories.

The legal description of the property at 535 Monroe Avenue is as follows:

LOT 18 IN BLOCK 6 IN THE SUBDIVISION OF THE NORTH 600 FEET OF BLOCK 6 AND BLOCK 13 (EXCEPT LOT 1 IN THE COUNTY CLERK'S DIVISION OF SAID BLOCK 13) IN QUICK'S SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF LAKE STREET, IN COOK COUNTY, ILLINOIS.

A copy of the application and meeting agenda will be available to the public at Village Hall and on the Village's website at www.vrf.us/zoningvariation no less than 15 days prior to the public hearing. The Zoning Board of Appeals meeting packet will also be available at www.vrf.us/meetings no less than 48 hours prior to the public hearing.

All interested persons will be given the opportunity to be heard at the public hearing. **For public comments to be considered by the Zoning Board of Appeals and Village Board of Trustees in their decision, they must be included as part of the public hearing record.** Interested persons can learn more about how to participate in the hearing by visiting www.vrf.us/zoningvariation.

Sincerely,
Clifford Radatz
Secretary, Zoning Board of Appeals



APPLICATION FOR ZONING VARIATION
Village of River Forest Zoning Board of Appeals

Address of Subject Property: 535 Monroe Ave. Date of Application: 9/24/19

| Applicant | | Architect / Contractor | |
|--|------|--------------------------------------|------|
| Name: Bayard & Michelle Elfvin | | Name: Steve Ryniewicz | |
| Address: 535 Monroe Ave. | | Address: 810 Highland Ave. | |
| City/State/Zip: River Forest, IL 60305 | | City/State/Zip: Oak Park, IL 60304 | |
| Phone: 312-632-0171 | Fax: | Phone: | Fax: |
| Email: bayardelfvin@gmail.com | | Email: steve@studiorarchitecture.com | |

michelleelfvin@gmail.com

Relationship of Applicant to Property (owner, contract purchaser, legal counsel, etc.): Owner

Zoning District of Property: ☐ R1 ☒ R2 ☐ R3 ☐ R4 ☐ C1 ☐ C2 ☐ C3 ☐ PRI ☐ ORIC

Please check the type(s) of variation(s) being requested:

☒ Zoning Code

☐ Building Code (fence variations only)

Application requirements: Attached you will find an outline of the other application requirements. Please read the attached carefully, the applicant will be responsible for submitting all of the required information.

Also attached for your information are the Zoning Board of Appeals "Rules of Procedure" for their public hearings.

Application Deadline: A complete variation application must be submitted no later than the 15th day of the month in order to be heard by the Zoning Board of Appeals in the following month. The Zoning Board of Appeals meets on the second Thursday of each month.

SIGNATURES:

The undersigned hereby represent for the purpose of inducing the Village of River Forest to take the action herein requested, that all statements herein and on all related attachments are true and that all work herein mentioned will be done in accordance with the ordinances of the Village of River Forest and the laws of the State of Illinois.

Owner:  Date: 10/10/19

Applicant (if other than Owner): _____ Date: _____

Application Fee: A non-refundable fee of \$650.00 must accompany every application for variation. Checks should be made out to the Village of River Forest.

APPLICATION FOR ZONING VARIATION

Address of Subject Property: 535 Monroe Ave. Date of Application: 9/24/19

Summary of Requested Variation(s):

| Applicable Code Section (Title, Chapter, Section) <i>Example:</i> 10-8-5, lot coverage | Code Requirement(s) <i>Example:</i> no more than 30% of a lot | Proposed Variation(s) <i>Example:</i> 33.8% of the lot (detailed calculations on a separate sheet are required) |
|---|--|--|
| 10-9-5 and 10-8-5, Floor Area | no more than 40% | constructed at 45.43% |
| 10-9-6 and 10-8-6, Building Height | Maximum 2 1/2 Story Building Height | construction exceeds 1/2 story definition (attic), therefore is considered 3 stories high |
| | | |
| | | |
| | | |

THE APPLICANT IS REQUIRED TO SUBMIT DETAILED LONG HAND CALCULATIONS AND MEASUREMENTS FOR ALL APPLICABLE ZONING PROVISIONS. APPLICATIONS WILL NOT BE CONSIDERED COMPLETE WITHOUT THESE CALCULATIONS AND MEASUREMENTS.

Village of River Forest
Zoning Board of Appeals
400 Park Avenue
River Forest, IL 60305

Re: Zoning Variation application at 535 Monroe Avenue

October 10, 2019

Dear Zoning Committee Members,

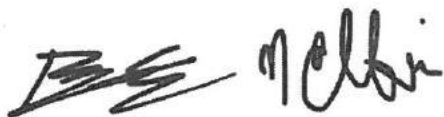
First, I want to say that our intent is to comply with all the applicable building codes and zoning ordinances. Our desire is to expand our home to accommodate our growing family and invest in our house and, by extension, our community. We are building our lifetime house and intend to stay in this community beyond raising our kids.

In taking on a construction renovation and expansion project of this size, we have encountered numerous unforeseen field conditions requiring adjustments; some causing time delay and most causing an increase to our construction costs. One of those items was the discovery that the existing roof of the house had sagging rafters and a warped roof plane. The carpenters tried but were unable to get the new roof rafters of the rear addition to align with the existing. I've attached a picture for reference. The carpenter considered repairing the existing roof but advised that rebuilding would be a better decision. We followed the recommendation. Both the carpenter and I were aware of the 35-foot height limit but unaware of the 2-foot knee wall restriction. As a taller person, I initially requested the carpenter make the roof pitch steeper to increase the headroom, and, to be frank, with the cost of rebuilding the roof, I felt like I needed to gain something for the extra cost. We continued to refine the attic conversation as the carpenter planned out the framing and it eventually ended up with knee-walls. The original house did not have knee walls and I thought this was a good solution to gaining a little more height in the attic while maintaining the 35-foot height limit. The roof peak does meet the height limit but the knee walls constructed are 14.5" taller than allowed.

During this process we have had framing, mechanical, electrical, plumbing and insulation inspections without mention of non-compliance issues. I'm not sure what would have been done if this issue was identified earlier but the inspections gave me the impression that we were continuing to be code compliant as construction was progressing.

In hindsight, I regret pressing the construction schedule and not reaching out to the village when we were first faced with the roof issue and apologize for the neglect in this area. I understand that my error does not directly meet the hardship requirements, but kindly ask for your full consideration and approval.

Kind Regards,

A handwritten signature in black ink, appearing to read "Bayard & Michelle Elfvin". The signature is stylized, with a large, bold "B" and "E" at the beginning, followed by a cursive "M" and "E", and then "lfvin".

Bayard & Michelle Elfvin

Zoning Review Checklist

Address: 535 Monroe Avenue

Date of Review: 4/10/2018

Date of Submission: 3/28/2018

Contact:

Telephone #:

Building Permit Revision: 9/19/2019

Revised: 9/25/2019

Zoning District: R2

Use:

Addition to a Single Family Residence
Permitted Use

Lot Area

| Lot Width | Lot Depth | Lot Area |
|-----------|-----------|----------|
| 50.00 | 173.75 | 8687.50 |

Lot Coverage

30% allowed for the R2 District

| Allowed | Existing | Proposed | |
|---------|----------|----------|-------------------------------------|
| 2606.25 | 1877.72 | 2634.49 | <input checked="" type="checkbox"/> |
| | 21.61% | 30.33% | Rounds down to 30% |

Floor Area Ratio

40% allowed for the R2 District

| Allowed | Existing | Proposed | |
|---------|----------|----------|-------------------------------------|
| 3475.00 | 2416.28 | 3946.67 | <input checked="" type="checkbox"/> |
| | 27.81% | 45.43% | |

Setbacks

Frontyard

West

| Required | Existing | Proposed setbacks at 3rd Floor addition | |
|----------|----------|---|-------------------------------------|
| | 30.8000 | 40.3000 | |
| | 2.5000 | 3.0000 | No Change |
| 0.0000 | 28.3000 | 37.3000 | <input checked="" type="checkbox"/> |

Sideyard

North

| 10% of Lot Width for the R2 District | | | |
|--------------------------------------|--------|--------|-------------------------------------|
| 5.0000 | 2.5000 | 6.5000 | <input checked="" type="checkbox"/> |
| Eave Length | 1.0000 | 2.0000 | |
| 3.0000 | 1.5000 | 4.5000 | <input checked="" type="checkbox"/> |

Sideyard

South

| 10% of Lot Width for the R2 District | | | |
|--------------------------------------|---------|---------|-------------------------------------|
| 5.0000 | 11.6000 | 17.1000 | <input checked="" type="checkbox"/> |
| Eave Length | 1.0000 | 3.0000 | |
| 3.0000 | 10.6000 | 14.1000 | <input checked="" type="checkbox"/> |

Combined Sideyard

| | | | | |
|--------------------------------------|---------|---------|---------|-------------------------------------|
| 25% of Lot Width for the R2 District | 12.5000 | 14.1000 | 23.6000 | <input checked="" type="checkbox"/> |
|--------------------------------------|---------|---------|---------|-------------------------------------|

Rearyard

East

| | | |
|------------------------------------|---------|---------|
| 15% of Lot Depth or 26'-2" minimum | 88.0500 | 96.5500 |
| Eave Length | 2.5000 | 3.0000 |

Addition

Zoning Review Checklist

Setback to Eave

26.0625

85.5500

93.5500



Building Height Ridge

Height above grade in feet

Allowed

35'

Existing

31'

Proposed Ht.
at 3rd Floor addition

34.5'



Story Height

2.5

2

3



Off-Street Parking

Garage spaces

Required

2

Existing

2

Existing +
Proposed

2



Addition

| | | |
|--------------------------|---------------------------|---------------------------|
| 535 Monroe Avenue | | 4/10/2018 |
| Area Calculations | Building Permit Revision: | 9/19/2019 |
| | Revised: | 9/25/2019 |
| Date of Submission | 3/28/2018 | |
| Lot Area | 50.0000 | 173.7500 8687.5000 |
| Allowed Coverage | 0.3000 | 2606.2500 |
| Allowed FAR | 0.4000 | 3475.0000 |

Lot Coverage - Existing

| | | | |
|-----------------------|----------|---------|------------------|
| First Floor Area | Existing | | 1330.7400 |
| Detached Garage | Existing | | 437.5800 |
| Extg Open Side Porch | 5.50 | 10.0000 | 55.0000 |
| Extg Rear Frame Porch | 8.50 | 6.40 | 54.4000 |
| Total | | | 1877.7200 |

Lot Coverage - New

| | | | |
|------------------|----------|-----|------------------|
| First Floor Area | Proposed | | 1949.9919 |
| Detached Garage | Proposed | | 624.0000 |
| New Side Porch | 11 | 5.5 | 60.5000 |
| Total | | | 2634.4919 |

Floor Area - Existing

| | | |
|----------------------------------|-----------|------------------|
| Floor Area - existing | 1st floor | 1330.7400 |
| | 2nd floor | 1085.5400 |
| | Attic | 0.0000 |
| Detached Garage | Existing | 437.5800 |
| garage allowance (up to 500 s.f) | | -437.5800 |
| | | 2416.2800 |

Floor Area - Proposed

| | | |
|-----------------------|-----------|------------------|
| Floor Area - Proposed | 1st floor | 1949.9919 |
| | 2nd floor | 1398.7044 |
| | Attic | 473.9733 |
| Detached Garage | Proposed | 624.0000 |
| garage allowance | | -500.0000 |
| | | 3946.6696 |

535 Monroe Avenue

4/10/2018

Building Permit Revision:**9/19/2019**House - 1st floor - **Existing to remain**

| | | | |
|---|---------|---------|------------------|
| A | 9.5000 | 21.2000 | 201.4000 |
| B | 36.9000 | 25.4000 | 937.2600 |
| C | 6.8000 | 1.0000 | 6.8000 |
| D | 8.3000 | 5.0000 | 41.5000 |
| E | 1.4000 | 0.7000 | 0.9800 |
| F | 8.5000 | 16.8000 | 142.8000 |
| | | | 1330.7400 |

| | | | |
|------|--|---------|----------------|
| "-E" | | -1.0000 | -0.9800 |
|------|--|---------|----------------|

| | | | |
|------|--|---------|------------------|
| "-F" | | -1.0000 | -142.8000 |
|------|--|---------|------------------|

| | | | |
|-----|--|--|------------------|
| ETR | | | 1186.9600 |
|-----|--|--|------------------|

House - 1st floor - **Proposed****Existing to remain**

| | | | |
|---|---------|---------|------------------|
| | | | 1186.9600 |
| J | 19.5833 | 23.3333 | 456.9444 |
| K | 19.5833 | 10.7917 | 211.3375 |
| L | 1.0000 | 7.2500 | 7.2500 |
| M | 20.0000 | 4.3750 | 87.5000 |
| | | | 1949.9919 |

House - 2nd floor - **Existing**

| | | | |
|---|---------|---------|------------------|
| B | 36.9000 | 25.4000 | 937.2600 |
| C | 4.5000 | 1.0000 | 4.5000 |
| E | 1.4000 | 0.7000 | 0.9800 |
| F | 8.5000 | 16.8000 | 142.8000 |
| | | | 0.0000 |
| | | | 1085.5400 |

| | | | |
|------|--|---------|----------------|
| "-E" | | -1.0000 | -0.9800 |
|------|--|---------|----------------|

| | | | |
|------|--|---------|------------------|
| "-F" | | -1.0000 | -142.8000 |
|------|--|---------|------------------|

| | | | |
|-----|--|--|-----------------|
| ETR | | | 941.7600 |
|-----|--|--|-----------------|

House - 2nd floor - **Proposed****Existing to remain**

| | | | |
|---|---------|---------|------------------|
| | | | 941.7600 |
| J | 19.5833 | 23.3333 | 456.9444 |
| | | | 0.0000 |
| | | | 1398.7044 |

535 Monroe Avenue

4/10/2018

Building Permit Revision:

9/19/2019

House - Attic half story - **Existing to remain**

0.0000

0.0000

House - Attic half story - **Proposed**

Existing to remain

0.0000

| | | | |
|-----------|---------|--------|----------|
| a1 | 36.9000 | 9.6000 | 354.2400 |
|-----------|---------|--------|----------|

| | | | |
|-----------|--------|--------|---------|
| a2 | 8.0000 | 7.4833 | 59.8667 |
|-----------|--------|--------|---------|

| | | | |
|-----------|--------|--------|---------|
| a3 | 8.0000 | 7.4833 | 59.8667 |
|-----------|--------|--------|---------|

0.0000

473.9733

Detached Garage - **Existing**

| | | | |
|----------|---------|---------|----------|
| a | 21.4500 | 20.4000 | 437.5800 |
|----------|---------|---------|----------|

0.0000

437.5800

Detached Garage - **Proposed**

| | | | |
|----------|---------|---------|----------|
| a | 24.0000 | 26.0000 | 624.0000 |
|----------|---------|---------|----------|

Garage Half Story

0.0000

624.0000



810 south highland

oak park, il 60304

312.446.0133

steve@studiorarchitecture.com

www.studiorarchitecture.com

Village of River Forest
Zoning Board of Appeals
400 Park Avenue
River Forest, IL 60305

Re: Zoning Variation application at 535 Monroe Avenue,
Standards for major variations: Floor Area, Section 10-9-5 and 10-8-5
Building Height, Sections 10-9-6 and 10-8-6 response
Project 17-021

October 10, 2019

Dear Zoning Committee Members,
Please find the attached responses to the eight standards for major variations (listed above):

1. The physical surroundings, shape or typographical conditions of the specific property involved with bring a specific hardship upon the owner as distinguished from an inconvenience if the strict letter of the regulations were to be carried out;

Applicant response: The physical surroundings, shape and topography of the site do not present a specific hardship to the applicant.

2. The aforesaid unique physical condition did not result from an action of any person having an interest in the property, but was created by natural forces or was the result or was the result of governmental action, other than the adoption of this Zoning Ordinance, for which no compensation was paid;

Applicant response: The unique physical condition was an existing sagging roof structure and lack of uniformity within the roof, which did not allow alignment with the new construction addition in the rear. This condition, discovered during construction, was the reason for the completely new roof reconstruction. So, the existing sagging roof structure was created by natural forces, but the remaining part of the process was a construction mistake.

3. The conditions upon which the petition for variation is based may not be applicable generally to other property within the same zoning classification;

Applicant response: The conditions for this petition for variation are unique to the site in question as they are a mistake during the construction process, not currently present on other properties.



4. The purpose of the variation is not based predominantly upon a desire for economic gain;

Applicant response: The petition for the variation is requested to remedy the as-built condition which is the product of the applicant and contractor's limited understanding of the zoning regulations not a desire for financial gain.

5. The granting of the variation shall not be detrimental to the public welfare or unduly injurious to the enjoyment, use, or development value of other property or improvements in the neighborhood in which the property is located;

Applicant response: The petition for the variation is supported by the adjacent neighbors and other residents on the block. The variation will not adversely affect the improvement potential of neighboring houses or limit their value.

6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood;

Applicant response: The petition for the variation will not negatively affect the neighboring property light and air, or substantially increase the danger of fire, or otherwise endanger the public safety. The neighbors have provided letters of support and understand that approval of the requested variations will not diminish or impair their property values.

7. That the granting or the variation would not unduly tax public utilities and facilities in the area;

Applicant response: The petition for the variation will not lead to an increase in the use of water, sewer, electricity, police or fire protection in excess of what any other single-family homes might use.

8. That there is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.

Applicant response: The variation is the requested remedy to permit reasonable use of the property considering the construction mistake. Alternately, the entire roof structure and finishes will need to be demolished and rebuilt. The project duration, unforeseen conditions and construction delays have caused significant financial strain on the applicant, and, if a roof reconstruction is required, the financial strain will be unbearable.



Page 3 of 3

Kind Regards,

A handwritten signature in black ink, appearing to read "SRN".

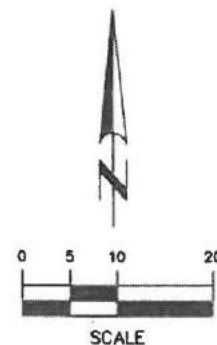
Steven Ryniewicz ALA LEED AP NCARB
Studio R Architecture

A handwritten signature in black ink, appearing to read "Bayard & Michelle Elfvin".

Bayard & Michelle Elfvin

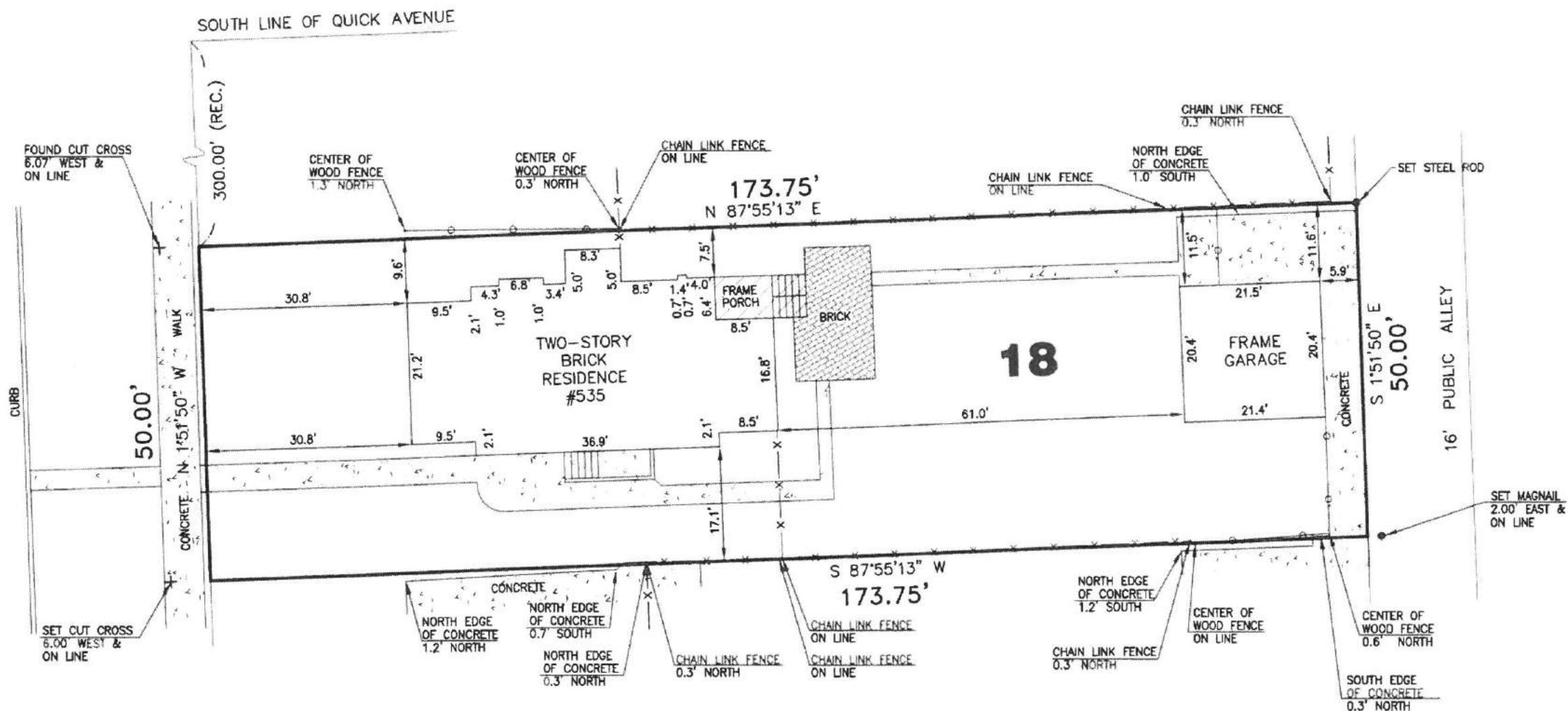
PLAT OF SURVEY

LOT 18 IN BLOCK 6 IN THE SUBDIVISION OF THE NORTH 600 FEET OF BLOCK 6 AND BLOCK 13 (EXCEPT LOT 1 IN THE COUNTY CLERK'S DIVISION OF SAID BLOCK 13) IN QUICK'S SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF LAKE STREET, IN COOK COUNTY, ILLINOIS.



MONROE AVENUE

80.00' R.O.W.



PREPARED FOR: CMMR DEVELOPMENT, LLC

LANDMARK

ENGINEERING LLC

DESIGN FIRM REGISTRATION NO. 184-005577

7808 W. 103RD STREET
PALOS HILLS, ILLINOIS 60465-1529
Phone (708) 599-3737

NO IMPROVEMENTS SHOULD BE CONSTRUCTED ON THE BASIS OF THIS PLAT ALONE AND NO DIMENSIONS, LENGTHS OR WIDTHS SHOULD BE ASSUMED FROM SCALING. FIELD MONUMENTATION OF CRITICAL POINTS SHOULD BE ESTABLISHED PRIOR TO COMMENCEMENT OF CONSTRUCTION.

FOR BUILDING LINES, EASEMENTS AND OTHER RESTRICTIONS NOT SHOWN HEREON, REFER TO DEEDS, ABSTRACTS, TITLE POLICIES, SEARCHES OR COMMITMENTS, CONTRACTS AND LOCAL BUILDING AND ZONING ORDINANCES.

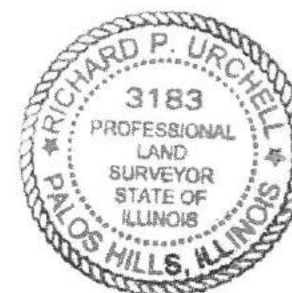
SUBJECT PROPERTY AREA

8,687 SQ. FT. (more or less)

FIELD WORK COMPLETED: 4/19/17

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS STANDARDS FOR A BOUNDARY SURVEY.

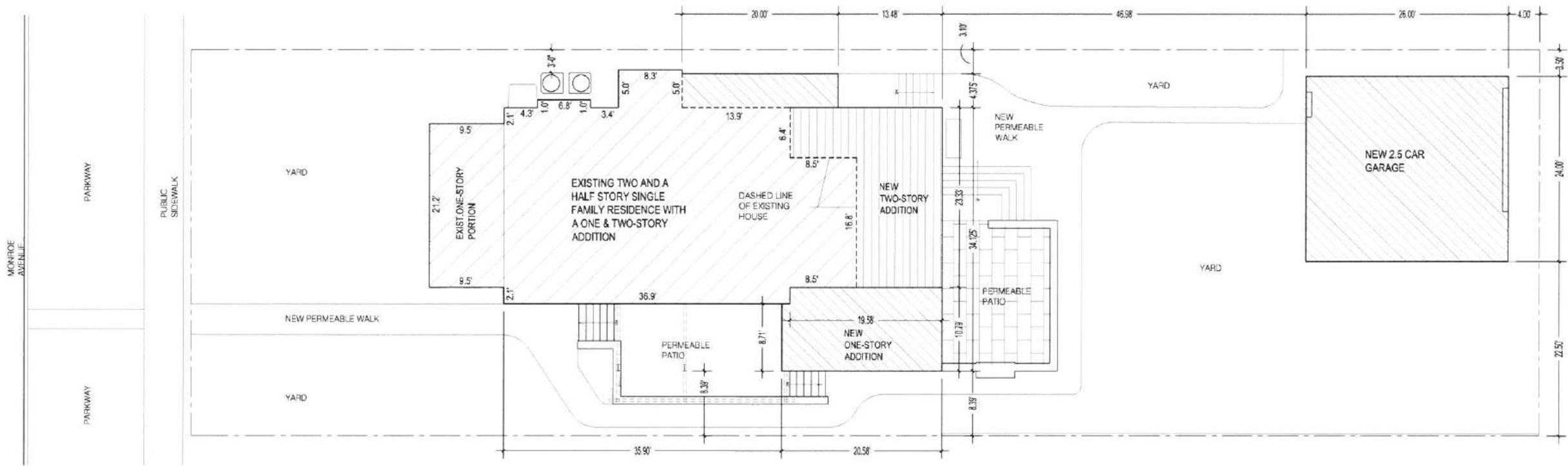
DATED: 4/19/17

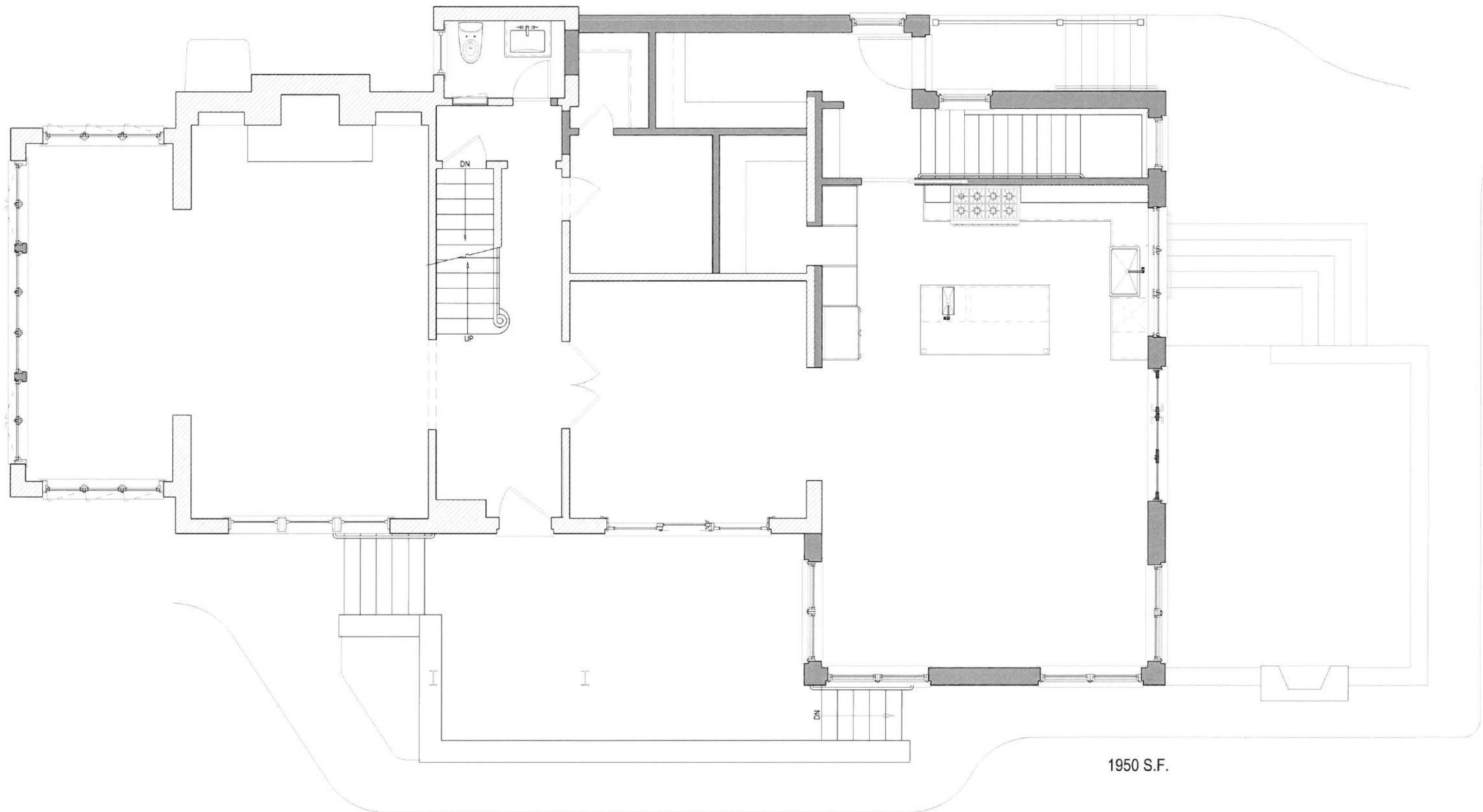


Richard P. Urchell

RICHARD P. URCELL I.P.L.S. No. 3183
LICENSE RENEWAL DATE: NOVEMBER 30, 2018
SURVEY No. 17-04-041

| APPLICABLE CODES | | |
|--|---|------------------|
| CURRENT RIVER FOREST ZONING CODE 2003 IRC W/ LOCAL AMENDMENTS 2014 IL PLUMBING CODE 2005 NEC W/ LOCAL AMENDMENTS 2003 INT. FUEL CODE 2015 INT. ENERGY CONSERVATION CODE | | |
| SITE & BUILDING INFORMATION | | |
| ZONING | R-2 SINGLE FAMILY | |
| GROSS SITE AREA | 8,687 S.F. | |
| LOT COVERAGE | 2,606 S.F. (30% LOT AREA) < 2,621 S.F. (ALL BLDGS / COVERING) | |
| F.A.R. | 3,475 S.F. (.4 MAX.) < 3,947 S.F. (.45 FAR) | |
| BUILDING AREA | EX = 1,321 | PROPOSED = 1,950 |
| FIRST FLOOR | EX = 1,080 | PROPOSED = 1,398 |
| SECOND FLOOR | = 474 (AS-BUILT OVER 7' HIGH) | |
| ATTIC / THIRD FLOOR | PROPOSED = 124 (624 PROPOSED - 500 ALLOWANCE) | |
| GARAGE | EX = 2,401 | |
| TOTAL | PROPOSED = 3,947 (AS-BUILT) | |
| BUILDING HEIGHT | NO CHANGE | |
| ACCESSORY BUILDING HEIGHT | 18' MAX. MEASURED FROM FRONT SIDEWALK | |
| FRONT SETBACK | NO CHANGE | |
| SIDE SETBACK | 15% LOT DEPTH OR 5' (ALSO COMBINED 10% WIDTH OR 10') | |
| REAR SETBACK | EXIST. NORTH SETBACK NOT COMPLIANT, ADDITION SETBACK 3'-0" FOR MAX. 20' | |
| EXISTING LOT AREA / IMPERVIOUS AREA / RATIO | 8,687 S.F. LOT / 3,174 S.F. IMPERVIOUS AREA = 36.5% | |
| PROPOSED LOT AREA / IMPERVIOUS AREA / RATIO | 8,687 S.F. LOT / 2,739 S.F. IMPERVIOUS AREA = 31.5% | |





First Floor

Scale: 3/16" = 1'-0"

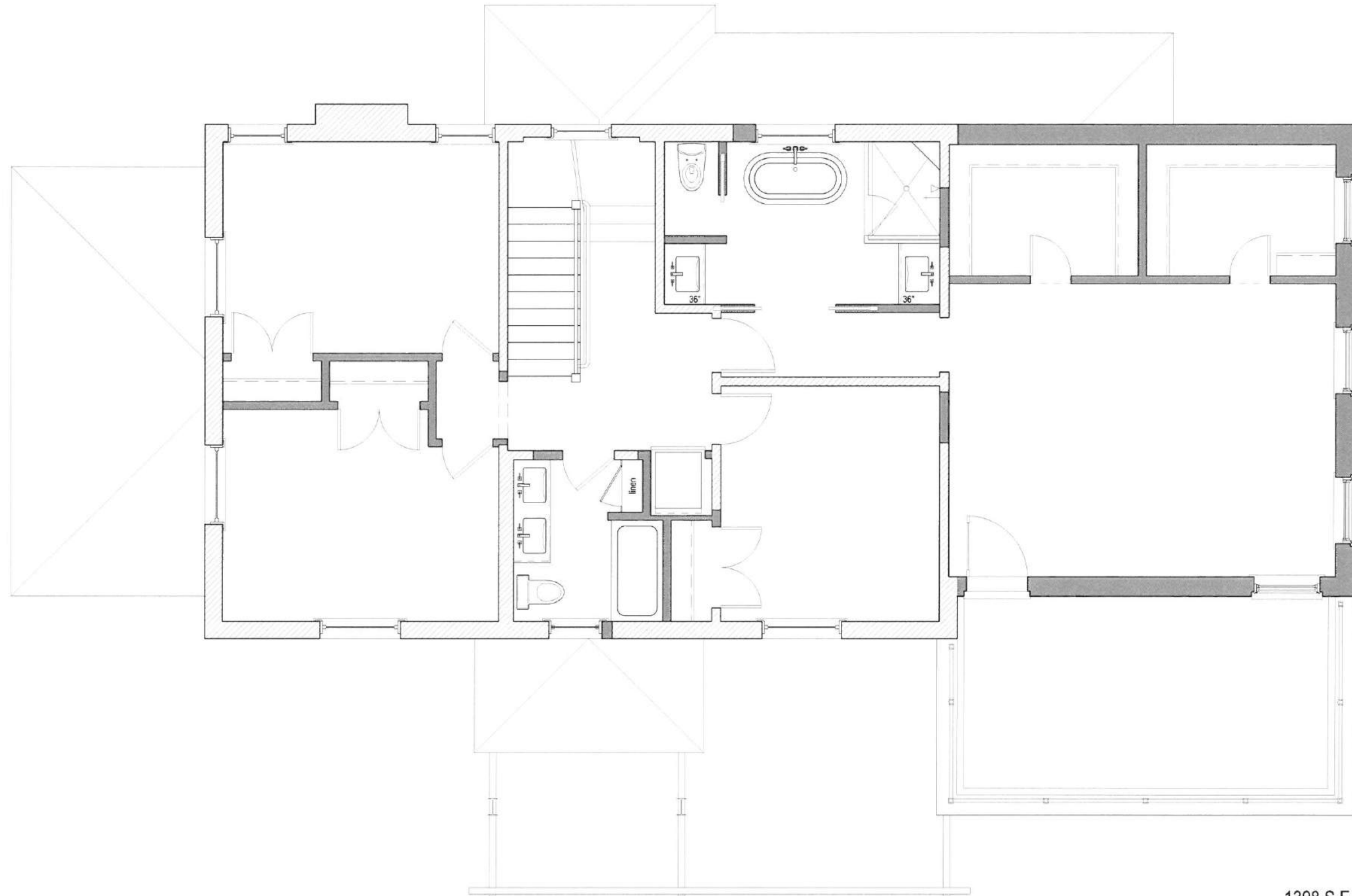
535 MONROE Elfvig Residence

October 10, 2019



A1.2

SRA Project 17-021



1398 S.F.

Second Floor

Scale: 3/16" = 1'-0"

535 MONROE Elfin Residence

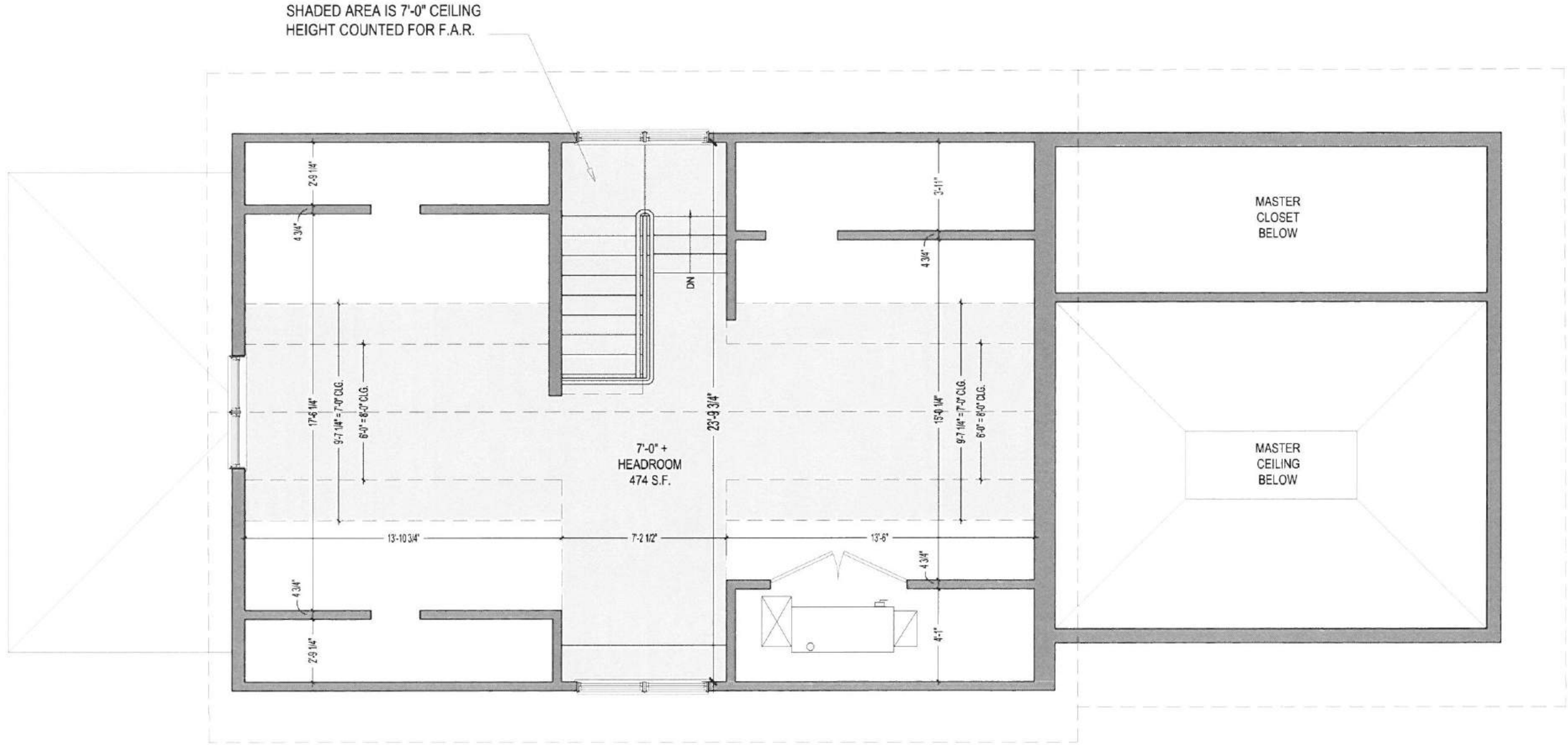
October 10, 2019



A1.3

SRA Project 17-021

AS-BUILT, PROPOSED



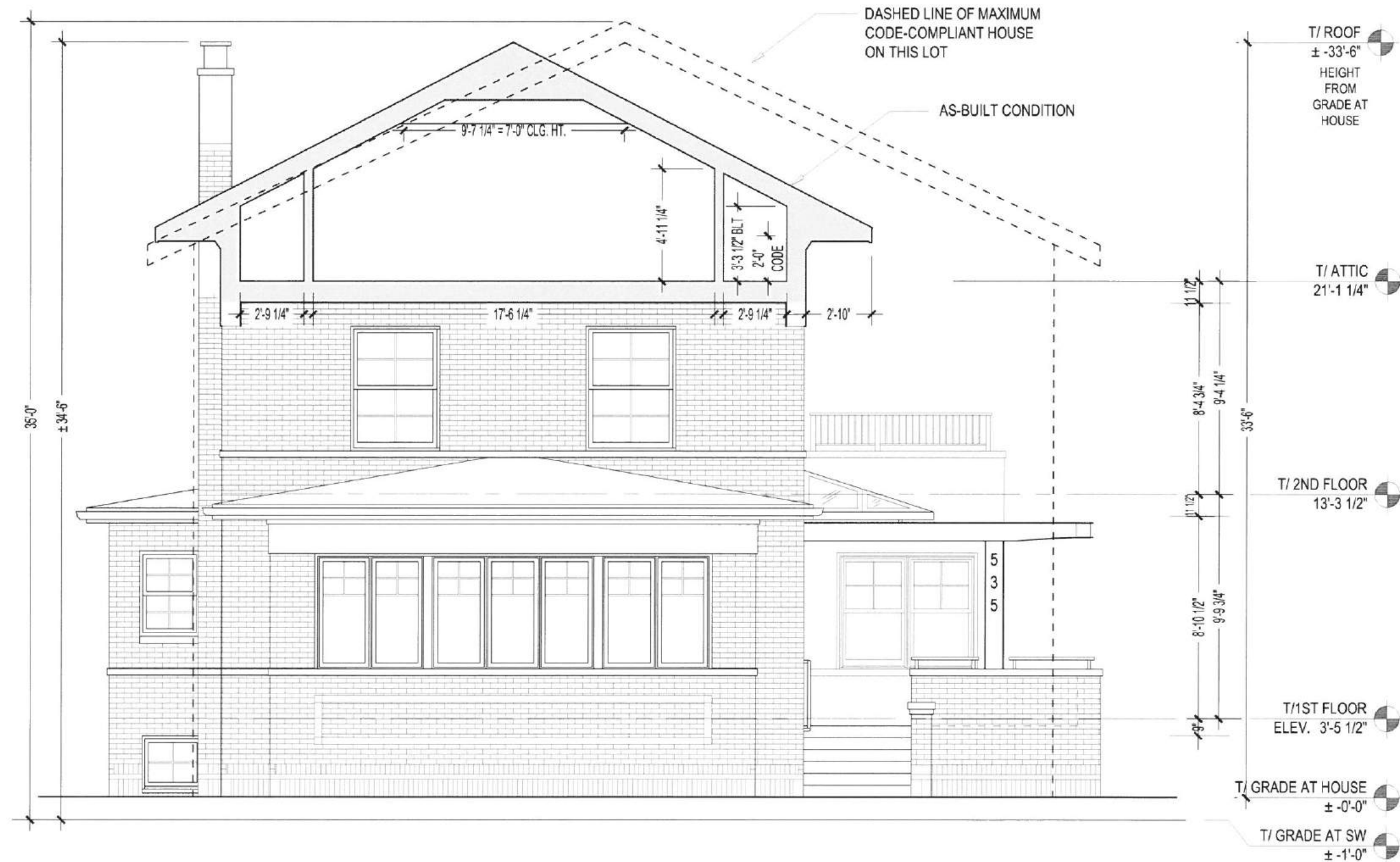
AS-BUILT, PROPOSED



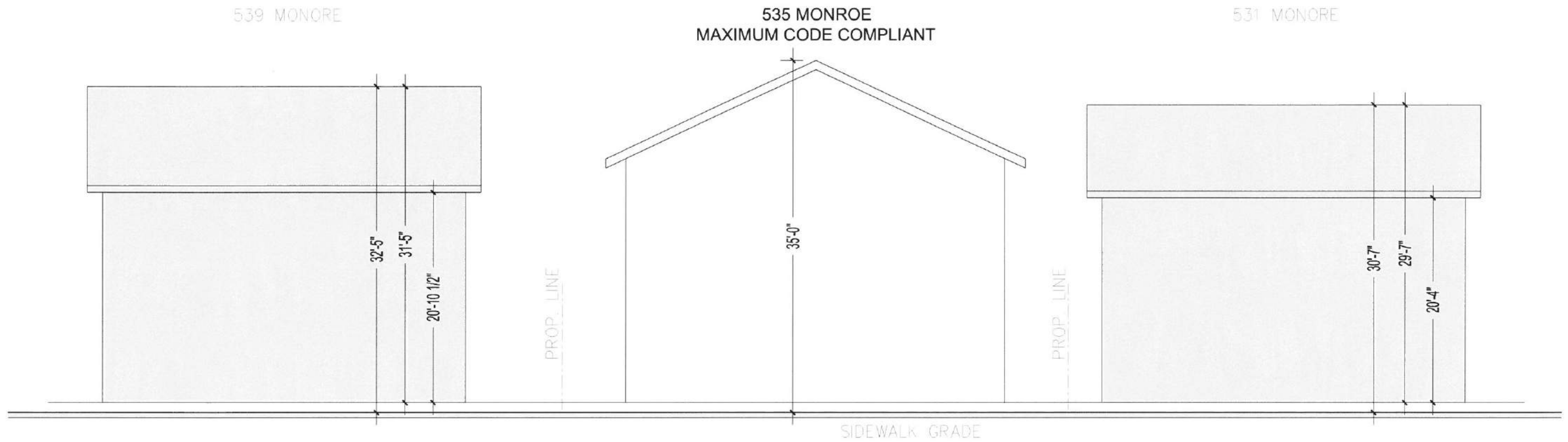
AS-BUILT, PROPOSED



AS-BUILT, PROPOSED









535 Monroe looking toward north neighbor



535 Monroe looking toward south neighbor



View looking west directly across the street from 535 Monroe



View of existing roof and new addition roof highlighting roof sag conflict