

# Village of Winfield Recreational Cannabis FAQs

9/6/2019

## 1. When was cannabis made legal in Illinois?

On Tuesday 6/25/2019, Governor JB Pritzker signed Illinois House Bill 1438, better known as the Cannabis Regulation and Tax Act (CRTA), thus legalizing the consumption and possession of cannabis for adults 21 and older in Illinois starting January 1, 2020. Illinois is the 11th state in the country to legalize the recreational use and purchase of marijuana (after Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington).

## 2. Can the consumption/possession of cannabis be banned by a local municipality like Winfield?

No, municipalities cannot ban or override the CRTA. Furthermore, municipalities cannot ban residents from private cannabis consumption. Smoking of cannabis in public places is regulated by the state.

## 3. Will the Village have any regulatory abilities?

Yes, Section 55-25 of the Act (attached) outlines what municipalities are allowed to regulate. The Village may enact reasonable zoning regulations that do not conflict with the act including buffers between sensitive uses. Furthermore, the Village can require Conditional/Special Use permits for cannabis businesses to impose limits on “time, place, manner, and number” of cannabis business operations. The Village is allowed to ban recreational cannabis businesses completely and may regulate or ban on- premise consumption of cannabis at cannabis business establishments. Please note, local governments are required to allow medical cannabis dispensaries subject only to local zoning provisions and cannot ban residents from using cannabis products on private property. The Village has scheduled an initial public discussion on the topic for the September 19, 2019 Committee of the Whole meeting.

## 4. What regulatory abilities, if any, do business owners and landlords have?

Any person, business, public entity, or landlord may prohibit the use of cannabis on private property. Smoking cannabis is prohibited in any location where smoking is prohibited by the Smoke Free Illinois Act (410 ILCS 82), including hospitals, restaurants, retail stores, offices, commercial establishments, etc.

## 5. Will cannabis consumption be allowed in public spaces?

No, the consumption of cannabis in public, including school grounds, will be considered unlawful. It will be unlawful to consume cannabis in close physical proximity to someone under 21 who is not a registered medical cannabis patient.

## 6. Where will consumption be allowed?

The consumption of cannabis will be allowed on private property. Consumption may potentially be permitted at specifically designated establishments such as dispensaries or smoking lounges if allowed by local ordinance. Smoking at dispensaries or smoking lounges would be dependent on the Village Board approving zoning for such a use.

**7. Who can legally purchase and consume cannabis?**

As a result of the new State legislation, the consumption of cannabis as of 1/1/2020, will be treated similarly to that of the consumption of alcohol with any Illinois resident, or non-resident, ages 21 or over, now being able to purchase and consume cannabis.

**8. How much cannabis may an individual possess?**

Illinois residents may possess up to:

- 30 grams, or just over one ounce of “flower”
- 5 grams of cannabis concentrate
- 500 milligrams of THC - the chemical that makes users high – in a cannabis infused product such as gummies, candy, other consumable products (referred to as “edibles”), or tinctures, and lotion.

Non-Illinois residents may legally possess up to ½ of these amounts

**9. Who can legally grow and sell recreational cannabis?**

Only licensed businesses will be able to legally grow and sell cannabis. Medical cannabis patients will be allowed to grow up to five plants each within their home. Recreational users will not be allowed to grow any plants.

**10. Is the sale of medical cannabis currently allowed in Winfield?**

The Village does allow medical cannabis dispensaries per state statute, however the Village does not have any additional regulations outside of what has been mandated by the state, as there has not been any requests to locate a medical dispensary in Winfield.

**11. If the sale of recreational cannabis was to be allowed in Winfield, how many licenses would be issued?**

While many individual cities have a limitation on the amount of recreational cannabis facilities (dispensaries) that are allowed within their limits, Winfield is part of a larger Bureau of Labor Statistics Region within the state. The region Winfield is a part of is the Chicago-Naperville, Elgin region. The State is allowing up to 47 licenses within the region. The Village may, by ordinance, limit the number of cannabis businesses in Winfield.

**12. What will the Village's role be in the licensing process?**

The Village plays no role in the licensing process as it is left up to the Department of Financial and Professional Regulation (DFRF) to select and process those individuals attempting to obtain a license, except to certify that applicants are in conformance with local zoning ordinances. The 55 current medical-cannabis dispensaries get early approval for licenses to sell under the new Act.

### **13. What is the licensing timeline?**

The 55 current medical-cannabis dispensaries get early approval for licenses to sell under the new Act. They may apply to dispense recreational pot at their current stores and for a license for a second location, meaning the state could have 110 recreational pot outlets by the time sales start January 1, 2020.

- August 19, 2019 – Illinois Department of Financial and Professional Regulation released applications for Early Approval Adult Use Dispensing Organization License – Same Site and Secondary Site.
- October 15, 2019, applications for up to 75 dispensaries will be made available. These new businesses will serve in addition to medical dispensaries that get approval to serve adult consumers during the transition.
- January 1, 2020, Current medical cannabis dispensaries and cultivation centers that received early approval licenses from the State may begin recreational cannabis sales operations.
- January 7, 2020, applications for infusers, transporters, and a new category of cultivator called a craft grower will be published for business applicants by the state.
- May 1, 2020, new dispensaries licenses will be issued, and the state will begin a disparity and market study of the cannabis industry.
- July 1, 2020, up to 40 craft grower and infuser licenses will be issued, along with an unlimited number of transporter licenses.

The Act allows for up to 47 dispensary licenses to be awarded within the “Chicago-Naperville-Elgin” region by May 1, 2020. The applications for such licenses shall be available by October 1. Once the disparity and market studies are complete, the state can issue additional licenses if needed. These licenses must take into account the findings of the disparity study.

### **14. How is cannabis taxed?**

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

The municipal cannabis sales tax will be collected and enforced by the Illinois Department of Revenue (IDR), which is entitled to retain 1.5% of the amount distributed to each municipality as an administrative fee.

While the Act presently would allow for the tax to be effective not sooner than September 1, 2020, the Illinois Municipal League (IML) recommends that municipalities consider adopting the tax ordinance imposing the tax effective on January 1, 2020, and certify the ordinance to the IDR by October 1, 2019, in anticipation of a legislative amendment to the Act that may authorize the local tax as of January 1, 2020.

Additional taxes will be collected by other government bodies including a cultivation privilege tax, cannabis purchaser excise tax, cannabis county retailers’ occupation tax. State tax revenue will be placed in the Cannabis Regulation Fund. The Department of Revenue projects that this industry will generate over \$57 million in tax revenue and licensing fees in FY20.

**15. How will the potential tax revenue generated be used by the State of Illinois?**

Within the Act, distribution of government proceeds collected by the State associated with the sale of recreational cannabis was established as follows:

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

**16. How much potential tax revenue from recreational cannabis could be generated locally for Winfield?**

Under the CRTA, municipalities are allowed to add a 3% sales tax to local sales, which will be in addition to the current 1% shared sales tax from the state and the 0.5% non-home rule sales tax. This means that the Village could receive up to 4.5% sales tax on gross recreational cannabis sales. For example, if a dispensary that located in Winfield had \$10 million in gross cannabis sales, this would generate \$450,000 in sales taxes locally. A number of recent projections in Illinois have suggested municipalities may see \$400,000 - \$600,000 in sales taxes from recreational cannabis. However, there are many variables that may impact projections of how much sales tax could be generated.

**17. How can a town that allows recreational dispensaries use the tax revenue?**

Sales tax revenues can be used to offset increased Police costs expected from statewide legalization and other needs of the Village.

**18. Does the Act place limits on cannabis advertising?**

The Act bans any sign that makes any health, medicinal, or therapeutic claims about cannabis or cannabis products, includes the image of a cannabis leaf or bud, or advertises to minors (such as including cartoons, toys, or animals). Packaging will require warnings about cannabis consumption. In addition, advertisement is prohibited on publicly owned or operated property, within 1,000 feet of schools, playgrounds, recreation facilities, child care centers, public parks, public libraries, or game arcades. Promotional giveaways are also prohibited.

**19. How do federal laws affect Illinois' law?**

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

**20. What are some potential impacts to the State’s decision to allow recreational marijuana use when it comes to policing?**

It is reasonable to assume that the legalization of cannabis will increase the demand for police services as well as the number of drug-impaired drivers on our roadways, due to the state-wide allowance of marijuana, regardless of whether or not such a facility is located within the Village limits of Winfield.

**21. How does the law affect workplace drug policies?**

Nothing in the Act prohibits employers from adopting reasonable zero tolerance or drug free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner. Nothing in the Act limits or prevents an employer from disciplining an employee or terminating employment of an employee for violating an employer’s employment policies or workplace drug policy. The Act prohibits discrimination against employees for use of "lawful products" like cannabis during nonworking and non-call hours.

**22. How does recreational cannabis affect criminal records?**

Illinois Governor JB Pritzker has stated that he will pardon past convictions for possession of up to 30 grams, with the attorney general going to court to delete public records of a conviction or arrest for the now legal amount. Regarding possession of 30-500 grams, an individual or a state’s attorney may petition the court to vacate or expunge the conviction. If the cannabis offense was connected to a violent crime it is ineligible for the automatic expungement processes but the individual (or State’s Attorney) can still file motion with the court to vacate conviction.

- Arrest records between January 1, 2013 and effective date must be expunged by January 1, 2021
- Arrest records between January 1, 2000, and January 1, 2013, must be expunged by January 1, 2023
- Arrest records prior to January 1, 2000, must be expunged prior to January 1, 2025.

Records will be expunged if one year or more has elapsed since the date of the arrest with no criminal charges filed or charges were subsequently dismissed, vacated, or the individual was acquitted. Many of the records will relate to municipal code violations, which will be required to be expunged according to a schedule described in the bill that will give municipalities until January 1, 2025 to expunge records that precede January 1, 2000.

**23. Where can I find more information about this topic?**

Additional information regarding the CRTA can be accessed through the homepage of the Village website at [www.villageofwinfield.com](http://www.villageofwinfield.com).

**24. How can I share my thoughts or opinions on this topic as a resident or community member?**

Please email [info@villageofwinfield.com](mailto:info@villageofwinfield.com) with any thoughts or concerns. Additionally, public comment at Village Board and Committee Meetings is available for any member of the public.