



Adult-Use Cannabis Resources

Updated September 1, 2021

TABLE OF CONTENTS

Fact Sheet: Adult-Use Cannabis	I
Model Ordinance: Municipal Cannabis Business Prohibition	II
Model Ordinance: Municipal Cannabis Business Zoning	III
Model Ordinance: Municipal Cannabis Retailers’ Occupation Tax	IV
Model Drug and Alcohol Policy	V
Tax and Fee Revenue Distribution Flow Chart	VI
Disclaimers and Referrals	VII
Frequently Asked Questions	VIII



Fact Sheet

Adult-Use Cannabis

Adult-Use Cannabis

The Cannabis Regulation and Tax Act ([410 ILCS 705/1-1 et seq.](#)) legalized the possession and private use of cannabis for Illinois residents 21 years of age or older, effective January 1, 2020. On July 15, 2021, Governor JB Pritzker signed HB 1443, now Public Act (P.A.) 102-0098, which amends the Cannabis Regulation and Tax Act and the Compassionate Use of Medical Cannabis Program Act ([410 ILCS 130/1 et seq.](#)).



August 2, 2021

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 is authorized only for medical cannabis program participants, limited to five plants in their residence, and is 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 have the authority to enact reasonable zoning regulations that are not in conflict with the Act. This includes the authority to opt out of either commercial production or distribution (dispensaries) of adult-use cannabis within their jurisdiction. Municipalities 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. In order to

accommodate the sale of adult-use cannabis by operators of medical cannabis dispensaries, P.A. 102-0098 authorizes the relocation of medical cannabis dispensaries to sites outside of a jurisdiction that prohibits adult-use cannabis retail sales, and authorizes the relocation of sites that initially accommodated medical dispensaries but are not optimal for adult-use cannabis retail sales. Any relocation remains subject to local ordinances that prohibit or regulate adult-use cannabis establishments.

BUSINESS REGULATION

In addition to zoning authority, municipalities have the authority to allow for on-premises use of cannabis at licensed cannabis dispensaries and retail tobacco stores. The Act anticipates that local authorities may 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 0.25% increments. Counties may impose up to 3.75% in unincorporated areas, and up to 3% within municipalities, both in 0.25% 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 regular sales tax. The Illinois Municipal Code provides that municipal tax ordinances adopted and certified to the Illinois Department of Revenue (IDOR) on or before April 1 of any year, shall be administered and those local tax collections enforced by IDOR commencing on July 1 of the same year. Ordinances adopted and certified to IDOR on or before October 1 of any year shall be administered and collections enforced by IDOR commencing on January 1 of the following year. ([65 ILCS 5/8-11-23](#)).





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. The Act provides that those policies may include pre-employment and random drug testing for cannabis. Those 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. The Act further provides that public employers may prohibit the consumption, possession, sales, purchase or delivery of cannabis or cannabis-infused substances while on or off duty by law enforcement officers, correctional officers, probation officers, paramedics or firefighters.

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 are separately licensed by the Act. The state issues licenses according to a graduated scale. The Act allows up to 500 dispensing organizations and up to 30 cultivation center licenses. Up to 100 craft grower licenses and up to 100 infuser licenses may be issued through 2021, but as of January 1, 2022, additional craft grower licenses may be issued, increasing the total number to not more than 150 licenses and additional infuser licenses may be issued with no statutory limit.

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) has identified R3 areas that qualify for funding, and grants will be awarded through the R3 program.

SOCIAL EQUITY

The Act provides for a social equity program to establish a legal adult-use 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. P.A. 102-0098 provides for the award of up to five social equity justice involved medical cannabis dispensing organization licenses in a lottery. A lottery will address issues with the previous award process for adult-use dispensing organizations and will allocate licenses to applicants that tied the high score in that process. In order to advance the goal of providing economic opportunity to disproportionately impacted individuals and communities, P.A. 102-0098 provides that 110 conditional adult-use dispensing organization licenses will be awarded through two other lotteries. Fifty-five licenses will be awarded by lot in a qualifying applicant lottery distributed by region, and 55 social equity justice involved licenses will be awarded in a lottery distributed by region. Social equity and social equity justice involved applicants may be granted a state license for a site within 1,500 feet of a dispensing organization, but must still obtain local approval for the site.

STATE REVENUE

State revenues derived from the Cannabis Regulation and Tax Act are deposited into the Cannabis Regulation Fund. The funds are distributed to multiple state agencies for implementation of the Act. The legalization of adult-use cannabis also includes a new source of Local Government Distributive Fund (LGDF) dollars. A portion of Cannabis Regulation Fund revenues (8% of deposits) go to local governments, through LGDF, which are 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.

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. The Act provides that all law enforcement agencies must expunge qualifying records on a schedule based on when the records were created. In response to an inquiry for expunged records, the law enforcement agency receiving such inquiry shall reply as it does when no records ever existed. It shall provide a certificate of disposition or confirmation that the record was expunged to the individual whose record was expunged.





Model Ordinance

Municipal Cannabis Business Prohibition

A downloadable version of this ordinance is available at iml.org/cannabis.

ORDINANCE NO. _____

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

WHEREAS, the **City/Village/Town** of _____, (**City/Village/Town**) 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/Town** has the authority to prohibit adult-use cannabis business establishments; and

WHEREAS, the **City/Village/Town** 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/Town**; and

NOW, THEREFORE, BE IT ORDAINED by the **City Council/the President and Board of Trustees of the Village/the President and Board of Trustees of the Town** 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/Town** 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.

IML Model Ordinance: Municipal Cannabis Business Prohibition

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/Town** of _____.
No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the **City/Village/Town** of _____ of any of the following:

- Adult-Use Cannabis Craft Grower
- Adult-Use Cannabis Cultivation Center
- Adult-Use Cannabis Dispensing Organization

IML Model Ordinance: Municipal Cannabis Business Prohibition

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/Town** 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 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.

6. Effective Date. The Clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect from and after its passage and approval and publication in accordance with 65 ILCS 5/1-2-4.

PASSED THIS ____ day of _____, 20_____.

AYES: _____
NAYS: _____
ABSTENTIONS: _____
ABSENT: _____

APPROVED THIS ____ day of _____, 20_____.

Mayor/Village President/Town President

ATTEST:

Clerk

BEFORE ADOPTING ANY ORDINANCE, MUNICIPAL OFFICIALS SHOULD CONSULT WITH THEIR RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.



Model Ordinance

Municipal Cannabis Business Zoning

A downloadable version of this ordinance is available at iml.org/cannabis.

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 CITY/VILLAGE/TOWN OF _____ MUNICIPAL CODE PERTAINING TO ADULT-USE CANNABIS

WHEREAS, the **City/Village/Town** of _____, (**City/Village/Town**) 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/Town** 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/Town** deems sensitive; and

WHEREAS, on _____, the **City Council/the President and Board of Trustees of the Village/the President and Board of Trustees of the Town** initiated an amendment to Title __ (Zoning Ordinance) to review and consider additional amendments to further regulate adult-use cannabis facilities within the **City/Village/Town** 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 **City/Village/Town** of _____ 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/President and Board of Trustees of the Village/President and Board of Trustees of the Town** 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 **City/Village/Town** of _____ Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

* * *

IML Model Ordinance: Municipal Cannabis Business Zoning

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.

* * *

IML Model Ordinance: Municipal Cannabis Business Zoning

SECTION 3: Chapter ___ (General Zoning Provisions) of Title ___ (Zoning Ordinance) of the **City/Village/Town** of _____ 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/Town 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 (select set back, if any) feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care

IML Model Ordinance: Municipal Cannabis Business Zoning

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 (select set back, if any) 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/Town** 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/Town** 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 (select set back, if any) 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 (select set back, if any) 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/Town** 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/Town** 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 (select set back, if any) 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 (select set back, if any) feet of the property line of a pre-existing property zoned or used for residential purposes.

6.3 At least (select percentage, if any) 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.

IML Model Ordinance: Municipal Cannabis Business Zoning

6.5 Facility may be issued a permit to host on-site consumption of cannabis (select conditions) 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/Town** 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/Town** of _____ Municipal Code, provided, however, that the **City/Village/Town** 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/Village/Town** 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 (select set back, if any) 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 (select set back, if any) feet of the property line of a pre-existing property zoned or used for residential purposes.

7.3 At least (select percentage, if any) 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/Town** of _____ Municipal Code, provided, however, that the **City/Village/Town** 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/Village/Town** 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 (select set back, if any) 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 (select set back, if any) feet of the property line of a pre-existing property zoned or used for residential purposes.

8.3 At least (select percentage, if any) of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as

IML Model Ordinance: Municipal Cannabis Business Zoning

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/Town** of _____ Municipal Code, provided, however, that the **City/Village/Town** 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/Village/Town** 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 (select set back, if any) 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 (select set back, if any) 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/Town** of _____ Municipal Code, provided, however, that the **City/Village/Town** 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/Village/Town** 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/Town** 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/Town** 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/Town** 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/Town** 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.

IML Model Ordinance: Municipal Cannabis Business Zoning

- 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. The Clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect upon its passage and approval and publication in accordance with 65 ILCS 5/1-2-4.

PASSED THIS ____ day of _____, 20_____.

AYES: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

APPROVED THIS ____ day of _____, 20_____.

Mayor/Village President/Town President

ATTEST:

Clerk

BEFORE ADOPTING ANY ORDINANCE, MUNICIPAL OFFICIALS SHOULD CONSULT WITH THEIR RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.



Model Ordinance

Municipal Cannabis Retailers' Occupation Tax

A downloadable version of this ordinance is available at iml.org/cannabis.

ORDINANCE NO. _____

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

WHEREAS, the **City/Village/Town** of _____, (**City/Village/Town**) 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 5/8-11-23 *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/President and Board of Trustees of the Village/President and Board of Trustees of the Town** 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/Town** 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/Town** at the rate of 3% of the gross receipts from these sales made in the course of that business.

[NOTE: The tax may not exceed 3% of the gross receipts and shall only be imposed in ¼% increments.]

(b) The imposition of this tax is in accordance with the provisions of Sections 8-11-23, of the Illinois Municipal Code (65 ILCS 5/8-11-23).

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

IML Model Ordinance: Municipal Cannabis Retailers' Occupation Tax

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 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.

4. Effective Date. The Clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. 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 July, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to April 1, 2020.

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

PASSED THIS ____ day of _____, 20_____.

AYES: _____
NAYS: _____
ABSTENTIONS: _____
ABSENT: _____

APPROVED THIS ____ day of _____, 20_____.

Mayor/Village President/Town President

ATTEST:

Clerk

BEFORE ADOPTING ANY ORDINANCE, MUNICIPAL OFFICIALS SHOULD CONSULT WITH THEIR RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.



Model Drug and Alcohol Policy

A downloadable version of this policy is available at iml.org/cannabis.

IML Guidance on Drug and Alcohol Policy

Under the Cannabis Regulation and Tax Act and Public Act 101-0593

Employers have expressed concerns regarding the ability to maintain drug-free workplace policies and testing programs following the enactment of Public Act (P.A.) 101-0027, which created the Cannabis Regulation and Tax Act (CRTA) legalizing adult-use cannabis and amended the Right to Privacy in the Workplace Act (RPWA). In response to some of those concerns, the Illinois General Assembly passed, and Governor JB Pritzker signed, SB 1557, now P.A. 101-0593, effective December 4, 2019, which amends CRTA.

The Right to Privacy in the Workplace Act provides:

Except as otherwise specifically provided by law, including Section 10-50 of the Cannabis Regulation and Tax Act ... it shall be unlawful for an employer to refuse to hire or to discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual uses lawful products off the premises of the employer during nonworking and non-call hours. (820 ILCS 55/5(a)). (Emphasis added.)

Municipal employers should take note that P.A. 101-0593 amends CRTA to codify significant authority of municipalities to establish and maintain drug-free workplace policies. Pre-employment and random screening policies for illicit substances other than cannabis are not affected by RPWA or CRTA. Section 10-35 of CRTA, as amended, includes language that specifically provides that employers of law enforcement officers, corrections officers, probation officers, paramedics and firefighters may prohibit those employees from the consumption, possession, sale, purchase or delivery of cannabis or cannabis infused substances while on **or off duty**. This provision exempts municipal employers with such policies from the restrictions of RPWA. These matters are subject to the terms of the collective bargaining agreements of the employer. (410 ILCS 705/10-35(a)(8)).

In addition, P.A. 101-0593 amends Section 10-50 of CRTA to specifically provide that an employer is not subject to a cause of action by any person for reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, and discipline, termination of employment, or withdrawal of a job offer due to failure of a drug test. (410 ILCS 705/10-50(e)(1)).

CRTA establishes standards for employers investigating whether an employee is impaired by or under the influence of cannabis. (410 ILCS 705/10-50(d)). Cannabis screening panels for tests based on reasonable suspicion should be supported by the statutory bases for an employer's good faith belief that there is some impairment:

- When an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms affecting the employee's speech, physical dexterity, agility, coordination or demeanor, or resulting in irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery;

IML Model Policy: Drug and Alcohol Policy

- Disregards the safety of the employee or others, or is involved in any accident that results in serious damage to equipment or property;
- Disrupts the production or manufacturing process; or
- Exercises carelessness that results in any injury to the employee or others.

If an employer elects to discipline an employee on the basis that the employee was impaired or under the influence of cannabis, that employee must be provided a reasonable opportunity to contest the basis of the determination. CRTA does not further describe what that opportunity must include. Employers should meet with the employee and allow an opportunity to contest the determination prior to the imposition of any discipline or corrective action. The meeting should be well documented and should fully comply with relevant employment policies and collective bargaining agreements.

RPWA provides an exception to employee protections for compliance with any federal, state or local restrictions on employment and any requirement for maintaining compliance with state or federal contracts or funding. Examples may include the United States Department of Transportation regulations or provisions of the [Drug-Free Workplace Act of 1988, \(41 U.S.C. § 8103\)](#), which is incorporated in many federal grants. Also, the [Illinois Police and Community Relations Improvement Act \(50 ILCS 727\)](#) requires drug and alcohol testing of each law enforcement officer who is involved in an officer-involved shooting. Employers with specific legal, regulatory or grant funding requirements that include testing for cannabis should review those requirements to determine whether RPWA restrictions will apply to those testing protocols.

Municipalities should consult with their retained labor and employment attorneys and consider amendments to their existing drug testing policies. Areas for attention include:

- Whether to establish or amend policies to prohibit the use of cannabis by municipal public safety personnel.
- Whether to establish or continue testing for cannabis on pre-employment and random drug tests.
- Incorporation of the opportunity to contest discipline for a cannabis infraction.
- Amendment of policies to include good-faith assessment of impairment and documentation of those incidents.

IML has published this guidance and Model Drug and Alcohol Policy incorporating changes necessitated by the enactment of CRTA as amended. As with any model policy, before adopting the policy, municipal officials should consult with their retained legal counsel or other qualified attorney.

Drug and Alcohol Policy
For The City/Village/Town of _____

Drug-Free Workplace

In order to ensure a safe work environment and compliance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101 *et seq.*), the **City/Village/Town of _____**, (**City/Village/Town**) maintains a drug-free workplace. Accordingly, the **City/Village/Town** prohibits employees from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4181), use of drugs, and use of alcohol in the workplace. The foregoing prohibition shall apply to **City/Village/Town** property, including in **City/Village/Town** vehicles and any private vehicles parked on **City/Village/Town** premises or worksites.

For purposes of this policy, the term “drugs” includes, but shall not be limited to: (i) any non-prescribed controlled substance that the employee is not authorized to possess or consume by law; (ii) any substance listed in the Controlled Substances Act (720 ILCS 570 *et seq.*); (iii) any substance listed in the Cannabis Control Act (720 ILCS 550 *et seq.*); and (iv) drugs or substances which may not be listed in the Controlled Substances Act or the Cannabis Control Act but which have adverse effects on perception, judgment, memory, or coordination. A non-exhaustive list of applicable drugs includes, but is not limited to, the following:

- | | |
|---------------|---------------------|
| Opium | Psilocybin-psilocin |
| Morphine | MDA |
| Codeine | PCP |
| Heroin | Chloral Hydrate |
| Meperidine | Methylphenidate |
| Cannabis | Hash |
| Barbiturates | Hash Oil |
| Glutethimide | Steroids |
| Methaqualone | Tranquilizers |
| Cocaine | Amphetamines |
| Phenmetrazine | LSD |
| Mescaline | |

I. Prohibited Conduct

The following conduct is prohibited:

1. The unauthorized use, possession, manufacture, distribution, or sale of drugs, drug paraphernalia, or alcohol while on or in **City/Village/Town** property, while conducting work-related business, or during working hours.

IML Model Policy: Drug and Alcohol Policy

2. Being under the influence of drugs or alcohol while on or in **City/Village/Town** property, while conducting work-related business, or during working hours.
3. Being under the influence of legal or prescribed drugs or chemicals used in excess of, or in non-conformity with, prescribed limits while on or in **City/Village/Town** property, while conducting work-related business, or during working hours.
4. The illegal use, possession, manufacture, distribution, or sale of drugs or drug paraphernalia (while on or off duty).
5. The **City/Village/Town** prohibits its law enforcement officers, corrections officers, probation officers, firefighters and paramedics from the use, possession, manufacture, distribution or sale of cannabis while on or off duty.
6. Storing any illegal drug, drug paraphernalia, cannabis or alcohol in or on **City/Village/Town** property.
7. Failing to notify an employee's supervisor prior to starting work of any known side effects of medications, prescription drugs, or other chemical compounds or supplements of any kind, including cannabis, that the employee is taking (or has taken) which might affect the performance of the employee's duties.
8. Refusing to immediately submit to an alcohol and/or drug test when requested by a supervisor.
9. Failing to provide, within one workday following a request, documentation confirming a valid prescription for any drug or medication identified by a positive drug test.
10. Failing to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.
11. Failing to notify the employee's supervisor of any arrest, conviction, or relevant plea (including pleas of guilty and *nolo contendere*) relating to drugs or alcohol no later than the earlier of the next date the employee is scheduled to work or two calendar days following the arrest, conviction, or plea.
12. Tampering with, adulterating, altering, substituting, or otherwise obstructing any testing process required pursuant to this policy.
13. Performing any safety-sensitive duties while having a blood alcohol concentration of .02 or greater.
14. Possessing or using drugs or alcohol while on duty or while operating a commercial vehicle.

15. Operating a commercial vehicle within four hours after using alcohol (an on-call employee who consumes alcohol within four hours of being called in must acknowledge the use of alcohol and may not report for duty).
16. Consuming alcohol or cannabis during the eight-hour period following an accident requiring a drug and alcohol test before a post-accident alcohol or drug test is given.
17. Reporting for duty or remaining on duty requiring the operation of a commercial vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial vehicle.

II. Required Conduct

The following conduct is required of all **City/Village/Town** employees:

1. Employees must notify their supervisor prior to starting work of any known side effects of medications, prescription drugs, or other chemical compounds or supplements of any kind, including cannabis, that they are taking (or have taken) which might affect the performance of their duties or threaten the safety of the employee or any other person.
2. Employees must notify their supervisor of any arrest, conviction, or relevant plea (including pleas of guilty and *nolo contendere*) relating to drugs or alcohol no later than the earlier of the next date the employee is scheduled to work or two calendar days following the arrest, conviction, or plea. In accordance with federal law, the **City/Village/Town** will notify any applicable federal contracting officer(s) of any relevant conviction(s) or plea(s) within 10 days of receiving notice of the conviction or plea.
3. Employees must submit to drug testing in accordance with this policy and applicable law.

III. Voluntary Treatment for Abuse of Drugs and/or Alcohol

The **City/Village/Town** strongly encourages employees who believe or suspect that they may be abusing drugs and/or alcohol to voluntarily seek treatment before their job performance is affected. Any employee who notifies the **City/Village/Town** of alcohol or drug abuse problems will be treated in the same manner as any other employee with an illness. Information and communications regarding an employee's voluntary treatment or counseling due to actual or suspected drug and/or alcohol abuse shall remain confidential in accordance with state and federal law.

IML Model Policy: Drug and Alcohol Policy

Employees who voluntarily seek treatment for drug and/or alcohol abuse shall not be subject to discipline, discharge, or discrimination based solely on such voluntary treatment if the treatment is sought prior to:

1. The employee testing positive for illegal drugs and/or alcohol;
2. The employee being notified of an upcoming drug and/or alcohol test;
3. The occurrence of an event that gives rise to reasonable suspicion that the employee is under the influence of drugs and/or alcohol;
4. Any return to duty or related follow-up testing for drugs and/or alcohol; and/or
5. The occurrence of an accident which requires the employee to submit to drug and/or alcohol testing.

Employees who seek voluntarily treatment for drug and/or alcohol abuse shall continue to be subject to appropriate disciplinary action up to and including termination for substandard job performance, unexcused absences, abuse of drugs and/or alcohol, or any other violations of this manual, whether such violations are directly or indirectly related to the employee's use of drugs and/or alcohol.

Furthermore, employees who voluntarily seek treatment for drug and/or alcohol abuse shall not be excused from required drug and/or alcohol testing in accordance with this policy even when voluntary treatment was sought prior to the testing in question. No employee shall be permitted to use voluntary treatment for drug and/or alcohol abuse to avoid otherwise legitimate disciplinary action for failure to comply with this policy or other provisions of the manual.

Employees may request a medical leave of absence to obtain treatment for drug and/or alcohol abuse in accordance with the Family and Medical Leave Act of 1993 and other applicable law. Such leave requests shall be treated in the same manner as any other request for leave pursuant to this policy. The **City/Village/Town** may also grant reasonable accommodations for employees being treated for drug and/or alcohol abuse so long as those employees are participating in a treatment program and are not currently abusing drugs and/or alcohol. The **City/Village/Town** will not retaliate or discriminate against any employee for requesting leave or a reasonable accommodation to obtain treatment for drug and/or alcohol abuse.

IV. Acknowledgement

In accordance with applicable law, employees are required to acknowledge and agree to this policy as a condition of employment. Any employee violating this policy is subject to discipline, up to and including termination of employment.

Drug and Alcohol Testing of All Employees

I. Reasonable Suspicion

All employees are required to submit to alcohol and/or drug testing if a supervisor determines that there is reasonable suspicion to believe that an employee has been using illegal drugs, abusing prescribed drugs, is under the influence of alcohol or cannabis, or is consuming alcohol or cannabis while working.

For the purposes of this policy, reasonable suspicion means a belief based on objective facts sufficient to lead a reasonable prudent person to find that an employee is using, or has used, drugs or alcohol in violation of this policy. Such a suspicion shall be drawn from specific, objective facts and reasonable inferences drawn from those facts in light of experience.

Some factors that may be considered in determining whether a finding of reasonable suspicion is appropriate may include, but are not limited to, any of the following, alone or in combination:

1. Observable phenomena, such as direct observation of drug or alcohol use, the presence of the odor of drugs or alcohol on or about the employee and/or the physical symptoms or manifestations of being under the influence of drugs or alcohol;
2. Abnormal conduct or erratic behavior;
3. Excessive unexcused absenteeism, tardiness, or deterioration in work performance;
4. Slurred speech or unsteady walking or movement;
5. Illegal possession of drugs or controlled substances or an arrest for violation of a drug statute;
6. Information obtained from a reliable and credible source with personal knowledge that has been independently corroborated;
7. Testing for cannabis based on reasonable suspicion shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the **City/Village/Town** or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

Once reasonable suspicion has been determined, the employee shall be required to take the applicable drug and/or alcohol test. An order to submit to testing shall be in writing and signed by a supervisor. If an employee declines the test, it will be treated as a positive test and the employee will be subject to discipline up to and including termination. When an employee is ordered to submit to a drug and/or alcohol test as a result of a supervisor's reasonable suspicion,

the employee will not be allowed to return to work pending the results of the drug and/or alcohol test.

II. Post-Accident Testing

All accidents, including those involving a vehicle, must immediately be reported to an employee's supervisor. The supervisor shall investigate the circumstances of the accident and determine if there is reasonable suspicion to require a drug and/or alcohol test. If it is determined that the employee caused or contributed to occurrence of the accident or the employee was otherwise at fault, the employee may be required to submit to a drug and alcohol test regardless of the existence of reasonable suspicion.

Post-accident testing for cannabis shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the City/Village/Town or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

If post-accident drug and/or alcohol testing is ordered, the employee involved must submit to a drug and/or alcohol test within two hours of the accident. An employee who fails to remain readily available for post-accident testing or leaves the scene of an accident without a valid reason or permission by his or her supervisor will be deemed to have refused to submit to testing. The employee to be tested shall not be permitted to drive himself or herself to the collection site.

III. Types of Testing

Any of the following methods may be utilized to test an employee for the presence of drugs and/or alcohol:

1. Urine testing;
2. Evidentiary breath testing device (Breathalyzer);
3. Blood testing;
4. Hair follicle testing; or
5. Saliva testing.

IV. Licensed Clinical Laboratory Only

The **City/Village/Town** shall use only licensed clinical laboratories for drug and/or alcohol testing. Such laboratories shall be responsible for maintaining a proper chain of custody of any samples. If an employee tests positive for drugs and/or alcohol, a confirming test shall be conducted. The laboratory will not submit a positive test result to the **City/Village/Town** unless

the confirming test result is also positive for the same sample. The laboratory shall retain a portion of the tested sample so the employee can arrange for another confirming test to be conducted by a licensed clinical laboratory of the employee's choice and at the employee's expense. Once the portion of the tested sample is delivered to the clinical laboratory selected by the employee, the employee shall be responsible for maintaining the proper chain of custody for that portion of the sample.

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by a medical review officer. A medical review officer is a licensed physician responsible for receiving and interpreting laboratory results from applicable tests.

V. Records Relating to Drug and/or Alcohol Tests

Records reflecting positive drug and/or alcohol tests will be kept in the employee's file and will be kept confidential in accordance with applicable law. Information regarding drug and/or alcohol tests and an employee's participation in a substance abuse rehabilitation program may be disclosed to supervisors only if such information relates to the employee's ability to perform his or her work duties or the employee's need for a reasonable accommodation under the Americans with Disabilities Act of 1990 or other applicable law.

For employees in safety sensitive positions, the following records shall be maintained for a minimum of five years: (i) records of annual management information system reports; (ii) records regarding employee evaluations and referrals to substance abuse professionals; (iii) records relating to follow-up tests and follow-up schedules; (iv) records relating to refusals to submit to drug and/or alcohol tests; (v) records of alcohol test results indicating an alcohol concentration of .02 or greater; (vi) verified positive drug test results; and (vii) breath testing device calibration documentation.

VI. Required Records from Prior Employment as Driver of a Commercial Vehicle

In accordance with applicable law, any individual who is given an offer of employment for a safety-sensitive position requiring a commercial driver's license (CDL) and who has worked as a driver of a commercial vehicle during the two-year period immediately preceding the offer of employment, must authorize his or her prior employer(s) during the two-year period immediately preceding the offer of employment to release information to the **City/Village/Town** regarding any positive alcohol or drug tests and/or any refusal to submit to an alcohol or drug test.

This information must be obtained before the individual can be hired by the **City/Village/Town**. However, if the information has not arrived by the individual's anticipated start date and the individual has passed a pre-employment drug test, the individual may be hired, and the requested information can be obtained from the individual's prior employer(s) within 14 calendar days of the individual's date of hire. If the information has not been received within 14 calendar days of the individual's date of hire, the individual will not be permitted to drive a commercial vehicle

until the information has arrived. If the information obtained from any prior employer indicates that the individual tested positive for drugs or alcohol or refused to be tested during the past two years, that individual will not be permitted to drive a commercial vehicle unless subsequent information indicates that the individual was evaluated by a substance abuse professional and successfully completed return to duty testing.

VII. Compensation

If an employee is ordered to submit to an involuntary post-employment drug and/or alcohol test, the time spent by the employee traveling to and from the test and waiting for and undergoing the test will be considered compensable working time unless otherwise provided by law or contract. Pre-employment drug and/or alcohol tests will not be compensated.

VIII. Cutoff Levels for Drugs and Drug Metabolites; Blood Alcohol Exceedances

Cutoff levels for all drug and drug metabolite testing shall be consistent with the guidelines established by the U.S. Department of Health and Human Services (HHS). An employee shall be deemed to be under the influence of alcohol if the applicable blood alcohol test demonstrates a level of .02 or greater.

IX. Policy Violations

Any employee testing positive for drug usage, blood alcohol levels greater than .02, or engaging in any other prohibited conduct concerning drug or alcohol shall be subject to disciplinary action up to and including immediate termination. Regardless of disciplinary action taken, all such employees will be advised of resources available to evaluate and treat problems associated with drug and/or alcohol abuse.

Employees in safety-sensitive positions, including those that require a CDL, who are not terminated for violation of this policy shall be subject to the following conditions of continued employment:

1. If an employee has a breath alcohol concentration of at least .02 but less than .04, he or she shall not drive a commercial vehicle or engage in any other safety sensitive activities for at least 24 hours.
2. If an employee tests positive for drugs, tests positive for a blood alcohol level of .04 or greater, and/or engages in any other conduct prohibited by this policy relating to drugs and/or alcohol, the employee will be immediately removed from duties requiring the driving of a commercial vehicle and will not be permitted to return to work unless the employee: (i) has been evaluated by a substance abuse professional; (ii) has complied with any rehabilitation prescribed by a substance abuse professional; and (iii) has successfully completed a return to duty test for drugs and/or alcohol.

3. Upon completion of a recommended rehabilitation program and successful return to work, the employee will be subject to follow-up random testing for up to 60 months as recommended by the substance abuse professional and the **City/Village/Town** with a minimum of six such unscheduled tests within the first 12 months of returning to duty.

Drug and Alcohol Testing of Specific Employees

In accordance with the Omnibus Transportation Employee Testing Act of 1994 and other applicable law, the **City/Village/Town** requires employees in safety-sensitive positions and applicants for safety sensitive positions to submit to mandatory drug and alcohol testing pursuant to this policy. Applicants for non-safety-sensitive positions may be required to submit to pre-employment testing. All employees are subject to random drug and alcohol testing.

Safety-sensitive positions are those positions where there exists a high risk of injury to others with disastrous consequences if the employee has even a momentary lapse of attention. Some examples of safety-sensitive positions include law enforcement personnel, firefighters, paramedics, health care professionals responsible for direct patient care, employees who transport passengers, and employees who operate large or heavy equipment.

Under this policy, employees in safety-sensitive positions specifically include all employees whose positions may involve driving a commercial vehicle and that require the possession of a CDL. For purposes of this policy, a commercial vehicle means a vehicle that either: (i) has a gross weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); (ii) is designed to transport 16 or more persons, including the driver; or (iii) is used to transport hazardous materials.

An employee is considered to be “driving a commercial vehicle” under this policy if he or she is performing any safety sensitive function defined in 49 CFR 382.107, which includes all time working in a position requiring a CDL.

With respect to employees who work in a position requiring a CDL, alcohol testing for reasonable suspicion may be conducted just before, during, or after an employee operates a commercial vehicle.

I. Drug and Alcohol Testing for Safety-Sensitive Positions

Employees in safety-sensitive positions are subject to drug and alcohol testing under different and additional circumstances than employees who are not in safety sensitive positions.

1. Reasonable Suspicion – Any employee in a safety-sensitive position shall submit to a drug and/or alcohol test when any supervisor has reasonable suspicion to believe that an employee has been using illegal drugs, abusing prescribed drugs, is

under the influence of alcohol or cannabis, or is consuming alcohol or cannabis while working or while on call.

Testing for cannabis based on reasonable suspicion shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the **City/Village/Town** or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

If an employee is removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform safety-sensitive functions until: (i) an alcohol test determines that the employee's breath alcohol concentration measures less than .02; and (ii) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has been using alcohol.

2. Post-Accident Testing Involving a Commercial Vehicle – An employee is required by law and this policy to submit to an alcohol test whenever he or she is involved in an accident while driving a commercial vehicle on a public road which results in: (i) a fatality; (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; and/or (iii) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Post-accident testing for cannabis shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the **City/Village/Town** or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

3. Return to Duty Testing – Any employee who has violated this policy and/or has tested positive on a drug or alcohol test and is subsequently permitted to return to work, must pass a drug and/or alcohol test in accordance with this policy prior to returning to duty.
4. Follow-Up Testing – An employee in a safety-sensitive position who is referred for assistance related to alcohol and/or drug abuse is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a substance abuse professional and the **City/Village/Town**. The number and frequency of follow-up tests will be determined by the substance abuse professional and the **City/Village/Town** but will not be less than six tests in the first 12 months following the employee's return to duty.

For purposes of this policy, a substance abuse professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of

Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

II. Pre-Employment Drug Testing

Employees in safety-sensitive positions must pass a drug test as a post-offer condition of employment. Employees in non-safety sensitive positions may be required to take and pass a drug test as a post-offer condition of employment. Failure to successfully pass a post-offer pre-employment drug test may result in the offer of employment being revoked. An applicant who is denied employment because of a positive drug test may not reapply for employment with the **City/Village/Town** for a period of six months.

III. Random Drug and/or Alcohol Testing

Employees may be randomly selected to submit to drug and/or alcohol testing. The process will be unannounced, and employees shall be selected in a non-discriminatory manner. After an employee is notified that he or she has been selected for random testing, the employee shall be required to report immediately to the testing location no later than one hour after notification. Upon arrival at the testing location, the employee must identify him or herself by use of a photo identification card and present any applicable documentation. Upon completion of the drug and/or alcohol testing, the employee will, if his or her shift is not completed, immediately return to duty status.

Drug and Alcohol Testing of Public Safety Employees

For purposes of this policy, public safety employees include law enforcement officers, corrections officers, probation officers, paramedics, and firefighters.

I. Prohibition

The **City/Village/Town** prohibits law enforcement officers, corrections officers, probation officers, paramedics, and firefighters from the consumption, possession, sale, purchase, or delivery of cannabis or cannabis-infused substances while on or off duty.

II. Collective Bargaining Agreements

Any drug and alcohol testing procedures in the collective bargaining agreement shall remain in full force and effect.

Discipline

Employee supervisors and their superiors, as applicable, are responsible for administering disciplinary measures, when in the sole discretion of the appropriate supervisor, based on the facts and circumstances of the situation, discipline is warranted. Prior to the administration of any disciplinary action, the applicable supervisor may give the employee the opportunity to respond to the allegations made against the employee. Employees subject to discipline for being under the influence of, in possession of or consuming cannabis shall be provided a reasonable opportunity to contest the basis for the imposition of discipline. The disciplinary procedures set forth in this section apply to all employees, unless otherwise subject to a collective bargaining agreement. These policies and procedures should not be construed as preventing, limiting, or delaying the **City/Village/Town** from taking appropriate disciplinary action, including immediate dismissal without prior warning or notice, as the facts and circumstances warrant.

All discipline issued will be based on the applicable facts and circumstances, and at the level applicable in the sole and exclusive judgment of the applicable supervisor.

BEFORE ADOPTING ANY POLICY, MUNICIPAL OFFICIALS SHOULD CONSULT WITH THEIR RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.

ACKNOWLEDGEMENT

By signing below, I acknowledge that I have received a copy of the **City/Village/Town** of _____, (**City/Village/Town**) Drug and Alcohol Policy (“Policy”) and understand that it is my responsibility to read and become familiar with its contents. I further understand that it is my responsibility to ask questions of my immediate supervisor and/or another appropriate member of management if I do not understand any of the information contained in the Policy and that I am required to abide by and observe all of the information and rules, policies, and procedures explained therein.

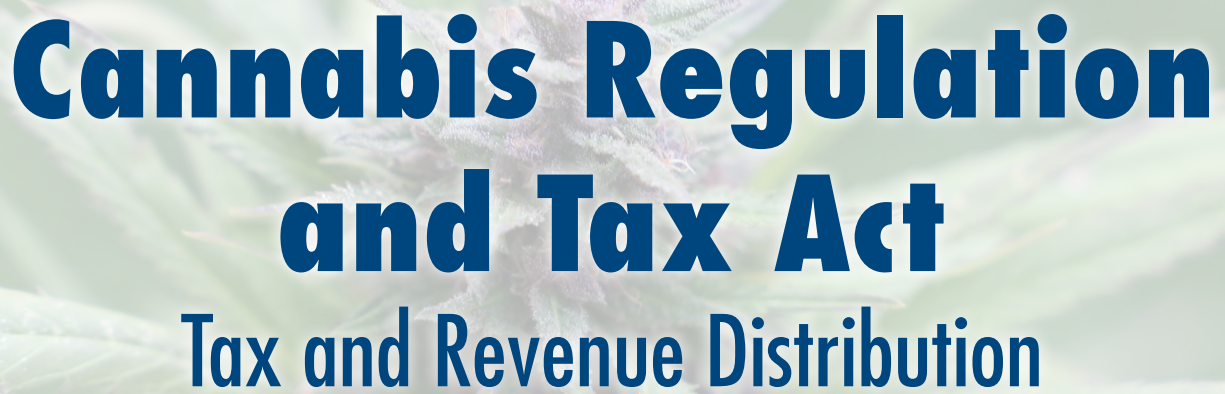
I acknowledge that nothing in the Policy constitutes a contract or promise of employment and that unless otherwise provided in a collective bargaining agreement or individual employment contract, my employment is “at-will,” which means that the employment relationship may be terminated at any time for any lawful reason with or without cause or notice.

I agree to abide by and observe all of the information and rules, policies, and procedures set forth in the Policy and understand that **City/Village/Town**’s rules, policies, and procedures may be changed from time to time, with or without notice, and that this Policy supersedes and replaces any and all prior manuals or policies.

Print Name

Signature

Date Signed

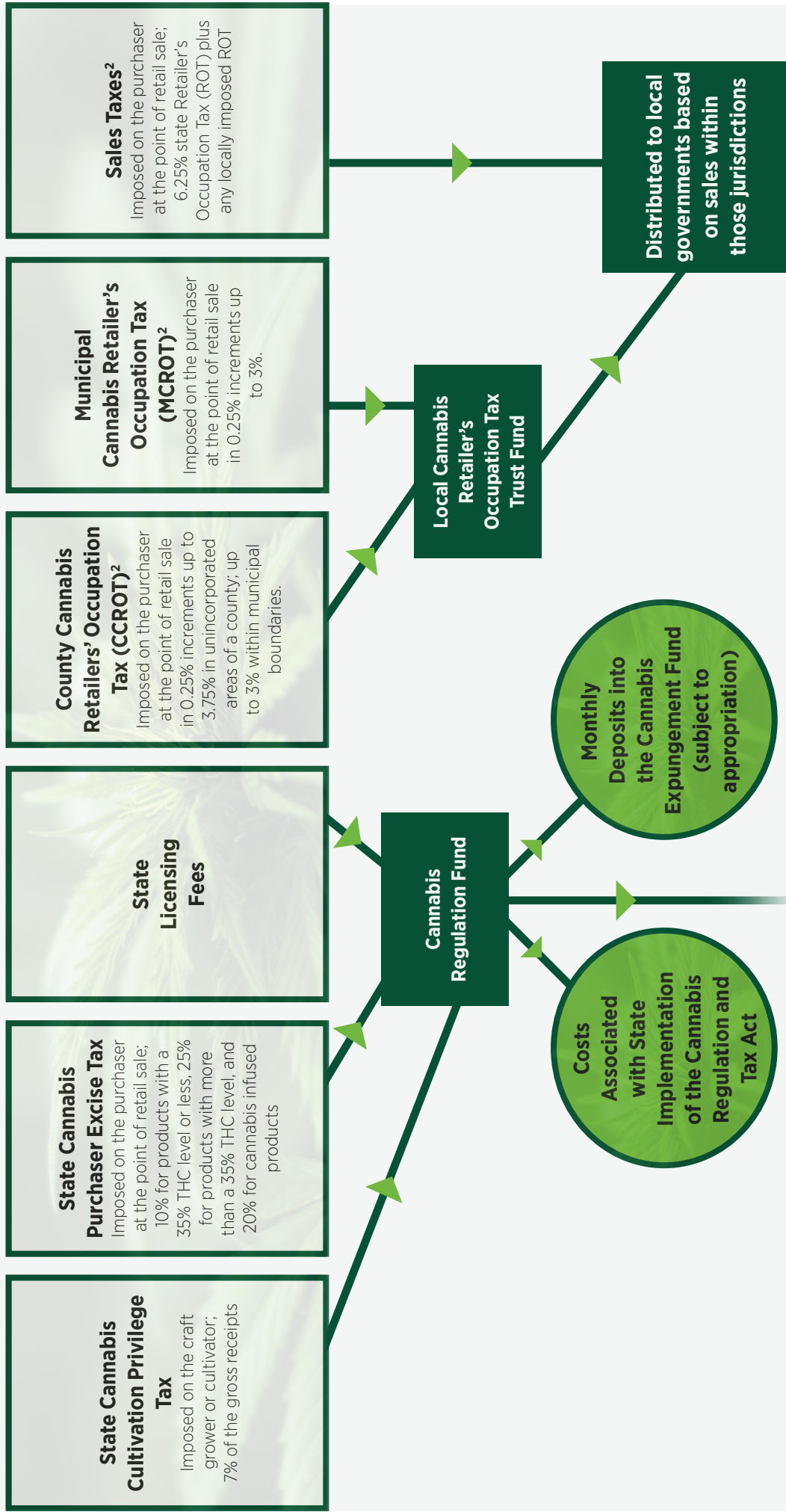


Cannabis Regulation and Tax Act

Tax and Revenue Distribution

Cannabis Regulation and Tax Act (P.A. 101-0027¹) Tax & Fee Revenue Distribution

12/18/19



After covering these costs, remaining revenues will be distributed as follows:

2% to the state's Drug Treatment Fund	8% to local governments per capita through LGDF for crime prevention, training and interdiction efforts	25% to the Criminal Justice Information Projects Fund	10% to the State Budget Stabilization Fund	20% to the IL Department of Human Services Community Services Fund	35% to the State General Revenue Fund
---------------------------------------	---	---	--	--	---------------------------------------

¹ As amended by P.A. 101-0593

² Locally imposed sales taxes, including the MCROT, are subject to the state's 1.5% sales tax administrative fee.





Disclaimers and Referrals

DISCLAIMERS AND 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 or policy. The model documents are being provided as a reference for use in drafting an ordinance or policy for your community. The model documents 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.

Office of the Governor

Toi Hutchinson

Senior Advisor to the Governor on Cannabis Control

Toi.hutchinson@illinois.gov

State Agency Contacts

Illinois Department of Revenue

101 West Jefferson Street

Springfield, IL 62702

(217) 782-3336

<https://www2.illinois.gov/rev/Pages/default.aspx>

- Responsible for enforcing and collecting taxes associated with the sale of cannabis.

Municipalities who adopt a Municipal Cannabis Retailers' Occupation Tax on the sale of cannabis products, under [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

Illinois Department of Agriculture

State Fairgrounds

801 East Sangamon Avenue

Springfield, IL 62702

(217) 782-2172

<https://www2.illinois.gov/sites/agr/Plants/Pages/Adult-Use-Cannabis.aspx>

- Responsible for licensure and oversight of cultivation centers, craft growers, processing organizations, and transporting organizations.
- Responsible for authorizing laboratories that test cannabis.

Illinois Department of Financial and Professional Regulation

320 West Washington Street

Springfield, IL 62786

(217) 785-0820

<https://www.idfpr.com/ILCannabis.asp>

- Responsible for licensure and oversight of dispensing organizations.

Danielle Perry

Cannabis Regulation Oversight Officer

320 W. Washington St. 3rd Fl.

Springfield, IL, 62786

(217) 524-7926

Danielle.perry@illinois.gov

- Responsible for making recommendations for policy, statute and rule changes regarding the regulation of cannabis.
- Responsible for ensuring the coordination of efforts between various state agencies involved in regulating and taxing the sale of cannabis in Illinois.
- Responsible for encouraging, promoting, suggesting and reporting best practices for ensuring diversity in the cannabis industry in Illinois.

Illinois State Police

(217) 524-2500

<https://www.isp.state.il.us>

- Responsible for conducting background checks on everyone involved in the licensed cannabis sector.
- Responsible for reviewing security plans for all licensed entities.
- Responsible for reviewing all criminal history record information and identifying all individuals with minor violations that are eligible for automatic expungement.

Illinois Department of Public Health

535 West Jefferson Street

Springfield, IL 62761

(217) 782-4977

<http://www.dph.illinois.gov>

- Responsible for developing recommendations surrounding health warnings and facilitating the Adult Use Cannabis Public Health Advisory Committee.
- Responsible for developing the Compassionate Use of Medical Cannabis Program:
<http://www.dph.illinois.gov/topics-services/prevention-wellness/medical-cannabis>

Illinois Department of Commerce and Economic Opportunity

500 East Monroe Street

Springfield, IL 62701

(217) 782-7500

<https://www2.illinois.gov/dceo/Pages/default.aspx>

- Responsible for administering a loan program, a grant program and technical assistance for social equity applicants.

Illinois Department of Human Services

100 South Grand Avenue East

Springfield, IL 62762

(800) 843-6154

<http://www.dhs.state.il.us/page.aspx>

- Responsible for making recommendations to the Adult Use Cannabis Public Health Advisory Committee regarding drug treatment and prevention.
- Responsible for developing and disseminating consumer education materials.
<http://www.prevention.org/lets-talk-cannabis>

Illinois Criminal Justice Information Authority

300 West Adams Street, #200

Chicago, IL 60606

(312) 793-8550

<http://www.icjia.state.il.us>

- Responsible for designating ROC areas across the state that may apply for funding from the ROC board for community reinvestment.

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

Frequently Asked Questions Cannabis Regulation and Tax Act as Amended by P.A. 102-0098

Updated September 1, 2021

Originally authored by

KTJ

KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

**In partnership with
and as updated 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

ILLINOIS MUNICIPAL LEAGUE

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

INDEX

ADVERTISING..... 1

CRAFT GROWERS..... 2

CULTIVATION CENTERS 3

DISPENSING ORGANIZATIONS 4

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

EMPLOYMENT CONCERNS 9

EXPUNGEMENTS 11

FREEDOM OF INFORMATION ACT (FOIA) 13

HOME CULTIVATION 14

INFUSER ORGANIZATIONS OR INFUSERS..... 15

LICENSING 16

LOCAL GOVERNMENT 19

SOCIAL JUSTICE 25

TAXATION, REVENUES AND APPROPRIATIONS..... 26

USE AND POSSESSION 29

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

ADVERTISING

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

- “Advertise” means to engage in promotional activities including, but not limited to: newspaper, radio, Internet and electronic media, and television advertising; the distribution of fliers and circulars; and the display of window and interior signs. "Advertise" does not mean exterior signage displaying only the name of the licensed 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 1,000 feet of school grounds, playgrounds, hospitals, health care facilities, recreation centers, child care centers, public parks, public libraries, or game arcades that admit persons under the age of 21;
 - On or in a public transportation vehicle or on a public transportation shelter; or
 - On or in publicly-owned or publicly-operated property.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

CRAFT GROWERS

What is the definition of “craft grower?”

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

Are craft growers inspected? How, and by whom?

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

To whom may craft growers sell cannabis?

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

What are the limitations on the location of craft growers?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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 Illinois Department of Agriculture to cultivate, process, transport (unless otherwise limited by the Act) and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

Are cultivation centers inspected? How, and by whom?

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

To whom may cultivation centers sell cannabis?

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

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

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

DISPENSING ORGANIZATIONS

What is the definition of “dispensing organization?”

- "Dispensing organization" means a facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, another dispensing organization or transporting organization licensed under the Act for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in the Act, a “dispensing organization” shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

What methods of sale by dispensing organizations are prohibited?

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

When are dispensing organizations allowed to operate?

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

What products are dispensing organizations prohibited from selling?

- Dispensing organizations may not sell any product containing alcohol except tinctures, which are limited to containers no larger than 100 milliliters.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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

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

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

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

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

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

- Yes. A dispensing organization may not be located within 1,500 feet of the property line of a pre-existing dispensing organization. P.A. 102-0098 provides that a social equity applicant or social equity justice involved applicant may seek a dispensing organization license from the Illinois Department of Financial and Professional Regulation at a location within 1,500 feet of a dispensing organization licensed under Section 15-15 or 15-20 of the Act.

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

- Before cannabis is dispensed:
 - The age of the purchaser shall be verified by checking a government-issued identification card by use of an electronic reader or electronic scanning device to scan the identification;
 - The validity of the government-issued identification card must be verified;
 - Any appropriate purchaser education or support materials shall be offered; and,
 - Information must be entered into the state's cannabis electronic verification system, including the dispensing organization's agent's identification number, the dispensing organization's identification number, the amount, type (including strain, if applicable) of cannabis or cannabis-infused product dispensed, and the date and time the cannabis is dispensed.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

- A dispensing organization shall refuse to sell cannabis to anyone unless the person produces valid identification showing that the person is 21 years of age or older. However, a medical cannabis dispensing organization may sell cannabis-infused products to a person who is under 21 years of age if the sale complies with the provisions of the Medical Cannabis Program Act and rules.
- The Medical Cannabis Program Act provides that registered qualifying patients under 18 years of age shall be prohibited from consuming forms of cannabis other than medical cannabis-infused products and from purchasing any usable cannabis.

What state laws or regulations provide site security requirements for dispensaries?

- Dispensaries will need to comply with the security provisions of 410 ILCS 705/15-100.

Will these security requirements impact lighting and landscaping?

- Yes. Dispensaries must ensure that the dispensary interior and exterior premises are sufficiently lit to facilitate surveillance, and must ensure that trees, bushes and other foliage outside of the dispensary premises do not allow for a person or persons to conceal themselves from sight. (See 410 ILCS 705/15-100 (a)(13) and (14)). These requirements of state law may impact local lighting and landscaping standards.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

DRIVING UNDER THE INFLUENCE (DUI)

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

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

EMPLOYMENT CONCERNS

May an employer maintain a drug-free workplace?

- Yes. The Act specifies that nothing shall prohibit an employer from adopting:
 - reasonable zero-tolerance or drug-free workplace policies;
 - employment policies concerning drug testing; or,
 - regulations concerning smoking, consumption, storage or use of cannabis at the workplace or while on call.

- These policies must be applied in a nondiscriminatory manner.

- Employers' policies may cover use of cannabis in the employer's workplace, while performing the employee's job duties or while "on call." An employee is deemed "on call" when he or she is scheduled with at least 24 hours' notice by employer to be on standby or otherwise responsible for performing tasks related to his or her employment.

- An employer may discipline an employee for violating a workplace drug policy. If the employer elects to discipline the employee on the basis that the employee is under the influence or impaired by cannabis, 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.

- Except as otherwise specifically provided by law, including Section 10-50 of the Act, the Illinois Right to Privacy in the Workplace Act prohibits discrimination for the use of a lawful product while off duty or not on call. (820 ILCS 55/5).

- Section 10-35 of the Act provides that employers of law enforcement officers, corrections officers, probation officers, paramedics and firefighters may prohibit those employees from the consumption, possession, sales, purchase or delivery of cannabis or cannabis-infused substances while on or off duty. (410 ILCS 705/10-35(a)(8)).

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

- Section 10-50 of the Act provides that an employer is not subject to a cause of action by any person for reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, and discipline, termination of employment or withdrawal of a job offer due to failure of a drug test. (410 ILCS 705/10-50(e)(1)).

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

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

May a public employer prohibit off-duty use of cannabis by law enforcement officers, correctional officers, probation officers, paramedics or firefighters?

- Yes. Public employers may prohibit the consumption, possession, sales, purchase or delivery of cannabis or cannabis-infused substances while on or off duty by law enforcement officers, correctional officers, probation officers, paramedics or firefighters. These restrictions may be the subject of collective bargaining. (410 ILCS 705/10-35(a)(8)).

May a public employer require applicants to submit to pre-employment drug testing?

- Yes. Section 10-50 of the Act provides that a job offer may be withdrawn on the basis of the failure of a drug test that is part of a reasonable drug and alcohol testing policy of the employer.

May a public employer require employees to submit to random drug testing?

- Yes. Section 10-50 of the Act provides that an employee may be subject to discipline or termination on the basis of the failure of a drug test that is part of a reasonable, non-discriminatory random drug and alcohol testing policy of the employer.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

EXPUNGEMENTS

What records will be automatically expunged?

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

What is the schedule for automatic expungement?

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

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

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

How does an agency respond to a request for records that have been expunged?

- In response to an inquiry for expunged records, the law enforcement agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed; however, it shall provide a certificate of disposition or confirmation that the record was expunged to the individual whose record was expunged if such a record exists.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation And Tax Act – As Amended By P.A. 102-0098

FREEDOM OF INFORMATION ACT

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

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

HOME CULTIVATION

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

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

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

May a landlord prohibit growth of cannabis on their property?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

INFUSER ORGANIZATIONS OR INFUSERS

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

- "Infuser organization" or "infuser" means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

Are infusers inspected? How, and by whom?

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

To whom may infusers sell cannabis?

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

What are the limitations on the location of infusers?

- An infuser may not be located in an area zoned for residential use.
- An infuser may share premises with a craft grower or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

LICENSING

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

- Yes. The Illinois Office of Cannabis Control shall issue licenses for all dispensing organizations. Dispensing organizations are defined by the Act as a facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers.

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

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

What are the different types of licenses?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

- Conditional Adult-Use Dispensing Organization License - A license awarded to top-scoring applicants for an Adult-Use Dispensing Organization License that reserves to the applicant the right to an adult-use dispensing organization license if the applicant meets certain conditions described in the Act. A dispensing organization that is awarded a Conditional Adult-Use Dispensing Organization License is not entitled to purchase, possess, sell or dispense cannabis or cannabis-infused products until the applicant has received an Adult-Use Dispensing Organization License.
- Conditional Adult-Use Cultivation Center License - A license awarded to top-scoring applicants for an Adult-Use Cultivation Center License that reserves to the applicant the right to an Adult-Use Cultivation Center License if the applicant meets certain conditions as determined by the Illinois Department of Agriculture by rule. A cultivation center applicant that is awarded a Conditional Adult-Use Cultivation Center License is not entitled to grow, purchase, possess or sell cannabis or cannabis-infused products until the applicant has received an Adult-Use Cultivation Center License.
- Adult-Use Dispensing Organization - A license issued by the Illinois Department of Financial and Professional Regulation that permits a person to act as a dispensing organization under the Act and any administrative rule made in furtherance of the Act.
- Adult-Use Cultivation Center - A license issued by the Illinois Department of Agriculture that permits a person to act as a cultivation center under the Act and any administrative rule made in furtherance of the Act.
- Craft Grower - The Illinois Department of Agriculture may issue up to 100 craft grower licenses through 2021, and may issue up to a total of 150 licenses after January 1, 2022. A “craft grower” is a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization.
- Infuser - The Illinois Department of Agriculture may issue up to 100 infuser licenses through a process provided for in the Act through 2021, and may issue additional licenses after January 1, 2022. “Infuser organization” or “infuser” means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product. An infuser is prohibited from extracting cannabis concentrate from raw cannabis material. Only cultivation centers and craft growers will be allowed to extract cannabis concentrate.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

- Transporter - Transporting organization" or "transporter" means 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 Illinois Community College Cannabis Vocational Training Pilot Program.

Do state licenses need to be renewed?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

LOCAL GOVERNMENT

Is there a deadline for municipalities to opt-in or opt-out of allowing recreational cannabis sales in the municipality?

- No. An early version of the legislation proposed that measures prohibiting or restricting the location of cannabis establishments adopted more than one year after the effective date of the Act would be subject to voter approval via referendum. However, the Cannabis Regulation and Tax Act has no time limits on the prohibition or regulation of cannabis business establishments via local ordinance.

May municipalities prohibit cannabis establishments within their boundaries?

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

Do municipalities need to pass an ordinance to “opt-in” in order to allow adult use cannabis establishments within the municipality?

- A separate ordinance is not required, but an ordinance may be adopted to regulate those establishments or to impose a local tax on those establishments.

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

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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

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

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

- Yes. The Act provides a municipality may regulate and/or allow the on-premises consumption of cannabis at or in a cannabis dispensing organization within its jurisdiction in a manner consistent with the Act, and within a retail tobacco store within its jurisdiction in a manner consistent with the Smoke Free Illinois Act. The Act allows the creation of “cannabis cafes/lounges” in the discretion of the municipality. Cannabis dispensing organizations and retail tobacco stores 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.

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

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

Does the Act contain any location restrictions on dispensaries?

- A dispensing organization may not be located within 1,500 feet of the property line of a pre-existing dispensing organization. P.A. 102-0098 provides that a social equity applicant or social equity justice involved applicant may seek a dispensing organization license from the Illinois Department of Financial and Professional Regulation at a location within 1,500 feet of a dispensing organization licensed under Section 15-15 or 15-20 of the Act.
- These distance restrictions are different than those originally imposed by the Illinois Medical Cannabis Program Act. Under the Medical Cannabis Program Act, registered cultivation centers could not locate within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility or an area zoned for residential use (410 ILCS 130/105(c)) and registered dispensing organizations could not locate within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility or be located in a house, apartment, condominium, or an area zoned for residential use (410 ILCS 130/130(d)). P.A. 101-0363, which

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

made various amendments to the Medical Cannabis Program Act and took effect on August 8, 2019, eliminated the distance restrictions for medical cannabis dispensaries registered after July 1, 2019.

- Any location for an adult-use dispensary is subject to local ordinances prohibiting or regulating the location of adult-use cannabis establishments.

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

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

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

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

May municipalities regulate personal possession and consumption of cannabis?

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

Under what offenses may a person be charged for unlawful possession of cannabis?

- A person age 21 and older who possesses cannabis in excess of the possession limits is subject to criminal possession penalties under the Cannabis Control Act (720 ILCS 550/4).
- A person under age 21 who possesses any amount of cannabis may only be cited for a civil law violation under the Cannabis Control Act. (720 ILCS 550/4(a)). The Juvenile Court Act was amended to prohibit taking minors into a municipal lockup, jail or corrections facility solely for underage consumption or possession. (705 ILCS 405/5-401(3)).

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

Are there additional cannabis violations related to persons under 21?

- A person under age 21 using false identification to purchase cannabis or to enter a cannabis establishment may be charged with a Class A misdemeanor. (410 ILCS 705/10-20(b)).
- It is a Class A misdemeanor for any parent or guardian to knowingly permit a person under 21 to use the parent or guardian's residence, vehicle or watercraft for the consumption of cannabis. If death or great bodily harm results, it is a Class 4 felony. (410 ILCS 705/10-15(d)).
- A person under age 21 may not purchase, possess, use, process, transport, grow or consume cannabis in any amount or in any form, unless the person has a medical cannabis card or is authorized under the Community College Cannabis Vocational Pilot Program.

Are there any new violations addressing possession of cannabis in vehicles?

- The Vehicle Code now includes a Class A misdemeanor penalty which prohibits a driver from using cannabis within any area of a motor vehicle upon a highway or possessing cannabis within the passenger area of a motor vehicle except in a sealed or resealable, odor-proof and child-resistant container. (625 ILCS 5/11-502.15).

Does drug paraphernalia include cannabis paraphernalia?

- No. The criminal penalty for possession of drug paraphernalia was amended to exclude items historically and customarily used for injecting, ingesting or inhaling of cannabis. (720 ILCS 600/3.5 and 4(b)).

May a vehicle be impounded for cannabis violations?

- A vehicle is still subject to seizure and impoundment to initiate asset forfeiture proceedings for a felony violation of the Cannabis Control Act. (720 ILCS 550/12).

Does the Act apply to home rule units of government?

- Yes. A unit of local government may not regulate cannabis-related activities in a manner more restrictive than their regulation by the state under the Act. Home rule preemption applies here.
 - "This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State." Section 55-25(4).

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

- Home rule preemption is specifically set forth in Section 55-90 of the Act. *“Except as otherwise provided in this Act, a unit of local government, including a home rule unit, may not regulate or license the activities described in this Act.” [emphasis added]*

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

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

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

- The Act, in Section 15-70, contains a list of specific business operational rules for adult-use cannabis dispensing organizations that provide a clear baseline of regulatory guidelines for these establishments. Municipalities may include these in any statement on approvals or conditions that are part of any conditional use permit. These rules include:
 - A dispensing organization must include the legal name of the dispensary on the packaging of any cannabis product it sells.
 - Dispensing organizations are prohibited from selling any product containing alcohol except tinctures, which are limited to containers that must be no larger than 100 milliliters.
 - A dispensing organization may only accept cannabis deliveries into a restricted access area. Deliveries may not be accepted through the public or limited access areas unless otherwise approved under the Act.
 - A dispensing organization shall maintain compliance with state and local building, fire and zoning requirements or regulations.
 - A dispensing organization shall submit a list to the state of the names of all service professionals that will work at the dispensary.
 - A dispensing organization's license allows for a dispensary to be operated only at a single location.
 - A dispensing organization may operate between 6:00 a.m. and 10:00 p.m. local time.
 - A dispensing organization must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.
 - A dispensing organization shall not:
 - Produce or manufacture cannabis;
 - Accept a cannabis product from an adult-use cultivation center, craft grower, infuser, dispensing organization or transporting organization unless it is pre-

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

packaged and labeled in accordance with the Act and any rules that may be adopted pursuant to the Act;

- Obtain cannabis or cannabis-infused products from outside the State of Illinois;
- Sell cannabis or cannabis-infused products to a purchaser unless the dispensary organization is licensed under the Illinois Medical Cannabis Program Act, and the individual is registered under the Medical Cannabis Program Act or the purchaser has been verified to be over the age of 21;
- Enter into an exclusive agreement with any adult-use cannabis cultivation center, craft grower or infuser;
- Refuse to conduct business with an adult-use cannabis cultivation center, craft grower, transporting organization or infuser that has the ability to properly deliver the product and is permitted by the Illinois Department of Agriculture, on the same terms as other adult-use cannabis cultivation centers, craft growers, infusers or transporters with whom it is dealing;
- Operate drive-through windows;
- Allow for the dispensing of cannabis or cannabis-infused products in vending machines;
- Transport cannabis to residences or other locations where purchasers may be for delivery;
- Enter into agreements to allow persons who are not dispensing organization agents to deliver cannabis or to transport cannabis to purchasers;
- Operate a dispensing organization if its video surveillance equipment is inoperative;
- Operate a dispensing organization if the point-of-sale equipment is inoperative;
- Operate a dispensing organization if the state's cannabis electronic verification system is inoperative;
- Operate a dispensing organization when there are fewer than two people working at any time;
- Be located within 1,500 feet of the property line of a pre-existing dispensing organization. P.A. 102-0098 provides that a social equity applicant or social equity justice involved applicant may seek a dispensing organization license from the Illinois Department of Financial and Professional Regulation at a location within 1,500 feet of a dispensing organization licensed under Section 15-15 or 15-20 of the Act;
- 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; and,
- Violate any other requirements or prohibitions set by the Act or administrative rules.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

SOCIAL JUSTICE

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

- The Restoring Our Communities (ROC) program will be created. The ROC program will be a performance incentive funding program for high-need, underserved communities throughout the state.
- The purpose of the ROC program will be to directly address the impact of economic disinvestment and the historical use of criminal justice responses to community and individual needs by supporting local design and control of community-based responses to these impacts that can be accessed outside of the criminal justice system.
- The ROC program will provide planning and implementation grants as well as technical assistance to collaborative groups that include human service providers and community-based organizations, individuals who have experienced the criminal justice system or other systems of state intervention, individuals who have been consumers of social programs administered by the state or local jurisdictions, and local leaders from all sectors.
- P.A. 102-0098 provides for the award of up to five medical cannabis dispensing organization licenses in a social equity justice involved medical lottery.
- P.A. 102-0098 provides for a tied applicant lottery that will address issues with the previous award process for adult-use dispensing organizations and will allocate licenses to applicants that tied the high score in that process.
- In order to advance the goal of providing economic opportunity to disproportionately impacted individuals and communities, P.A. 102-0098 provides that 110 conditional adult-use dispensing organization licenses will be awarded through two other lotteries. Fifty-five licenses will be awarded by lot in a qualifying applicants lottery distributed by Bureau of Labor Statistics (BLS) region, and 55 licenses will be awarded in a social equity justice involved lottery distributed by BLS region.
- Pursuant to P.A. 102-0098, social equity and social equity justice involved applicants may be granted a state license for a site within 1,500 feet of a dispensing organization licensed under Section 15-15 or Section 15-20 of the Act, but must still obtain local approval for the site.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

TAXATION, REVENUES AND APPROPRIATIONS

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

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

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

- Beginning on January 1, 2020, a Cannabis Purchaser Excise Tax is imposed by the State of Illinois upon purchasers for the privilege of using cannabis at the following rates:
 - Cannabis flower or products with less than 35% Tetrahydrocannabinol (THC): 10% tax.
 - Cannabis-infused products (i.e., edibles): 20% tax.
 - Cannabis flower or products with a THC concentration higher than 35%: 25% tax.
- The purchase price of any product that contains any amount of cannabis or any derivative is subject to the excise tax on the full purchase price of the product.
- The purchase of cannabis is also subject to state and local sales taxes. Sales tax is collected in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision of the state.
- All funds received by the Illinois Department of Revenue under the excise tax will be paid into the Cannabis Regulation Fund in the state treasury.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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

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

How may cannabis be taxed at the local level?

- The Act provides that on and after July 1, 2020, the corporate authorities of any county or municipality may, by ordinance, impose a County and Municipal Cannabis Retailers' Occupation Tax (MCROT).
- For municipalities, the MCROT is imposed upon purchasers for the privilege of using adult-use cannabis purchased in the municipality. The rate of tax shall not exceed 3% of the purchase price. If imposed, the tax shall only be imposed in 0.25% increments.

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

- Counties are authorized to impose a tax of up to 3% in incorporated areas and 3.75% on sales emanating from unincorporated areas (55 ILCS 5/5-1006.8(f)).
- The Illinois Department of Revenue (IDOR) will collect and administer the MCROT.
- The MCROT shall not be imposed on cannabis that is subject to tax under the Medical Cannabis Program Act. Sales of medical cannabis from registered medical cannabis dispensaries are taxed at the 1% rate imposed on prescription and nonprescription drugs in Illinois.
- Any ordinance imposing the tax must be certified by the municipal clerk of that unit of local government and filed with the IDOR before April 1 of any year, to be effective and enforced by IDOR on July 1 of that year, or before October 1 of any year, to be effective and enforced by IDOR on January 1 of the following year. (65 ILCS 5/8-11-23).
- The MCROT will be collected in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision of the state.

How are existing sales taxes affected?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

USE AND POSSESSION

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

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

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

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

Where is a person prohibited from possessing cannabis?

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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

Where is the use of cannabis prohibited?

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

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

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

FREQUENTLY ASKED QUESTIONS

Cannabis Regulation and Tax Act – as Amended by P.A. 102-0098

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

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

iml.org/cannabis

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

