

CITY OF WASHINGTON

PLANNING & DEVELOPMENT DEPARTMENT

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MEMORANDUM

TO: Mayor Manier and City Council
FROM: Jon R. Oliphant, AICP, Planning & Development Director
SUBJECT: Adult-Use Cannabis Consideration
DATE: September 5, 2019

On June 25, 2019, Governor Pritzker signed Public Act 101-0027, which creates the Cannabis Regulation and Tax Act. This Act legalizes the possession and private use of cannabis for Illinois residents over 21 years of age and becomes effective on January 1, 2020.

Staff seeks feedback on a possible sales tax specific to the sale of adult-use cannabis. Municipalities, by ordinance, may impose a Municipal Cannabis Retailers' Occupation Tax (MCROT) of up to 3% of the purchase price. This would be in addition to the current 8.5% city sales tax. If there was interest in allowing the sale of cannabis and having an additional sales tax on it, the City Council would need to approve an ordinance and send a copy of it to the Illinois Department of Revenue by September 30. Attached is a draft ordinance that would establish the MCROT at the maximum 3% level. If approved by September 30, the tax would be collected starting at the Act's January 1 effective date. It does not authorize the retail sale of cannabis but would allow for the collection of MCROT.

Staff also seeks feedback on whether adult-use cannabis would be allowed within the city limits. Attached is a draft ordinance from the Illinois Municipal League that prohibits the businesses within the city limits and another that establishes buffers of 1,500 feet for cultivation centers and dispensaries from the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, daycare center, daycare home, or residential care home. Cultivation centers and craft growers, would not be allowed to be closer than 1,500 feet from a pre-existing property zoned or used for residential purposes while dispensing, infuser, processing, and transporting organizations would be required to be at least 250 feet away from a pre-existing property zoned or used for residential purposes. A map is attached that shows which properties in the city limits could adhere to the model ordinance standards for dispensaries. The Act allows Illinois municipalities to attach locational and operational restrictions as part of the allowance.

A zoning code text amendment would need to be approved if there is interest in allowing cultivation centers and/or dispensaries. This would likely be scheduled for a public hearing at the November Planning and Zoning Commission meeting if there was a desire to allow for its sale within the city limits. The Council would then need to approve that amendment ordinance.

General discussion is scheduled on this topic at the September 9 Committee of the Whole meeting.

Attachments

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE CITY OF WASHINGTON
BY THE ADDITION OF SECTIONS 35.200-203
IMPOSING A MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

WHEREAS, the City has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Cannabis Regulation and Tax Act, Public Act 101-0027 (effective June 25, 2019), which provides the City with the authority to impose a municipal sales tax on sales of adult use recreational cannabis within the City; and

WHEREAS, the Illinois Cannabis Regulation and Tax Act establishes the Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/11-8-22 *et seq.* (the "**Act**") as a means to provide the authority to impose a municipal sales tax on sales of adult-use, recreational cannabis; and

WHEREAS, the City is still evaluating whether or not to authorize the retail sale of cannabis within the City limits on and after January 1, 2020; and

WHEREAS, in the event that the retail sale of cannabis is authorized within the City limits, this Ordinance will impose the tax authorized by the Act by providing for a municipal cannabis retailers' occupation tax on all cannabis retailers doing business in the City, which will be collected by the Illinois Department of Revenue;

WHEREAS, the City has determined that the collection of the municipal sales tax in the City as authorized by the Act is in the best interests of the City; and

WHEREAS, the City Council further finds that it is in the best interests of the City and its citizens that this municipal cannabis retailers' occupation tax be imposed on all sales of adult-use, recreational cannabis in the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Washington, Tazewell County, Illinois, as follows:

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Adoption of Tax. Chapter 35 of the Municipal Code of the City of Washington shall be amended by the addition of Sections 35.200-203 that will read as follows:

Municipal Cannabis Retailers' Occupation Tax.

§ 35.200 TAX IMPOSED; RATE

- (a) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the City at the rate of 3% of the gross receipts from these sales made in the course of that business.
- (b) The imposition of this tax is in accordance with the provisions of Sections 8-11- 22, of the Illinois Municipal Code (65 ILCS 5/8-11-22), as amended from time to time.

§ 35.201 COLLECTION OF TAX BY RECREATIONAL CANNABIS RETAILERS

- (a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (the “**Department**”). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.
- (b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

§ 35.202 SEVERABILITY

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

§ 35.203 EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of January, 2020. The City Clerk is hereby directed to forward certified copies of this Ordinance to the Illinois Department of Revenue by September 30, 2019.

SECTION 3. Codification. The corporate authorities of the City intend that this Ordinance will be made part of the Municipal Code and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section," "Article," "Chapter" or some other appropriate word or phrase to accomplish codification.

PASSED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION AND APPROVED BY ITS MAYOR THIS _____ DAY OF _____, 2019.

PASSED AND APPROVED THIS ____ day of _____, 2019.

AYES: _____

NAYS: _____

MAYOR

ATTEST:

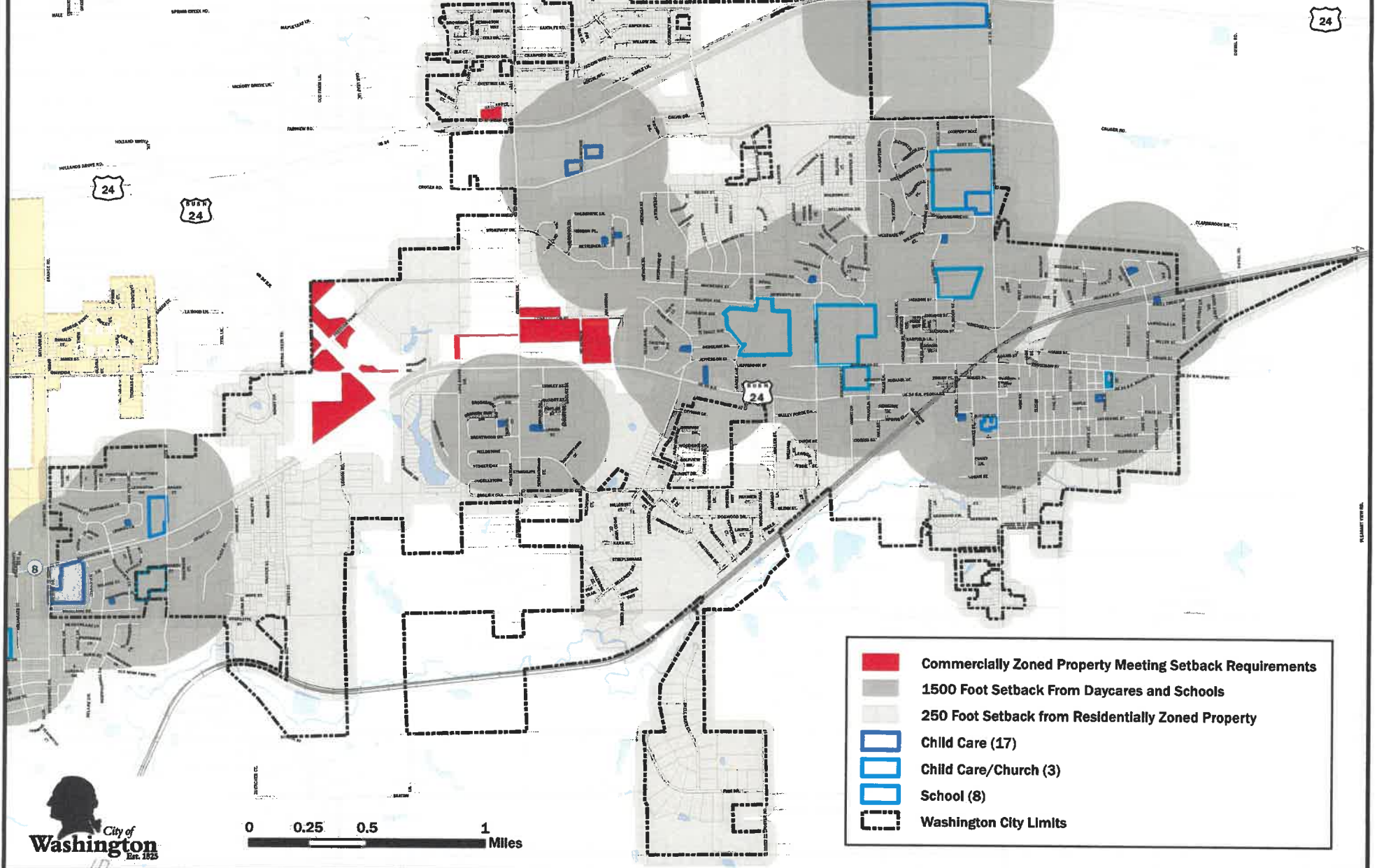
CITY CLERK

Properties Suitable For Adult Use Marijuana Sales

Based on IML Model Ordinance



24



0 0.25 0.5 1 Miles

- Commercially Zoned Property Meeting Setback Requirements
- 1500 Foot Setback From Daycares and Schools
- 250 Foot Setback from Residentially Zoned Property
- Child Care (17)
- Child Care/Church (3)
- School (8)
- Washington City Limits



Adult-Use Cannabis Resources

7/16/19

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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.



Model Ordinance

Municipal Cannabis Business Prohibition

**MODEL ORDINANCE
MUNICIPAL CANNABIS BUSINESS PROHIBITION**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE CITY/VILLAGE OF _____
BY THE ADDITION OF [ARTICLE/CHAPTER] _____
PROHIBITING CANNABIS BUSINESS ESTABLISHMENTS**

WHEREAS, the City/Village has the authority to adopt ordinances and to promulgate rules and regulations [that pertain to its government and affairs and] that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Cannabis Regulation and Tax Act, Public Act 101-0027, which provides that the City/Village has the authority to prohibit adult-use cannabis business establishments; and

WHEREAS, the City/Village has determined that the operation of cannabis business establishments would present adverse impacts upon the health, safety and welfare of the residents, and additional costs, burdens and impacts upon law enforcement and regulatory operations of the City/Village; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City/Board of Trustees of the Village of _____ as follows:

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Cannabis Business Establishments Prohibited. Chapter ____ of the Municipal Code of the City/Village of _____ shall be amended by the addition of [Article/Chapter] ____ that will read as follows:

ARTICLE [CHAPTER] ____ Cannabis Business Establishments Prohibited.

1. Definitions. The following words and phrases shall, for the purposes of this Article [Chapter], have the meanings respectively ascribed to them by this section, as follows:

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure

and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

PERSON: Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

2. Cannabis Business Establishments Prohibited. The following Adult-Use Cannabis Business Establishments are prohibited in the City/Village of _____. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the City/Village of _____ of any of the following:

Adult-Use Cannabis Craft Grower
Adult-Use Cannabis Cultivation Center
Adult-Use Cannabis Dispensing Organization
Adult-Use Cannabis Infuser Organization or Infuser
Adult-Use Cannabis Processing Organization or Processor
Adult-Use Cannabis Transporting Organization or Transporter

3. Public Nuisance Declared. Operation of any prohibited Cannabis Business Establishment within the City/Village in violation of the provisions of this Article [Chapter] is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

4. Violations. Violations of this Article [Chapter] may be enforced in accordance with the provisions of Article [Chapter] ____ of this Code.

5. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

6. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

ADOPTED THIS _____ day of _____, 20__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 20__.

Mayor/Village President

ATTEST:

City/Village Clerk



Model Ordinance

Municipal Cannabis Business Zoning

**MODEL ORDINANCE
MUNICIPAL CANNABIS BUSINESS ZONING**

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER __ (ZONING TITLE, PURPOSE, DEFINITIONS), CHAPTER __ (GENERAL ZONING PROVISIONS), CHAPTER __ (COMMERCIAL DISTRICTS), AND CHAPTER __ (INDUSTRIAL DISTRICTS) OF TITLE __ (ZONING ORDINANCE) OF THE _____ MUNICIPAL CODE PERTAINING TO ADULT-USE CANNABIS

WHEREAS, the City/Village of _____, Illinois, has enacted Municipal Code Regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act (Act), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use cannabis, which became effective June 25, 2019; and

WHEREAS, pursuant to the Act, the City/Village may enact reasonable zoning ordinances or resolutions not in conflict with the Act, regulating cannabis business establishments, including rules adopted governing the time, place, manner and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations the City/Village deems sensitive; and

WHEREAS, on _____, the City Council/Village Board initiated an amendment to Title __ (Zoning Ordinance) to review and consider additional amendments to further regulate adult-use cannabis facilities within the City/Village of _____; and

WHEREAS, the Planning and Zoning Commission/Zoning Board of Appeals conducted public hearings, as required by law, on _____ and _____, in regards to the proposed amendments to Title __ (Zoning Ordinance) of the _____ Municipal Code pertaining to adult-use cannabis; and

WHEREAS, the Planning and Zoning Commission/Zoning Board of Appeals recommended approval of the proposed amendments to Title __ (Zoning Ordinance) on _____.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City/Board of Trustees of the Village of _____ as follows:

SECTION 1: The recitals set forth above are incorporated herein.

SECTION 2: Chapter __ (Zoning Title, Purpose, Definitions) of Title __ (Zoning Ordinance) of the _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

* * *

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:

An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION:

A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:

An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

* * *

SECTION 3: Chapter __ (General Zoning Provisions) of Title __ (Zoning Ordinance) of the _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

* * *

: ADULT-USE CANNABIS:

1. Purpose and Applicability: It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the corporate limits of the City/Village of _____. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027) (Act), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply.

2. Conditional Use: Adult-Use Cannabis Business Establishment facilities, as defined herein, requiring approval of a conditional use in the respective districts in which they are requested shall be processed in accordance with Section ____ (Conditional Uses) of this Title and Section 3 (Adult-Use Cannabis Facility Components) as provided herein.

3. Adult-Use Cannabis Facility Components: In determining compliance with Section ____ (Conditional Uses) of this Title, the following components of the Adult-Use Cannabis Facility shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

3.1 Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.

3.2 Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.

3.3 Hours of operation and anticipated number of customers/employees.

3.4 Anticipated parking demand based on Section ____ and available private parking supply.

3.5 Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.

3.6 Site design, including access points and internal site circulation.

3.7 Proposed signage plan.

3.8 Compliance with all requirements provided in Section 4 (Adult-Use Cannabis Craft Grower); Section 5 (Adult-Use Cannabis Cultivation Center); Section 6 (Adult-Use Cannabis Dispensing Organization); Section 7 (Adult-Use Cannabis Infuser Organization); Section 8 (Adult-Use Cannabis Processing Organization); or Section 9 (Adult-Use Cannabis Transporting Organization), as applicable.

3.8 Other criteria determined to be necessary to assess compliance with Section ____ (Conditional Uses) of this Title.

4. Adult-Use Cannabis Craft Grower: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

4.1 Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

4.2 Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

4.3 Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

4.4 For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as “_____” per Section ____ (Schedule of Off-Street Parking Requirements: Industrial Uses), provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

4.5 Petitioner shall file an affidavit with the City/Village affirming compliance with Section ____ as provided herein and all other requirements of the Act.

5. Adult-Use Cannabis Cultivation Center: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

5.1 Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

5.2 Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

5.3 Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

5.4 For purposes of determining required parking, Adult-Use Cannabis Cultivation Centers shall be classified as “_____” per Section ____ (Schedule of Off-Street Parking Requirements: Industrial Uses), provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

5.5 Petitioner shall file an affidavit with the City/Village affirming compliance with Section ____ as provided herein and all other requirements of the Act.

6. Adult-Use Cannabis Dispensing Organization: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

6.1 Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

6.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

6.3 At least 75% of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in Section 6.5 below in the same tenant space.

6.4 Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

6.5 Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the dispensing organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the facility required by Section 10 (Additional Requirements) shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Section ____ of the City/Village of Municipal Code.

6.6 For purposes of determining required parking, said facilities shall be classified as "_____" per Section ____ (Schedule of Off-Street Parking Requirements: Commercial Uses) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

6.7 Petitioner shall file an affidavit with the City affirming compliance with Section _____ as provided herein and all other requirements of the Act.

7. Adult-Use Cannabis Infuser Organization: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

7.1 Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

7.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

7.3 At least 75% of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

7.4 For purposes of determining required parking, said facilities shall be classified as "_____" per Section ____ (Schedule of Off-Street Parking Requirements: Commercial Uses) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section ____ (Adult-Use Cannabis: Conditional Use) herein.

7.5 Petitioner shall file an affidavit with the City affirming compliance with Section _____ as provided herein and all other requirements of the Act.

8. Adult-Use Cannabis Processing Organization: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

8.1 Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

8.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

8.3 At least 75% of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

8.4 For purposes of determining required parking, said facilities shall be classified as "_____ " per Section _____ (Schedule of Off-Street Parking Requirements: Commercial Uses) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section _____ (Adult-Use Cannabis: Conditional Use) herein.

8.5 Petitioner shall file an affidavit with the City affirming compliance with Section _____ as provided herein and all other requirements of the Act.

9. Adult-Use Cannabis Transporting Organization: In those zoning districts in which an Adult-Use Transporting Organization may be located, the proposed facility must comply with the following:

9.1 Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

9.2 Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

9.3 The transporting organization shall be the sole use of the tenant space in which it is located. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

9.4 For purposes of determining required parking, said facilities shall be classified as "_____ " per Section _____ (Schedule of Off-Street Parking Requirements: _____) of the City/Village of _____ Municipal Code, provided, however, that the City/Village may require that additional parking be provided as a result of the analysis completed through Section _____ (Adult-Use Cannabis: Conditional Use) herein.

9.5 Petitioner shall file an affidavit with the City affirming compliance with Section _____ as provided herein and all other requirements of the Act.

10. Additional Requirements: Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the conditional use permit, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the

floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act.

11. Co-Location of Cannabis Business Establishments. The City/Village may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Conditional Use criteria within the City/Village of _____ Municipal Code. In a co-location, the floor space requirements of Section 6.3 and 7.3 shall not apply, but the co-located establishments shall be the sole use of the tenant space.

SECTION 4: Chapter __ (Commercial Districts) of Title __ (Zoning Ordinance) of the City/Village of _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

ARTICLE A. B-1 GENERAL COMMERCIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter __ of this Title, as appropriate:

* * *

Adult-Use Cannabis Dispensing Organization.

ARTICLE B. B-2. INTENSE COMMERCIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter __ of this Title, as appropriate:

* * *

Adult-Use Cannabis Dispensing Organization.

Adult-Use Cannabis Infuser Organization.

Adult-Use Cannabis Processing Organization.

Adult-Use Cannabis Transporting Organization.

SECTION 5: Chapter __ (Industrial Districts) of Title __ (Zoning Ordinance) of the City/Village of _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

ARTICLE A. I-1 GENERAL INDUSTRIAL DISTRICT

_____: **PERMITTED USES:**

* * *

_____: **CONDITIONAL USES:**

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter __ of this Title, as appropriate:

* * *

Adult-Use Cannabis Craft Grower Organization.
Adult-Use Cannabis Dispensing Organization.
Adult-Use Cannabis Infuser Organization.
Adult-Use Cannabis Processing Organization.
Adult-Use Cannabis Transporting Organization.

ARTICLE B. I-2 HEAVY INDUSTRIAL DISTRICT

_____ : PERMITTED USES:

* * *

_____ : CONDITIONAL USES:

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in Section _____ and Chapter ____ of this Title, as appropriate:

* * *

Adult-Use Cannabis Craft Grower Organization.
Adult-Use Cannabis Cultivation Organization.
Adult-Use Cannabis Dispensing Organization.
Adult-Use Cannabis Infuser Organization.
Adult-Use Cannabis Processing Organization.
Adult-Use Cannabis Transporting Organization.

SECTION 6: Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 7: Effective Date. This Ordinance shall be in full force and effect upon its passage and approval as required by law.

ADOPTED THIS _____ day of _____, 20__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 20__.

Mayor/Village President

ATTEST:

City/Village Clerk



Model Ordinance

Municipal Cannabis Retailers' Occupation Tax

**MODEL ORDINANCE
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE CITY/VILLAGE OF _____
BY THE ADDITION OF [ARTICLE/CHAPTER] _____
IMPOSING A MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

WHEREAS, the City/Village has the authority to adopt ordinances and to promulgate rules and regulations [that pertain to its government and affairs and] that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/11-8-22 *et seq.* (Act); and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a municipal cannabis retailers' occupation tax which will be collected by the Illinois Department of Revenue;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City/ Board of Trustees of the Village of _____ as follows:

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Adoption of Tax. Chapter ____ of the Municipal Code of the City/Village of _____ shall be amended by the addition of [Article/Chapter] ____ that will read as follows:

ARTICLE [CHAPTER] ____ Municipal Cannabis Retailers' Occupation Tax.

1. Tax imposed; Rate.

(a) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the City/Village at the rate of 3% of the gross receipts from these sales made in the course of that business.

(b) The imposition of this tax is in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

2. Collection of tax by retailers.

(a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

3. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

4. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of January, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to September 30, 2019.

[NOTE: Any new ordinance or amendment to an existing ordinance can take effect only on September 1. To be effective September 1, an ordinance must be adopted and filed with the Department of Revenue by June 1.]

ADOPTED THIS _____ day of _____, 20__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 20 __.

Mayor/Village President

ATTEST:

City/Village Clerk

Disclaimers & Referrals

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.

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

