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Zoning -

A. Opting out

Local governments may opt out of having any cannabis businesses located in their jurisdictions ([Section 55-25 Local Ordinances subclause 1, page 285](#)). They can NOT opt out of residents being allowed to possess or home grow ([Section 55-25 Local Ordinances subclause 1, page 283](#)). Municipalities should pass ordinances if they wish to opt out ([Section 55-25 Local Ordinances subclause 1, page 285](#)). Precincts in a city with a population over 500,000 may also implement ordinances by petition that intend to limit either home growing or cannabis business establishments ([Section 55-28 Restricted cannabis zones subclause b-c, page 286](#)). This political process is essentially the same for liquor moratoriums.

B. Setbacks and other restrictions

Local governments may (but do not have to) establish setbacks related to location of dispensaries, craft grow, cultivation centers, and infuser businesses. The intent of the legislation was to maximize local control over siting and zoning options since the very prescriptive language in the medical pilot program created significant challenges for licensees to find eligible properties, particularly in more densely populated areas. Zoning decisions should be based on what each jurisdiction determines are appropriate concerns for their communities ([Section 55-25 Local Ordinances subclause 2, page 283](#)). The only setback language that is spelled out in the law is designed to prevent undue concentration in any given area and requires a minimum of 1500 feet between dispensaries ([Section 15-20 Early Approval Adult Use Dispensing Organization License; secondary site subclause b, page 73](#); [Section 15-25 Awarding of Conditional Adult Use Dispensing Organization Licenses prior to January 1, 2021 subclause e, page 90](#); [Section 30-30 Craft grower requirements; prohibitions subclause o, page 219](#)).

C. Clarity, efficiency, and equity

As local governments consider zoning plans, it might be helpful to contemplate prioritizing what issues need to be resolved most quickly. In order for existing dispensaries to convert to dual use establishments, there may need to be a change to permit those businesses to continue to operate. The second most pressing issue relates to the second location being allowed for existing dispensary license holders and the need to create specific zoning requirements that will apply to new dispensaries. In both cases, these need to be in place very soon in order to allow these businesses to begin operation on 1/1/2020. The next round of dispensary applications, which will represent the first new entrants into the industry and hopefully a

significant number of social equity applicants, will become available on 10/1/19 with applications due 1/1/20 for issuance in May of 2020. In addition, there will be a need to contemplate zoning requirements related to craft grow and infusing businesses. These applications become available January 1 with a due date of March 31 and issuance in July. These priorities should also take into account that local governments want to avoid any unnecessary litigation; have an interest in ensuring that existing cannabis businesses are able to operate under the new law on January 1; and can creatively use some of their own zoning tools to ensure that the equity applicants have access to their markets.

Local ordinances may create civil penalties for businesses that violate their locally determined conditions for placement (concerning time, place, on premises administration, and manner of operation) if they are not unreasonably restrictive. The enforcement of these is primarily left up to the discretion of the local government ([Section 55-25 Local Ordinances subclause 1-5, page 283](#)) - although the municipality may not regulate in a manner more restrictive than the State under this Act.

Enforcement and prosecutorial discretion -

Municipalities should contemplate immediate policy concerning whether there should be any enforcement of simple possession. Technically any possession of cannabis remains illegal until the legalization date of January 1, 2020, at which point any possession **over** 30 grams remains illegal. However, local governments should immediately contemplate and update their policies concerning cannabis possession in anticipation of the legalization date. One provision of the law's attempt to rectify the War on Drugs' impact on minority and underprivileged communities is the automatic expungement of criminal records for possession of 30 grams or less ([Section 5.2 Expungement, sealing, and immediate sealing subclause 2.5, page 370](#)). Will local law enforcement continue to enforce/arrest for amounts between 10-30 grams? Should local law enforcement continue to arrest for possession for any amounts under 30 grams? What will the local jurisdiction do with folks in custody at the time of implementation? For example, DuPage State's Attorney Berlin recently announced that he will no longer prosecute these cases since they'll be eligible for resentencing Jan 1. See this [Tribune article](#). These conversations should be had in conjunction with each county's States Attorney.

Taxation -

Municipal and County governments will have the ability to impose up to an additional 3% each in local taxes beginning in September of 2020. ([Section 5-1006.8 County Cannabis Retailers' Occupation Tax Law subclause a, page 533](#); [Section 8-11-22 Municipal Cannabis Retailers' Occupation Tax Law subclause a, page 540](#)). Proceed with extreme caution and avoid immediately taxing to the cap. We are already near the high middle end of tax rates around the country, and it's vital to allow the marketplace to mature before increasing tax rates. This has been a huge issue around the country as states and locals have often found that street markets lower prices to compete and maintain market share, so it's critical to allow the new market to gain traction before increasing consumer costs through taxation. It is anticipated that it will take up to 5 years before the market is fully mature, so a taxation strategy should take this into account to avoid negatively impacting consumer movement into the legal marketplace and counterproductive taxation strategies.

Equity -

As an equity-centered law, there are numerous provisions included. Provisions of the social equity program offer benefits (including financial assistance and license application benefits) to individuals that have been most impacted by cannabis-related law enforcement. The Cannabis Business Development Fund is a special fund created in the State Treasury to be used to pay for low-interest rate loans, grants,

compensation for loans and grants, outreach, research, and job training for Social Equity Applicants interested in beginning and operating cannabis-related businesses ([Section 7-10. Cannabis Business Development Fund subclause 1-4, page 31](#)). The Department of Commerce and Economic Opportunity will also establish grant and loan programs for Social Equity Applicants ([Section 7-15 Loans and grants to Social Equity Applicants subclause a, page 32](#)). If a Social Equity Applicant meets specific qualifications, license benefits for Social Equity Applicants include a 50% fee waiver for applications ([Section 7-20 Fee waivers subclause a, page 35](#); [Section 15-30. Selection criteria for conditional licenses awarded under Section 15-25 subclause c5, page 95](#)).

Keep in mind that everything in the new law is a floor, not a ceiling. There are important ways a local government can impact the equity provisions in the law. While the programs incorporated into the law creating resources for social equity applicants are significant, there's nothing stopping local governments from adding onto these ideas via fee waivers, technical assistance or other access to capital programs that build on the loan funds incorporated into the state program. In addition, issues such as zoning decisions can have a significant impact on the equity space. Avoiding undue concentration and assuring access in underserved communities are other important considerations.

Community College Pilot Program -

A rather late addition to the bill, but a significant opportunity to drive employment and training is the four-year pilot program that allows eight community colleges within the state to apply to participate in a pilot that will provide the opportunity to incorporate plant handling in a community college curriculum.

This will create a pool of qualified potential employees for the growing industry. The program will be administered jointly by the IL Community College Board and the Department of Agriculture. While the program will allow hands-on learning of cultivation and processing, all harvested product resulting from the program must be destroyed. The department has until September 1, 2020 to issue up to eight program licenses. The Department of Agriculture, in conjunction with the Illinois Community College Board, is responsible for developing the various aspects of selecting license recipients ([Section 25-10 Issuance of Community College Cannabis Vocational Pilot Program licenses subclauses a-d, page 194](#)).

The joint departments must make applications for program participation available by February 1, 2020, and the application will be due from applicants by July 1st of 2020, with the programs eligible to begin instructing students in the 2021-2022 academic year. In the process of applicant selection, the Departments must consider various factors, including the geographic diversity of the schools so as to make sure students throughout the entire state may take advantage of the program, and the proposed curriculum plans of the community colleges. Additionally, at least five of the eight selected Program license awardees must have a student population composed of more than 50% low-income in each of the past four years ([Section 25-10 Issuance of Community College Cannabis Vocational Pilot Program licenses subclauses b3, page 194](#)). Licensees, while held under specific restrictions to guarantee the safety of students and faculty, have the freedom to, once selected, determine their curriculum and career advising processes. It's also important to note that there are community colleges already providing a cannabis curriculum that is theory based as opposed to hands-on, so there is also the option of not participating in the plant handling pilot program and merely implementing a classroom-based curriculum such as the one at Oakton. The idea is to authorize community colleges to develop a program that works best for its students and faculty, instead of a one-size-fits-all program.

More information on the application and licensing process for Community College Pilot Programs will be available through the Department of Agriculture and the Illinois Community College board once the application has been developed.

Social Use Space -

The law allows units of local government to create opportunities within their communities to open what are known as social use spaces ([Section 55-25 Local Ordinances subclause 3, page 284](#)). The law is relatively broad in the definition of these spaces in terms of what the local government can allow within the spaces. They are intended to be businesses that permit the use (but not sale) of cannabis products within their facilities. These could be existing establishments that can offer this opportunity to their patrons within the bounds of their current operation or stand-alone intentional spaces dedicated to social use. That said, while the language required an exception to the state's smoke-free law protecting against second-hand smoke, we've made clear that it is not the intent of the state or the sponsors to allow smoking of cannabis products in venues where tobacco smoking is prohibited but instead want to create an opportunity not unlike that created by hookah lounges or cigar clubs. There are a couple of reasons why this is important. First, in other states that have created legal marketplaces but not created social consumption spaces, we still see a disproportionate impact on communities of color concerning enforcement of public use prohibitions. There are several reasons for this, but it is important to note that building and property owners can still prohibit smoking by tenants and residents of public housing facilities are federally prohibited from consumption on site, so there is a significant swath of the population who might not have a legal space to consume. In addition, areas with substantial tourism have also found concerns from the hospitality industry, particularly hotels, around the issue of use in their spaces. Each unit of local government has the option of deciding how and when to allow the creation of these spaces, including what other business activity can occur on-site, location of facilities, proximity to cannabis business facilities, licensing of facilities, etc..

In 2019, Colorado's Governor signed a bill that authorizes and regulates social use spaces throughout the state ([article on the new law](#)). Before this was passed, individual municipalities determined exactly how they would approach the topic. Denver, Colorado passed a ballot initiative in 2016 on social use before state legislation titled Initiative 300. The ordinance, which originally had a four-year expiration date, created a pilot program to permit approved businesses to allow consumption of cannabis in designated consumption areas (see the full Cannabis Consumption Pilot Program [here](#)). A permit for a social-use space did not require any association to a dispensary organization ([Sec. 6-302 Cannabis consumption permit subclause i-iii, page 2](#)). The space must be approved by eligible neighborhood organizations, which are organizations that are either defined in the Revised Municipal Code as being in existence for two or more years, business improvement districts, or any association of residents or owners of real property designated as such by the Director of Excise and Licenses ([Sec. 6-301 Defined terms subclause 6 i-iii, page 3](#)). The evidence of community support "may include any additional operational requirements that the eligible neighborhood organization deems necessary to protect the health, safety, and welfare of the surrounding community" ([Sec. 6-304 Evidence of community support subclause a-b, page 3](#)). The program document contains specific regulations for Cannabis Consumption Areas, as well as the proposed format for applications to become a licensed area. Denver's system is comprehensive and allows for community involvement in the placement and type of businesses wishing to provide Designated Consumption Areas, and could serve as a model for Illinois municipalities.

Las Vegas, Nevada, also passed regulations on social use. Nevada's state law on cannabis use does not explicitly allow social use spaces; however, it is implied that municipalities have the opportunity to

permit and regulate them if they wish. In May of 2019, the city council approved an ordinance authorizing customers 21 and older to bring their own cannabis to newly licensed social use venues. Social use venue licenses can only be issued to a licensed dispensary. On-site consumption facilities must obtain annual city licenses and, initially, only licensed dispensaries could apply for on-site consumption, not private businesses ([refer to this policy analysis by a local Las Vegas newspaper](#)). The ordinance established business licenses and land use regulations for social spaces, as well as safety requirements ([see the ordinance here](#)). As the only businesses that could receive social use licenses were businesses that were already licensed dispensaries, the city was able to avoid outlining specific rules for placement and potential backlash from surrounding communities. The intention being, beyond avoiding zoning complications, that dispensaries would have use lounges associated with but not inside of their regular place of business.

San Francisco, California, was one of the first cities to allow widespread cannabis-use lounges. According to the state’s current law on adult-use cannabis, local municipalities may act in their own authority on social-use as long as they stay within state regulations ([Chapter 20 Local Control 26200 subclause a-g](#)). San Francisco took the initiative and began passing city ordinances to create their own regulations. Individual zones had the opportunity to opt in, opt out, or conditionally opt in to social use permitting. All cannabis-related storefronts must receive neighborhood confirmation before a license can be obtained, and there are ventilation, safety, and employee regulations to limit the inhalation of second-hand smoke. Consumption lounges in San Francisco must be attached in some way to a dispensary that has already obtained that prior license ([article on San Francisco’s practices](#)). To even further discourage illegal cannabis, consumption lounge users cannot bring their own cannabis; they must first purchase it at the dispensary.

Breakdown of municipality ordinances on social-use spaces

<i>City municipality</i>	<i>State regulations on social-use spaces</i>	<i>Neighborhood participation/opt-in to social use spaces</i>	<i>Dispensary license required before social-use license can be obtained</i>	<i>Zoning specifications</i>
Denver	Yes, as of 2019	Yes, confirmation from eligible neighborhood organizations	No, can be associated or not associated. If not associated with dispensary, cannot sell cannabis products	Yes
Las Vegas	No	No, attached to dispensaries and therefore subject to the same zoning regulations	Yes	Yes
San Francisco	No	Yes, neighborhood confirmation required	Yes	Yes