

The background features abstract, overlapping green geometric shapes in various shades, creating a modern and dynamic feel. The shapes are primarily triangles and polygons, some with gradients, set against a white background.

Recreational Cannabis Legalization Zoning, Tax, and Regulations

Village of Lincolnwood
July 16, 2019



Cannabis Regulation & Tax Act (P.A. 101-0027)

- ▶ Passed General Assembly on May 31st and signed by Gov. Pritzker on 6/25/19
- ▶ Key components
 - ▶ Legalization of adult (21+) possession & use of cannabis for recreational purposes
 - ▶ Rapid but controlled expansion of cultivation centers and dispensaries
 - ▶ New cannabis businesses - Craft growers, processors, transporters
 - ▶ State and local taxation
 - ▶ Mass expungement of minor violations of Cannabis Control Act
 - ▶ Social equity programs
- ▶ SB 2023 (P.A. 101-____) - Expands Medical Cannabis Law
 - ▶ Adds new qualifying conditions: Autism, chronic pain, irritable bowel syndrome, migraines, osteoarthritis, anorexia nervosa, Ehlers-Danlos Syndrome, Neuro-Behcet's Autoimmune Disease, neuropathy, polycystic kidney disease, and superior canal dehiscence syndrome
 - ▶ Allows RNs and physician's assistants to prescribe



Timing

- ▶ Effective: Became effective immediately upon Governor's signature
 - ▶ Licensing and agency rulemaking process commences immediately
 - ▶ First applications and FAQs issued by IDFPR on Wednesday 6/26
 - ▶ First legal sales: January 1, 2020
 - ▶ No consumption allowed until legal means to purchase
- ▶ Existing cultivation centers (20) and dispensaries (56) can:
 - ▶ Obtain "Early Approval" licenses to grow and sell to to adult market from existing locations
 - ▶ Early approval licenses not required to show zoning compliance
 - ▶ Obtain "Secondary Location" licenses to sell to adult market
 - ▶ Secondary Location licenses are required to show zoning compliance
 - ▶ Secondary Location applications will be accepted by IDFPR starting mid-August
- ▶ Potential "Day One" Retail Market: 112 dispensaries statewide



What will be allowed? – Use & Sale

- ▶ Adult recreational possession and use - 21 and up
 - ▶ Possession of up to 30 g flower/raw, 5 g concentrated, 500 mg of infused products
 - ▶ Non-residents are allowed half these amounts
- ▶ Licensed commercial sale of leaf, edibles, and tested derivatives
 - ▶ Existing medical dispensaries to address “Day One” demand through “Early Approval”
 - ▶ Staggered expansion through 2021
 - ▶ Maximum number of dispensary licenses will be 500
 - ▶ “Craft Growers” will be able to have dispensary license for same location
- ▶ **NEW:** On-Premises consumption in dispensaries and other establishments
 - ▶ Entirely subject to local permission and regulation



What will be prohibited?

- ▶ Location of a dispensary within 1,500 feet of another dispensary
- ▶ Consumption in “Public Places”: Defined as “any place where a person could reasonably be expected to be observed by others.”
 - ▶ Does not include residences or cannabis establishments locally authorized for on-site consumption
- ▶ Consumption on school grounds
- ▶ Consumption “in close physical proximity” to persons under 21
- ▶ Consumption by smoking anywhere prohibited by the Smoke Free Illinois Act
- ▶ Sale to minors
- ▶ Home delivery
- ▶ Advertising that...
 - ▶ Makes medical or health claims
 - ▶ Includes images of cannabis leaf or buds
 - ▶ Includes imagery that would appeal to minors



What will be prohibited?

- ▶ Youth possession and consumption (other than for medical purpose)
 - ▶ Class A Misdemeanor
 - ▶ Secretary of State can revoke driver's license
- ▶ Open Container: No possession in motor vehicle unless the cannabis is in a "sealed, odorless, tamper-evident cannabis container" and "reasonably inaccessible"
 - ▶ Class A Misdemeanor
- ▶ DUI - Minimal bloodstream concentration for presumption of impairment/intoxication
 - ▶ 5 nanograms or more of THC in whole blood; or
 - ▶ 10 nanograms of THC in other bodily substance
 - ▶ Presence of less can still be considered with other evidence for DUI
 - ▶ Refusal to submit to field sobriety or chemical testing: 6 month suspension
- ▶ Use by firefighters and police while "on duty" or "on call"
 - ▶ "on call" when such employee is scheduled with at least 24 hours' notice by his or her employer to be on standby or otherwise responsible for performing work-related tasks



What will be taxed?

- ▶ Cultivation — Cannabis Cultivation Privilege Tax of 7% on wholesale (State)
 - ▶ Applies to cultivators, craft growers, or processors who sell to dispensing organizations
- ▶ Dispensaries — Cannabis Purchaser Excise Tax (State)
 - ▶ 10% on raw cannabis with THC at or below 35%
 - ▶ 20% on all cannabis infused products
 - ▶ 25% on raw cannabis with THC above 35%
- ▶ Municipal Cannabis Retailers' Occupation Tax: Up to 3% of retail purchase price
- ▶ County Cannabis Retailers' Occupation Tax
 - ▶ 3.0% in incorporated areas (in addition to Municipal Excise Tax)
 - ▶ 3.75% in unincorporated areas
- ▶ Existing state, county, and local sales taxes will also apply
- ▶ IDOR will collect all state and local taxes



Extent of Local Authority?

- ▶ Home Rule Preempted
- ▶ CAN enact reasonable zoning regulations for cannabis businesses that don't conflict with Act
- ▶ CAN require conditional/special use permits for cannabis businesses to impose limits on "time, place, manner, and number" of operations
- ▶ CAN outright ban all cannabis businesses by ordinance
- ▶ CAN locally regulate consumption in a manner consistent with Act
- ▶ CAN prohibit, permit, and regulate private businesses that allow on-premises consumption
- ▶ CANNOT "unreasonably prohibit" home grow



Extent of Local Authority?

- ▶ Home Rule Preempted
- ▶ CAN enact reasonable zoning regulations for cannabis businesses that don't conflict with Act
 - ▶ Limit to specific districts and impose appropriate parking requirements
- ▶ CAN require conditional/special use permits for cannabis businesses to impose limits on "time, place, manner, and number" of operations
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- ▶ CAN require conditional/special use permits for cannabis businesses to impose limits on "time, place, manner, and number" of operations
 - ▶ Cannot impose conditions "in a manner more restrictive" than Act
 - ▶ Minimum separation requirements from sensitive locations (e.g. colleges)
 - ▶ Limited hours of operation? Act permits operation between 6 a.m. - 10 p.m.
 - ▶ Can number be "0"?
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- ▶ CAN require conditional/special use permits for cannabis businesses to impose limits on "time, place, manner, and number" of operations
- ▶ CAN outright ban all cannabis businesses by ordinance
 - ▶ May be able to ban certain classes of business (dispensaries & craft growers) but allow others
- ▶ CAN locally regulate consumption in a manner consistent with Act
- ▶ CAN prohibit, permit, and regulate private businesses that allow on-premises consumption
- ▶ CANNOT "unreasonably prohibit" home grow

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- ▶ CAN locally regulate consumption in a manner consistent with Act
 - ▶ Align local ordinances regarding consumption with Act's prohibitions and penalties
 - ▶ Penalties cannot exceed those set forth in Act
 - ▶ Prosecute through local adjudication
- ▶ CAN prohibit, permit, and regulate private businesses that allow on-premises consumption
- ▶ CANNOT "unreasonably prohibit" home grow



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- ▶ CAN locally regulate consumption in a manner consistent with Act
- ▶ CAN prohibit, permit, and regulate private businesses that allow on-premises consumption
 - ▶ No detail beyond operation is subject to local authorization/permission
 - ▶ Our Interpretation: Broad authority to regulate operations and permit inspections
- ▶ CANNOT "unreasonably prohibit" home grow

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- ▶ CAN prohibit, permit, and regulate private businesses that allow on-premises consumption
- ▶ CANNOT "unreasonably prohibit" home grow
 - ▶ Leaves door open for "reasonable" regulation of home grow by registered medical patients
 - ▶ Local registration
 - ▶ Right to inspect to confirm compliance with Act
 - ▶ Zoning for cultivation in accessory structures?



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- ▶ Local Licensing?

Current Zoning Code - Medical Facilities

Medical Cannabis Dispensary: A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered medical cannabis cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients (as that term is defined in the Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 *et seq.*).

- ▶ Require a special use
- ▶ Local distance requirements
- ▶ Not allowed in multi-tenant properties - single tenant properties only
- ▶ Signage and exterior display limitations
- ▶ Loitering and consumption prohibited on dispensary property

Medical Cannabis Cultivation Center: A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensaries with usable medical cannabis.

- ▶ Prohibited within the Village due to distance requirements

Questions to Consider

- ▶ Does Lincolnwood want to allow recreational/adult use cannabis businesses?
 - ▶ If yes - In which districts?
 - ▶ If no - All cannabis businesses?
 - ▶ Treating different uses distinctly - Cultivation Centers, Dispensaries, Craft Growers, Infusers, Processors
- ▶ What operational conditions should apply?
 - ▶ Conditional Uses
 - ▶ Distance Requirements
 - ▶ From Medical Cannabis Act: “dispensing organization may not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility.”
 - ▶ Hours of Operation
 - ▶ Cap Number of Facilities
 - ▶ Parking
- ▶ Local Taxation - Impose a Local Retailer’s Occupation Tax?