

KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE

Kendall County Office Building

Rooms 209 & 210

111 W. Fox Street, Yorkville, Illinois

8:00 a.m.

Meeting Minutes of August 26, 2019

CALL TO ORDER

The meeting was called to order by Chairman Prochaska at 8:02 a.m. Chairman Prochaska led the attendees in the Pledge of Allegiance.

ROLL CALL

Committee Members Present: Elizabeth Flowers, Scott Gengler, Judy Gilmour, Matt Kellogg (arrived at 8:04 a.m.) (Vice-Chairman), and Matthew Prochaska (Chairman)

Committee Members Absent: None

Also Present: Matt Asselmeier (Senior Planner), Scott Koeppel (County Administrator), Brian Holdiman (Code Compliance Officer), Beth Whitley, Tom Tanner, Greg Stromberg, and Katie Finlon

APPROVAL OF AGENDA

Member Flowers made a motion, seconded by Member Gengler, to approve the agenda as presented. With a voice vote of four (4) ayes, the motion carried unanimously.

APPROVAL OF MINUTES

Member Gilmour made a motion, seconded by Member Flowers, to approve the minutes of the August 12, 2019, meeting. With a voice vote of four (4) ayes, the motion carried unanimously.

EXPENDITURE REPORT

Review of Expenditures from the Prior Month

The Committee reviewed the Expenditure Report.

Member Kellogg arrived at this time (8:04 a.m.).

Member Gilmour asked about the Schlapp Road banquet center. Mr. Asselmeier reported that this expenditure relates to WBK's review of the stormwater management permit application.

Member Flowers asked about the refund. Mr. Asselmeier responded that the refund was for an unused building permit.

Member Flowers made a motion, seconded by Member Gengler, to forward the bill to the Finance Committee. With a voice vote of five (5) ayes, the motion carried unanimously.

PUBLIC COMMENT

None

PETITIONS

19 – 29 – Richard Wagner on Behalf of State Bank of Illinois

Mr. Asselmeier summarized the request.

On August 20, 1996, the Kendall County Board granted a special use permit for a bed and breakfast at 15426 A Millhurst Road, Plano. Ordinance 1996-13, which granted the special use permit, was provided.

The current property owner, State Bank of Illinois, acquired the property in 2013. Richard Wagner is the sole beneficiary and is authorized to speak for State Bank of Illinois.

On August 8, 2019, Mr. Wagner submitted a request for the revocation of the special use permit for a bed and breakfast at this location. A copy of the revocation ordinance was provided.

The subject property is zoned A-1. If the special use permit is revoked, the property will retain its A-1 zoning classification.

Staff recommends approval of the proposed special use permit revocation.

Member Gengler made a motion, seconded by Member Flowers, to recommend approval of the requested special use permit revocation. With a voice vote of five (5) ayes, the motion carried unanimously. This matter will go to the County Board on September 3rd.

NEW BUSINESS

None

OLD BUSINESS

Discussion of Hide-A-Way Lakes

Tom Tanner provided a history of the zoning on the Hide-A-Way Lakes property. He argued that the recent death and train wreck were not his fault. He stated that the campground is the prettiest in the State. He offered to show the campground to Committee members.

Chairman Prochaska asked about people staying longer than four (4) months. Mr. Tanner responded that people sign an agreement stating that they will not stay continuously for more than four (4) months and they will not make the campground their permanent place of abode.

Chairman Prochaska asked if the log tracks how many days a person stays on the property. Mr. Tanner said that he asks the visitor if he does not know. Member Kellogg asked if the information required in the log is gathered. Mr. Tanner said that he gathers the required information. Mr. Tanner said the amount of time he keeps the log was several months.

Member Kellogg asked about adequate screening. Mr. Tanner said that trees were planted previously.

Chairman Prochaska asked if the manager was living on the property. Mr. Tanner responded that nobody is currently living in the house.

Member Flowers asked if a check-out log existed. Mr. Tanner did not have a specific check-out log.

Mr. Tanner was aware of the 1981 ordinance.

Discussion occurred Yogi Bear Campground's ordinance.

Member Kellogg asked about wheels on recreational vehicles. Mr. Tanner was not aware of any issues.

Member Gilmour asked about whether or not campers are permanent. Mr. Tanner responded that some recreational vehicles stay year-round.

Discussion occurred regarding whether or not the 1983 ordinance applied to Hide-A-Way Lakes. Mr. Asselmeier said the 1983 ordinance was adopted after the Hide-A-Way Lakes special use permit was approved.

Chairman Prochaska asked about the Juniper tree specified in the 1984 special use permit ordinance. Mr. Tanner was not sure if the trees were still alive.

Member Gengler asked who was responsible for maintenance of lots. Mr. Tanner responded campers are responsible for maintenance of their lot.

Mr. Tanner said people are charged if they leave a trailer on the property.

Discussion occurred regarding calls of service to the property. Mr. Tanner stated that the property is zoned for a large number of people; the Hide-A-Way Lakes address has many people in one (1) address.

Mr. Tanner said that he did not have a sign saying not to call emergency services.

Chairman Prochaska asked if any events are open to the public. Mr. Tanner responded that the public can picnic on the property.

Member Gengler asked about the gate and having a pass. Mr. Tanner said they check people when they enter the property and passes are given out at the gate.

Chairman Prochaska asked who was designated as manager. Mr. Tanner said that he was serving as manager. No one presently has permission to live year-round at the property.

Member Flowers asked about number of employees. Mr. Tanner responded that he has between five (5) and six (6) employees.

Member Kellogg suggested that Mr. Tanner clarify on his website that people cannot stay on the property continuously more than four (4) months.

Member Kellogg asked if Mr. Tanner could produce a log book showing who was on the property. Mr. Tanner said that he needed to update the log book to show people that have left the property recently. Mr. Tanner said he could get the log book updated in a few hours.

Update on 45 Cheyenne Court

Mr. Asselmeier provided an updated picture of the property taken August 22, 2019.

The Committee requested an explanation regarding lack of progress. Mr. Stromberg explained that the humidity has prevented him from completing the staining of the second coat. The remodeling started ten (10) years ago.

The consensus of the Committee was to place an item on the September agenda referring the matter to the State's Attorney's Office, if the project is not completed.

Discussion of Planning, Building and Zoning Department Staff-Committee Could Approve Part-Time Inspector Job Description

Mr. Koepfel distributed the job description and explained the funding for the position. The position would average ten (10) hours per week with more working in the summer and less work in the winter.

Member Flowers made a motion, seconded by Member Gilmour, to forward the job description to the State's Attorney's Office prior to referring the job description to the County Board. With a voice vote of four (4) ayes and one (1) nay, the motion passed. Member Kellogg dissented.

Zoning Ordinance Project Update

Mr. Asselmeier provided an update.

The Comprehensive Land Plan and Ordinance Committee has reviewed Sections 1 and 2. They would like to combine the definitions found in Section 3 with the signage related definitions found in Section 12.

Mr. Asselmeier has reviewed Sections 4, 5, 6, 7, 8, and part of Section 12.

Discussion of Recreational and Medicinal Marijuana Zoning Regulations-Committee Could Initiate a Text Amendment to the Kendall County Zoning Ordinance on This Matter

Beth Whitley, Outreach Coordinator for 3C Compassionate Care Center, discussed cannabis related regulations. She discussed the medical cannabis patient program and the opioid alternative patient program. The medical cannabis patient program allows access to cannabis for three (3) years with doctor's approval. The opioid program only allows access to cannabis for ninety (90) days with physician's approval. There are fifty-five (55) dispensaries in Illinois that have a medical license. All of them can acquire a recreational license. A medical patient is allowed two point five (2.5) ounces of cannabis every fourteen (14) days. Edibles are maxed at one (1) gram.

The sunset provisions have been removed from the medical regulations.

The City of Naperville restricts this type of use to industrial parks for medicinal cannabis uses. No calls for service have occurred at their property. No consumption is allowed on their property.

Mr. Koepfel stated that the two (2) big zoning decisions that need to be made are which zoning districts should these uses be allowed and distances from certain uses.

Chairman Prochaska asked how the zoning in Naperville has impacted their business. Ms. Whitley responded that things have worked out well. People did not know that the business existed originally.

Committee members reviewed maps where cannabis related business could locate.

Craft growers, dispensing organizations, and infuser organizations may co-locate with like business.

The set back from residentially used property for gun ranges was one thousand feet (1,000').

Discussion occurred regarding which townships could review the text amendment. Any township with a planning commission could file a formal objection to a proposed text amendment. Discussion occurred regarding obtaining township input. The Committee will have a special meeting tentatively set for September 11th at 6:30 p.m.; townships, the Sheriff Office, Health Department, Regional Planning Commission, and the Zoning Board of Appeals will be invited to the meeting.

The opt-out discussion will occur at the Committee of the Whole in September.

The consensus of the Committee was to use the Illinois Municipal League's proposal as a starting point.

The consensus of the Committee was that craft growers be a special use in A-1, M-1, and M-2. The distance from schools and houses was set at one thousand feet (1,000'). Member Gilmour favored a one thousand five hundred foot (1,500') distance.

The consensus of the Committee was that forest preserves, public parks, and places of worship should have the same distances as schools for all cannabis related uses.

The consensus of the Committee was to address medical cannabis related uses in the proposal as well.

Member Kellogg did not favor the barbed wire requirement.

Member Flowers left at this time (9:40 a.m.).

The consensus of the Committee was that recreational and medicinal cultivation facilities be in the M-1 and M-2 and set a distance at two thousand five hundred feet (2,500) per State law.

The consensus of the Committee was that dispensing organizations, both recreational and medicinal be one thousand feet (1,000') and they be in the B-3, M-1, and M-2. Onsite consumption would not be allowed. Hours of operation would remain the same as current medical dispensing organizations.

The consensus of the Committee was that infusers be in the B-3, M-1, and M-2. Distances would be one thousand five hundred feet (1,500') from schools, parks, and churches and two hundred fifty feet (250') from residential uses.

The consensus of the Committee was that processing organizations be in the same districts and same distances as infusers.

The consensus of the Committee was that transporting organizations be in the M-1 and M-2 and have the same distances as infusers and processing organizations.

Member Kellogg made a motion, seconded by Member Gengler, to initiate the text amendment on recreational and medical cannabis zoning regulations. With a voice vote of four (4) ayes, the motion carried without dissent. The proposal will go to ZPAC on September 3rd.

REVIEW VIOLATION REPORT

The Committee reviewed the Violation Report.

Approval to Forward to the Kendall County State's Attorney's Office a Violation of Section 7.01 (Operating an Asphalt Business on A-1 Zoned Property) and Section 12.06.A.3 (Illegal Sign in the Right-of-Way) of the Kendall County Zoning Ordinance at 5408 Route 71

Member Kellogg made a motion, seconded by Member Gengler, to forward the complaint to the State's Attorney's Office. With a voice vote of four (4) ayes, the motion carried without dissent.

Approval to Forward to the Kendall County State's Attorney's Office a Violation of Section 11.05.A.1.b.ii of the Kendall County Zoning Ordinance (Prohibited Parking of a Trailer in the Front Yard Setback) at 18 Ridgfield Road

Member Kellogg made a motion, seconded by Member Gengler, to forward the complaint to the State's Attorney's Office. With a voice vote of four (4) ayes, the motion carried without dissent.

REVIEW NON-VIOLATION COMPLAINT REPORT

The Committee reviewed the report.

UPDATE FROM HISTORIC PRESERVATION COMMISSION

Mr. Asselmeier reported that the Commission elected Jeff Wehrli as Chairman, Melissa Maye as Vice-Chairman, and Elizabeth Flowers as Secretary. The Illinois Historic Preservation Agency will be filing the position for reviewing Certified Local Government status. The Commission was waiting on comments from the State before forwarding the proposed changes to the Historic Preservation Ordinance to the County Board.

REVIEW PERMIT REPORT

The Committee reviewed the report.

REVIEW REVENUE REPORT

The Committee reviewed the report.

CORRESPONDENCE

None

COMMENTS FROM THE PRESS

None

EXECUTIVE SESSION

None

ADJOURNMENT

Member Gilmour made a motion, seconded by Member Gengler, to adjourn. With a voice vote of four (4) ayes, the motion carried without dissent. Chairman Prochaska adjourned the meeting at 10:00 a.m.

Minutes prepared by Matthew H. Asselmeier, AICP, Senior Planner

Enc.

1.) In regards to the Length of Stay Ordinance:

Every camper must sign this registration form, in which they agree not to make this their permanent abode and not to stay more than four months continuously. If in fact you find someone in violation of this ordinance, please let us know and we will have them leave. They of course will be allowed to return after a short while.

2.) Individual Mail Service:

There has never been individual mail service here at Hide Away Lakes. The mail man delivers the mail to Hide Away Lakes-NOT to individual campers. If the county did not agree with this OBVIOUS interpretation, then they should have said so FORTY YEARS AGO.

ADDITIONAL RULES FOR MONTHLY/WEEKLY CAMPERS

1. Only ONE camping unit per site. No vehicles are allowed on site when trailer is not occupied.
2. No lights may be attached to trees. No clotheslines allowed. No refrigerators outside of trailer.
3. Each camping unit MUST have a current camper permit in a window visible from the road.
4. Campers are required to keep their sites neat at all times, or there will be a \$10 extra fee per day.
5. The yearly and seasonal rate does not include full time living in trailer. For an additional fee, a maximum of four (4) months continuous occupancy is allowed. The camper hereby agrees to pay any fine levied by any government agency upon them or HIDE-A-WAY LAKES if they DO NOT leave the campground when asked by park management to do so.
6. Patios & Decks... All patios & decks must be made with Wolmanized[®] wood or with concrete patio blocks. No plywood will be allowed on decks. No fences allowed.
7. No scrap lumber or other debris shall be allowed on campsites. Please put away all items as to keep your campsite looking clean and neat. Items left on campsite will be cleaned up and put in a storage area by park personnel, or a \$10 per day penalty. We CAN NOT guarantee the security of these items.
8. Each trailer owner must have his own liability and comprehensive insurance.
9. Camper agrees to follow ALL campground rules given to them by park management and/or as posted at Campground Office.
10. Daily rate will apply if weekly or monthly fees are not paid on time.
11. Each camper and R.V. owner must have his own electrical surge protector. Neither the local electric company nor HIDE-A-WAY LAKES shall be responsible for electrical surges.
12. HIDE-A-WAY LAKES is not and shall not become my permanent place of abode. I have not and agree that I will not occupy my R.V. for more than four (4) months continuously at HIDE-A-WAY LAKES.
13. If I become more than 3 days late in my rent payment, I hereby give HIDE-A-WAY LAKES permission to move my camper and anything else on my lot, to be put into storage until rent is paid, and/or shut off electric.

SIGNED: _____

HIDE AWAY LAKES

I have always said if the county can find anyone staying here in violation of our ordinance I will have them leave, no problem! However, it can't be just your opinion. It must be proven and ordered by a judge. If in fact the states Attorney brings a case against me (which is highly doubtful) and if the judge rules in your favor (highly doubtful), Then I would make the few people in question still left in the park-leave after this long ordeal. Most of these people will have already left by the time this case is adjudicated. These few people will then be made to leave. However, these few people will then be allowed to return after a while away. In other words, what if anything has been accomplished after all of this foolishness?

Hide Away Lakes is the top tourist attraction in Kendall County. Our customers spend more money in the county than any other tourist draw (Raging Waves or Yogi Bear Campground). The city of Yorkville gives \$50,000 per year to the local tourist bureau to attract tourists to the county. The county may be spending many more thousands of dollars to fight in court to keep ~~out~~ tourists out. The people of the county would laugh about this or the tax payers might cry. The newspapers would have a field day over this.

disposal system. Campers with self-contained RVs need to empty their sewage holding tanks and refill their water storage tanks. Campers with tents or dependent RVs require service buildings with toilets and showers. All campers need places to dump their refuse. The provision of all of these sanitary facilities is usually regulated by the state or local health department, which is commonly required to approve the development application before a conditional use permit or a rezoning is granted. The health department typically issues an operator's license and is responsible for inspecting the RV park over its lifetime to insure that it continues to maintain health standards. Appendix B includes a copy of the Colorado Health Department's new provisions, as an example.

Elements of the water, sewer, and solid waste disposal systems which should be required include a sanitary or dumping station for emptying sewage holding tanks, a water station for filling water storage tanks, a service building containing showers and toilets, and refuse containers for solid waste. Although it would be ideal from a public health standpoint to have water and sewer connections at each campsite, it is inappropriate to require RV park developers to provide this costly service.

OTHER UTILITIES AND PUBLIC SERVICES

Provisions for electricity or gas, campground illumination, and fire protection are important to RV park users' safety and well-being, but they are not appropriate for the zoning code. Standards for these utilities and services usually are set by other local departments, such as the building department, the public works department, the fire department, or the engineering department. A good example of detailed utility requirements is the *Standard for Recreational Vehicle Parks* published by the National Fire Protection Association, the Recreational Vehicle Institute, and the Trailer Coach Association. The most recent edition of these standards was published in 1974. (Refer to the bibliography for further information.)

LENGTH OF STAY

About one-third of the communities we studied regulate length of stay or the length of time a camping party can sojourn in an RV park. This provision's purpose is to prevent the use of RV parks as permanent residences, a trend which can place excessive demands on local public service—for example, the school system.

Our interviews with zoning officials did not turn up any examples of communities that strictly enforced these provisions. Nor did any officials hint that permanent residency in RV parks had become so widespread in their jurisdictions that demands on public services had seriously escalated.

Zoning officials from communities which do not regulate length of stay, particularly those from the southwestern states, suggested that such regulation is not always desirable because the trade generated by vacationing campers far outweighs the cost of additional services. In the southwest, most RV park users are retired couples or couples without children, so demands on one of

the most costly services, the local school system, are negligible.¹⁴

Ordinances regulating length of stay either have fairly restrictive occupancy limitations—limiting length of stay to three to 14 days—or more permissive regulations—no more than 30 days in any 60-day period, or no more than 90 days in any 120-day period, or no more than six months in any 12-month period.

§47-13.3(b) Spaces for Occupancy-Uses Permitted and Length of Stay

... Spaces shall be rented by the day only, and occupant of such space shall remain in the same trailer park not more than seven (7) days.

*Zoning Ordinance
Joliet, Illinois*

§409-B.E.5

A travel trailer, house trailer, or recreation vehicle shall not remain in a Trailer Park for more than three (3) months in any one (1) year period.

*Zoning Ordinance
Tempe, Arizona*

Since it is becoming more common for RV campers to spend entire winter or summer seasons vacationing in RV parks, and since there is evidence that these extended vacationers can provide more economic benefits to the community than costs, it seems unreasonable to limit length of stay to less than three or four months of any year. To do so would be tantamount to limiting occupancy in a hotel or motel to a week or several weeks, a restriction no zoning code would attempt. Another indication that restrictive time limits are inappropriate comes from the comments of local zoning officials. According to them, restrictive length of stay provisions are either unenforced or unenforceable.

It appears that the best way to handle the length of stay provision is to emphasize the main point—that RV parks are not intended for permanent residency—and then specifically indicate what permanent residency consists of:

§3. Permanent Occupancy Prohibited

(1) No travel trailer shall be used as a permanent place of abode, dwelling, or business or for indefinite periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy.

(2) Any action toward removal of wheels of a travel-trailer except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.

—“*Regulating Travel-Trailer Parks*,”
(A model ordinance).
The Municipality, 1971

14. Interviews with Edgar Jaffee, zoning administrator, Sarasota County, Florida; Michael Ritz, planning director, Chesterfield County, Virginia; and Atis Krigers, planner I, Tempe, Arizona; April 1976.

Kendall County Job Description

TITLE: Code Enforcement Officer – Part Time
DEPARTMENT: Planning, Building and Zoning (PBZ)
SUPERVISED BY: County Administrator
FLSA STATUS: Non Exempt
APPROVED: In Process

I. Position Summary:

Investigates complaints of possible violations of zoning regulations, providing information to the public on zoning requirements, home construction project violations, and obtaining, where possible, voluntary compliance with code requirements and standards for construction in Kendall County. Has authority to order the removal or alteration of conditions or materials, which violate applicable codes and ordinances. Field inspection duties are conducted independently according to adopted standards and regulations, referring more complex situations to the Code Official, Senior Planner and County Administrator.

II. Essential Duties and Responsibilities:

- A. Investigates zoning and building ordinance complaints, such as non-permitted construction, excavation, trailers, dumping, signs, junk vehicles and weeds, mobile homes and campgrounds.
- B. Conducts field inspections and provide assistance to property owners for correcting property and building deficiencies in conformance with the intent set forth in codes and ordinances.
- C. Contacts persons responsible for violations and issues notice to discontinue, remove or alter conditions which conflict with zoning regulations.
- D. Prepares investigative documentation, including photographs required to support findings.
- E. Maintains on-going surveillance of assigned area for zoning/code compliance.
- F. Attends court as needed regarding violation cases submitted for prosecution.
- G. Performs record search to determine accuracy of data such as location, ownership, district and legal description.
- H. Issues vehicle violation notices and arranges for towing of vehicles.
- I. Coordinates investigations with Law Enforcement, Health Department and other investigative agencies as needed.
- J. Prepares and maintains records regarding and relating to all duties performed, including but not limited to inspection logs, photographs or violations, reports of findings, records of inspections and review.
- K. Evaluates the code compliance process and provides recommendations for improvements.
- L. Travels throughout Kendall County for code compliance purposes.
- M. Operates county vehicle safely.

- N. Performs other duties as assigned by supervisor.
- O. Attends meetings and prepares reports as needed.

III. Qualifications:

To perform this job successfully, an individual must be able to perform all essential duties satisfactorily. The requirements listed below are representative of the knowledge, skills and/or ability required for the position

A. Skills, Knowledge and Abilities

- Strong organizational skills and attention to detail.
- Knowledge of zoning and related regulations and of the provisions of the County Zoning Ordinance.
- Methods and practices used in construction, repair, and land survey.
- Some knowledge of building codes and their application for purposes of evaluation of buildings and their condition.
- Basic geography of the County.
- Applicable federal, state, and local laws, rules, regulations, codes, and/or statutes.
- Interpreting plans and specifications.
- Gathering violation data and ownership information based on field observation and the use of investigative questioning techniques.
- Evaluating situations and drawing conclusions.
- Using computer hardware and software including word processing, spreadsheets, databases, email, etc.
- Applying an acquired knowledge of procedures, rules, regulations and services applicable to the assigned office.
- Manage projects and multiple priorities simultaneously.
- Analyze problems, identify alternative solutions, project consequences of proposed actions, and implement recommendations in support of goals.
- Plan, analyze and evaluate programs and services, operational needs and fiscal constraints.
- Establish and maintain effective working relationships with department and staff, other departments, elected officials and others, such as vendors and the general public.
- Communicate and use interpersonal skills to interact with coworkers, supervisor, the general public, etc. to sufficiently exchange or convey information and to receive work direction.
- Convey excellent oral and written communication.
- Work effectively under stress.
- Maintain confidentiality.

B. Work Standard and Best Practice Guidelines:

- Adheres to all work and safety policies.
- Attends conferences, seminars, training and meetings.
- Follows governmental functions of development regulation and the role of the employee as service provider.

C. Education and Experience:

- A minimum of a high school diploma or GED is required.
- Code enforcement, law enforcement or other administrative experience preferred.
- Valid and current Illinois Driver's License and good driving record is required.

IV. Physical Demands:

While performing the duties of this job, the employee must be able to:

- Frequently sit for hours in meetings and/ or a vehicle;
- Occasionally lift and or move up to 50 pounds;
- Stand and walk on uneven ground and at development sites;
- Use hands to finger, handle, or feel;
- Reach, push and pull with one and or both hands and arms;
- Bend over at the waist and reach with one and or both hands and arms;
- Climb and balance at home and development sites;
- Stoop, kneel, crouch and or crawl;
- Talk and hear in person and via use of telephone;
- Operate County vehicles and safety equipment;
- Specific vision abilities include close and distance vision, depth perception; and
- Travel independently to various sites, public hearings and other meetings and locations both within and outside Kendall County

V. Work Environment:

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. While performing the duties of this job, the employee is subject to the following working conditions:

- Inside and outside environmental conditions.
- Will be exposed to driving and onsite construction conditions.
- The noise level in the work environment varies from quiet to noisy.
- The employee must be able to perform all assigned job duties during normal business hours and outside of normal business hours.
- The employee may be exposed to stressful situations while working with elected officials, consultants, attorneys, applicants and the general public.
- The employee may be required to provide own transportation to travel to and from meetings, training, conferences, etc.

ADULT USE CANNABIS SUMMARY

The following summarizes the major elements of the amendment that will be filed to Senate Bill 7 to legalize recreational adult use cannabis in Illinois.

PERSONAL USE OF CANNABIS

Starting January 1, 2020, adults over 21 will be able to legally purchase cannabis for recreational use from licensed dispensaries across the state.

- Possession limit for Illinois residents:
 - 30 grams of cannabis flower;
 - 5 grams of cannabis concentrate;
 - 500 milligrams of THC contained in a cannabis-infused product; or
 - People may possess more than 30 grams of cannabis if it is grown and secured in their residence under certain conditions.

- Possession limit for non-Illinois residents:
 - 15 grams of cannabis flower;
 - 2.5 grams of cannabis;
 - 250 milligrams of THC contained in a cannabis-infused product.

- The possession limits are to be considered cumulative.

COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM

- The legalization of adult use cannabis does not alter the state's medical cannabis pilot program.

PROMOTING EQUITY

- Creation of a \$20 million low-interest loan program
 - DCEO will administer a low-interest loan program to qualified "social equity applicants" to help defray the start-up costs associated with entering the licensed cannabis industry.

- Establishment of a "social equity applicant" status for licensing
 - A social equity applicant is an Illinois resident that meets one of the following criteria:
 - Applicant with at least 51 percent ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a disproportionately impacted area.
 - Applicant with at least 51 percent ownership and control by one or more individuals who have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family;
 - For applicants with a minimum of 10 full-time employees, an applicant with at least 51% of current employees who:
 - Currently reside in a disproportionately impacted area; or
 - Have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family.

- Application for new entrants to the market
 - Scoring process for dispensaries. (The Department of Agriculture will develop a similar process through the rulemaking process for cultivation centers, processors, and craft growers.)
 - The legislation contains the scoring process IDFPR will use to review applications.
 - Out of a total of 200 points, 25 points are specifically designated for applicants that qualify as “social equity applicants.”
 - IDFPR may award up to 12 bonus points for applicants for preferred, but not required, initiatives. Bonus points will only be awarded in the event that the department receives a greater number of applications that meet the minimum number of points required.
 - Labor and employment practices (2)
 - Labor peace agreement (2)
 - Local community/neighborhood report (2)
 - Environmental plan (2)
 - Illinois owner (2)
 - A plan to engage the community (2)
- Fee waivers
 - The Department of Financial and Professional Regulation and the Department of Agriculture will waive 50 percent of any non-refundable license application fees (up to 2 applications) and any non-refundable fees associated with purchasing a license to operate a cannabis business establishment (up to two licenses) if social equity applicants meet certain conditions.
- Reducing up-front costs
 - Applicants who receive a conditional dispensing organization license will have 180 days from the date of the award to identify a physical location for the dispensing organization retail storefront when new entrants are allowed in the market. This will reduce the costs associated with entering the industry.
- Limitations on ownership
 - No person or entity shall hold any legal, equitable, or beneficial interest, directly or indirectly, of more than 3 cultivation centers.
 - No person or entity shall hold any legal, equitable, or beneficial interest, directly or indirectly, of more than 10 dispensing organizations.
 - No craft grower license shall be issued to any person or entity with more than 10% interest in a cultivation center.
 - No person or entity shall hold any legal, equitable, ownership, or beneficial interest, directly or indirectly, of more than one craft grower license under this article.
- Identify disproportionately impacted areas.
 - DCEO will designate “disproportionately impacted areas” for social equity applicants
 - “Disproportionately impacted area” is defined as a geographic area that is economically disadvantaged and has been impacted by high rates of arrest, conviction, and incarceration for violations of the Cannabis Control Act.

ACHIEVING EQUITY THROUGH OWNERSHIP AND LICENSURE

The following process is designed to ensure the most equitable marketplace in the country.

- Early approval adult use license for current medical cannabis license holders
 - Timeline for licensing
 - Cultivation organizations:
 - Medical cannabis cultivators may apply for a license within 60 days of the effective date of the Act.
 - Licenses will be distributed to eligible applicants within 45 days.
 - Dispensing organizations:
 - Medical cannabis dispensaries may apply for a license within 60 days of the effective date of the Act.
 - Licenses will be distributed to eligible applicants within 14 days.
 - The sale of adult use cannabis will begin January 1, 2020.
 - These entities may apply for a second license at a new location under the same parameters.
 - Licensing costs for early approval adult use licenses
 - Cultivation organizations:
 - Non-refundable permit fee: \$100,000
 - Cannabis business development fund fee: 5% of total sales between July 1, 2018 to July 1, 2019 or \$500,000, whichever is less.
 - Dispensing organizations:
 - License 1
 - Non-refundable permit fee: \$30,000
 - Cannabis business development fund fee: 3% of total sales between July 1, 2018 to July 1, 2019 or \$100,000, whichever is less.
 - License 2
 - Non-refundable permit fee: 30,000
 - Cannabis business development fund fee: \$200,000
- New entrants to the adult use cannabis market
 - License types
 - Cultivation centers
 - Craft growers
 - Processors
 - Transporting organizations
 - Dispensing organizations
 - Timeline
 - WAVE 1
 - Department of Financial and Professional Regulation
 - May 1, 2020: The agency awards licenses for up to 75 new dispensing organizations
 - Department of Agriculture
 - July 1, 2020: The agency awards up to 40 licenses for processors, up to 40 licenses for craft growers, and licenses for transporting organizations.

- WAVE 2
 - Department of Financial and Professional Regulation
 - December 21, 2021: The agency awards up to 110 licenses for new dispensing organizations
 - Department of Agriculture
 - December 21, 2021: The agency awards up to 60 licenses for craft growers, up to 60 licenses for processors, and licenses for transporting organizations.
- Licensing costs for new entrants to the market
 - Craft growers
 - Non-refundable application fee \$5,000
 - License fee \$40,000
 - Processors
 - Non-refundable application fee \$5,000
 - License fee \$40,000
 - Transporting organizations
 - Non-refundable application fee \$5,000
 - License fee \$10,000
 - Dispensing organizations
 - Non-refundable application fee \$5,000
 - License fee \$30,000

INVESTING IN COMMUNITIES THAT SUFFERED THROUGH THE WAR ON DRUGS

- The proposal would establish a new grant program, the Restoring Our Communities (ROC) program, to invest in communities that have suffered the most because of discriminatory drug policies.
- ROC program overview
 - ICJIA will designate “ROC Areas” or locations where applicants will be eligible to apply for state funding through the ROC Board.
 - The ROC Board will consist of over 22 members and be chaired by the Governor, or his designee, and the Attorney General, or his designee.
 - The ROC Board will develop a grant application, solicit applications from eligible ROC Areas, distribute grants across the state, and monitor and evaluate ROC programs.
 - The ROC Board will deliver an annual report to the Governor’s Office about its progress.

EXPUNGING RECORDS

The following stand-alone offenses eligible for expungement.

Section 4 Possession (unlawful for any person to knowingly possess cannabis in the following amounts)		
a. <10g	Civil law violation	Fees; May be given probation and charges dismissed §10(a)
b. 10-30g	Class B Misdemeanor	<6 months; May be given probation and charges dismissed §10(a)
c. 30-100g	Class A Misdemeanor	<1 year; May be given probation and charges dismissed §10(a)
d. 100-500g	Class 4 Felony	1-3 years
Section 5 Manufacturer/Deliver (unlawful for any person knowingly to manufacture, deliver, or possess with intent to deliver or manufacture cannabis in the following amounts)		
a. <2.5g	Class B Misdemeanor	<6 months; May be given probation and charges dismissed §10(a)
b. 2.5-10g	Class A Misdemeanor	<1 year; May be given probation and charges dismissed §10(a)
c. 10-30g	Class 4 Felony	1-3 years; May be given probation and charges dismissed §10(a)
Section 8 Plants (unlawful for any person knowingly to produce or possess cannabis sativa plant unless authorized for purposes of research)		
a. < 5 plants	Class A Misdemeanor	< 1 year; May be given probation and charges dismissed §10(a)
b. 5-20 plants	Class 4 Felony	1-3 years; May be given probation and charges dismissed §10(a)

- Process for expungement
 - The proposal sets forth an expedited process of expunging the criminal records of individuals arrested, convicted, on supervision, or on probation for misdemeanor or Class 4 felony

violations of the Cannabis Control Act. The primary goals of this section are to (1) expunge cannabis-related records, and (2) streamline the process.

- The automatic expungement process requires the following:
 - The Department of State Police must identify all individuals with criminal records that are eligible for expungement and automatically expunge records of minor violations within two years of the effective date of the Act.
 - Within 180 days of the effective date of this act, the Department of State Police must notify (a) the prosecutor's offices responsible for prosecuting the offenses, (b) local law enforcement agencies, and (c) the Illinois Attorney General's office identifying all individuals with minor violations that are eligible for expungement.
 - Within 180 days of receipt of the notice from the Department of State Police, the appropriate States Attorney's offices shall file a proposed order with the court seeking expungement on behalf of individuals with eligible offenses. The Attorney General's office may file the proposed order if the State's Attorney has not.
 - Within 180 days after receiving the proposed order, the court will review the proposed order and order the expungement of court and law enforcement records unless it determines that the offense does not meet the definition of a minor violation.
 - The court will provide copies of the order to the Department of State Police, the arresting agency, relevant criminal justice agencies, and the individual whose record has been expunged.
- **The automatic expungement process does not apply to individuals with misdemeanor or Class 4 felony violations that were accompanied by charges other than a qualifying offense. Individuals with those records, and individuals in other circumstances, may separately petition the court to have their records expunged.**

EMPLOYMENT

- Nothing in the proposal prohibits employers from adopting reasonable employment policies concerning smoking, consumption, storage or use of cannabis in the workplace.
- Nothing in the proposal prohibits employers from disciplining an employee or terminating employment of an employee for violating the employer's employment policies or workplace drug policy.

TAXATION

- All taxes are deposited in the new Cannabis Regulation Fund
- Cultivation privilege tax
 - 7% of the gross receipts from the sale of cannabis by a cultivator, craft grower, or processor to a dispensing organization
- Cannabis purchaser excise tax:
 - 10% of the purchase price – Cannabis with a THC level at or below 35%
 - 20% of the purchase price – All cannabis infused products
 - 25% of the purchase price – Cannabis with a THC level above 35%
 - These taxes shall be in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision.
- Municipal purchaser excise tax:
 - Municipalities may enact a purchaser excise tax up to 3% in increments of 0.25%
 - Counties may enact a purchaser excise tax up to 0.5% in incorporated areas in increments of 0.25%
 - Unincorporated areas may adopt a purchaser excise tax up to 3.5% in increments of 0.25%

ALLOCATION OF STATE REVENUE

- The Department of Revenue will provide an official FY20 revenue estimate in the coming days.
- Tax revenue will be deposited in the new Cannabis Regulation Fund
- State agencies responsible for administering the adult use cannabis program will receive resources to cover administrative costs from the taxes collected by the program.
- All remaining revenue will be allocated as follows:
 - 35% will be transferred to the General Revenue Fund,
 - 25% will be transferred to the Restoring Our Communities Fund for community reinvestment,
 - 20% will be transferred to a fund that will support mental health and substance abuse services at local health departments,
 - 10% will be transferred to the Budget Stabilization Fund to pay the backlog of unpaid bills,
 - 8% will be transferred to the Illinois Law Enforcement Training and Standards Board to create a law enforcement grant program, and
 - 2% will be transferred to the Drug Treatment Fund to fund public education and awareness.

GOVERNANCE

- Governor's Office
 - The Governor will appoint a Cannabis Regulation Oversight Officer who will be stationed in IDFPR. This person, and his or her team, will have the authority to make statutory and regulatory recommendations concerning the adult use program. This person will also coordinate efforts between state agencies involved in regulating and taxing the sale of cannabis in Illinois.
- Department of Revenue
 - Responsible for enforcing and collecting taxes associated with the sale of cannabis.
- Department of Agriculture
 - Responsible for licensure and oversight of cultivation centers, craft growers, processing organizations, and transporting organizations.
 - Responsible for authorizing laboratories that test cannabis
- Department of Financial and Professional Regulation
 - Responsible for licensure and oversight of dispensing organizations.
- Illinois State Police
 - 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.
- Department of Public Health
 - Responsible for developing recommendations surrounding health warnings and facilitating the Adult Use Cannabis Public Health Advisory Committee.
- Department of Commerce and Economic Opportunity
 - Responsible for administering a loan program, a grant program, and technical assistance for social equity applicants.
- Department of Human Services
 - 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.
- ICJIA

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

PUBLIC HEALTH AND SAFETY

- Twenty percent of revenue generated by the sale of adult use cannabis will support efforts to address substance abuse and mental health.
- Advertising
 - No cannabis business establishment shall place or maintain, or cause to be placed or maintained, an advertisement, of cannabis or a cannabis-infused product in any form or through any medium:
 - Within 1,000 feet of the perimeter of a school grounds, playground, hospital, healthcare facility, recreation center or facility, child care center, public park or public library, or any arcade to which admission is not restricted to person's age 21 years or older;
 - On or in a public transit vehicle or public transit shelter;
 - On or in a publicly owned or public operated property;
 - Which contains information that is false or misleading, promotes excessive consumption, depicts a person under 21 years of age consuming cannabis, includes the image of a cannabis leaf; or
 - Includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any imitation of candy packaging or labeling, or that promotes the consumption of cannabis.
 - These restrictions do not apply to noncommercial messages.
- Packaging requirements
 - The following warnings shall apply to all cannabis products: "This product contains cannabis and is intended for use by adults 21 and over. Its use can impair cognition and may be habit forming. This product should not be used by pregnant or breastfeeding women. It is unlawful to sell or provide this item to any individual, and may not be transported outside the state of Illinois. It is illegal to operate a motor vehicle while under the influence of cannabis. Possession or use of this product may carry significant legal penalties in some jurisdictions and under federal law."
 - All harvested cannabis intended for distribution to a cannabis enterprise must be packaged in a sealed, labeled container.
 - Packaging of any product containing cannabis shall be child-resistant and light-resistant consistent with current standards, including the Consumer Product Safety Commission standards referenced by the Poison Prevention Act.
 - The label of each cannabis product shall contain, among other things, a "use by" date on the label, the quantity of cannabis contained in the product, and a content list.
 - All cannabis products must contain warning statements established for consumers, of a size to be legible and readily visible to a consumer inspecting a package, which may not be covered or obscured in any way.
 - Packaging must not contain information that:
 - Is false or misleading;
 - Promotes excessive consumption;
 - Depicts a person under 21 years of age consuming cannabis;

- Includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any packaging or labeling that bears resemblance to any product available for consumption as a commercially available candy, or that promotes consumption of cannabis;
- Contains any seal, flag, crest, coat of arms, or other insignia likely to mislead the consumer to believe that the product has been endorsed, made or used by the State of Illinois.

HOME GROW

- Illinois households are permitted to grow up to five cannabis plants under certain conditions:
 - The grower is an adult aged 21 or older,
 - The grower is in a household that owns the residence or has permission from the owner,
 - The grower is limited to growing 5 or less plants,
 - The grower must keep cannabis in a separately locked room away from members of the household who are under 21, and
 - The grower is prohibited from growing cannabis in public view.

LOCAL ORDINANCES

- Municipalities may pass ordinances prohibiting the establishments of dispensaries in their jurisdiction.
 - Local units of government must adopt 'opt out' ordinances within one year of the effective date of the statute or they are limited to adopting 'opt out' provisions via local referendum.
- Municipalities may enact reasonable zoning restrictions pertaining to licensed cultivation centers, craft growers, processing organizations, and dispensaries.