



**CITY OF URBANA, ILLINOIS  
FINANCE DEPARTMENT**

**MEMORANDUM**

**TO:** Mayor Diane Wolfe Marlin and City Council Members  
**FROM:** Elizabeth Hannan, Finance Director  
**DATE:** August 22, 2019  
**SUBJECT:** **Municipal Cannabis Retailers' Occupation Tax**

**Introduction:** Attached is an Ordinance amending the Urbana City Code to impose a 3% Municipal Cannabis Retailers' Occupation Tax on the sale of recreational cannabis in the City of Urbana. The tax would be effective January 1, 2020 or as soon as the Illinois Department of Revenue is directed by the State legislature to begin collecting the tax on behalf of municipalities, which may be as late as September 1, 2020.

**Discussion:**

Legalization of Recreational Cannabis in Illinois: Illinois Public Act 101-0027, the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), was signed into law by the Governor on June 25, 2019. The act legalizes possession and private use of cannabis for individuals age 21 and over.

Some specific provisions relevant to municipal governments include –

- Illinois residents may possess up to 30 grams of cannabis and non-Illinois residents may possess 15 grams of cannabis.
- Municipalities may not restrict private consumption of cannabis. However, the Act prohibits the use of cannabis in public places, including school and childcare facilities.
- Municipalities may opt out of allowing cannabis sales or enact reasonable zoning regulations that are not in conflict with the act. If a municipality does not opt out, dispensaries are permitted by default.
- Municipalities may impose a Municipal Cannabis Retailers' Occupation Tax on adult use recreational cannabis products of up to 3% of the purchase price.
- A portion of the State share of revenues resulting from the Act will be allocated to local governments through the Local Government Distributive Fund (LGDF), and will be used to fund crime prevention programs, training, and interdiction efforts.
- The Act allows municipalities to license social consumption spaces, such as bars.

Other provisions include –

- The Act provides for a social equity program to establish a legal cannabis industry that is accessible to those most adversely impacted by the enforcement of drug-related laws.
- The Act provides for expungement of criminal convictions relating to non-violent cannabis offenses.

The entire Act can be accessed here <http://www.ilga.gov/legislation/publicacts/101/PDF/101-0027.pdf>.

Municipal Cannabis Retailers' Occupation Tax: The tax would be collected by the Illinois Department of Revenue (DOR), which will withhold 1.5% of the total collected to cover their cost of collecting the taxes and remit the remainder to the City. The City normally receives other sales tax revenues three months after sales take place and staff believes that the process for this tax will be similar. If that assumption were correct, the City would first receive revenues in April 2020 for sales taking place in January 2020, or in December 2020 for sales taking place in September 2020. The tax may be imposed in 0.25% increments up to a maximum of 3%. As a point of reference, the City's tax rate on package liquor is currently 3%.

The Act provides for the DOR to administer the tax beginning September 1, 2020. However, the Illinois Municipal League (IML) has recommended adopting an Ordinance with an effective date of January 1, 2020 and filing that Ordinance with the DOR no later than the end of September 2019. This is in anticipation of a legislative amendment to the Act that may require the DOR to administer the tax beginning January 1, 2020, when recreational cannabis sales begin.

Other, Related Taxes: Other taxes, including State and Home Rule sales taxes, will be imposed on the sale of recreational cannabis. A share of State sales tax (1% of the State's 6.25% tax) and all Home Rule sales tax (1.5% of sales, less a collection fee of 1.5% of the total withheld by the DOR) would be received by the City.

The City would also receive a per capita share of a small portion of State revenues through the LGDF. At this time, staff does not have any estimate of the amount of revenue that will be received by the City under this provision. Those funds will be deposited in the Police Special Fund, which is used to account for Police Department funds with restricted purposes to ensure that they are segregated from the General Fund and spent consistent with restrictions. Those funds must be used, "... to fund crime prevention programs, training, and interdiction efforts, including detection, enforcement, and prevention efforts, relating to the illegal cannabis market and driving under the influence of cannabis."

Cannabis Dispensary in Urbana: The City currently has one medical cannabis dispensary, operated by NuMed at 105 East University Avenue. Staff met with a NuMed representative to discuss their plans with regard to recreational cannabis. Their representative indicates that they plan to offer recreational cannabis at their current location and are interested in operating a second recreational cannabis dispensary in Urbana in the future.

NuMed currently employs ten to twelve people and anticipates adding ten to fifteen additional full or part-time jobs to accommodate recreational cannabis sales at its current location. The representative indicated that NuMed has no concerns about the City imposing a municipal tax on recreational cannabis. To date, the City has not had any problems with criminal activity in or about NuMed.

Other Communities: Cities across the State are still considering how to best respond to the legalization of recreational cannabis. Some communities may choose to disallow or limit the sale of recreational cannabis. However, they cannot prohibit its use. As an example, Village of Morton, in the Peoria area, voted to opt out of recreational cannabis sales on July 1.

At the time this memo was prepared, staff was not aware of any Illinois city that had approved a tax on recreational cannabis, but it is likely that many cities will eventually elect to do that.

Other Cannabis-related Issues:

Licensing Dispensaries: All dispensaries will be licensed by the State. Initially, only currently licensed medical cannabis dispensaries will be permitted to dispense recreational cannabis. Current dispensaries may also obtain a license for a second site within the region. Additional dispensaries may be authorized as early as May 2020, including one added license for the Champaign-Urbana area.

Location of Dispensaries: The issue of potential locations for additional dispensaries will be addressed by Community Development staff prior to location of any additional dispensary in the City of Urbana. This may require an amendment to the Zoning Ordinance.

City Code Language Update: Language in the City Code related to possession of cannabis and drug paraphernalia will be revised for consistency with the new law prior to the January 1, 2020 effective date for legalization of recreational cannabis. This will be addressed by Legal Division staff.

Social Consumption: Licensing social consumption in public spaces (e.g., bars) may be addressed in the future, if there are businesses interested in providing social consumption spaces. This issue would be addressed by staff from multiple departments.

**Public Input:** On August 19, the City held a listening session to hear input on the subject of allowing recreational cannabis sales in the City. Seven individuals provided comment at the listening session, and two additional comments were received by email.

Six of the nine individuals who provided comment were in favor of allowing sale of recreational cannabis in Urbana. Most commenters felt that allowing the sale of recreational cannabis could be beneficial to individuals and the community and did not anticipate negative consequences. Several of those in favor of recreational cannabis sales expressed concern about promoting equity and diversity in the recreational cannabis industry.

Three of nine individuals, including one who chose not to speak, were opposed to allowing sale of recreational cannabis. The individuals who provided comment expressed concern about cannabis being a gateway to use of other drugs and contributing to crime.

In November 2016, an advisory referendum was placed on the ballot for Cunningham Township, whose boundaries are coterminous with the City of Urbana. The question “Shall the State of Illinois legalize and regulate the sale and use of marijuana in a similar fashion as the State of Colorado?” resulted in 11,863 “Yes” votes and 3,804 “No” votes. More than 75% of voters on this question were in favor of legalization.

**Fiscal Impact:** Staff believes that recreational cannabis sales at the current NuMed dispensary would be \$5 to \$10 million annually. This is based on estimates provided by NuMed as well as evaluation of recreational cannabis sales in the State of Colorado. Based on this revenue estimate, a 3% tax would produce \$150,000 to \$300,000 in revenue. In addition, the City would expect to receive \$125,000 to \$250,000 in State and Home Rule sales tax revenue. The total revenue impact would be between \$275,000 and \$550,000 annually for one dispensary.

Additional dispensaries within the City would increase revenues, but there is likely to be some siphoning of revenues from previously existing dispensaries. At this point, making assumptions about additional dispensaries and resulting revenues is premature, because we have no experience on which to base estimates and no applications have been submitted for additional dispensaries.

The City’s last Financial Forecast predicted a gap of \$875,000 that would need to be closed in the fiscal year beginning July 1, 2020. An updated forecast will be prepared for Council review this winter, as part of developing the next budget. While the forecast is complex and many things will change in the interim, it is certain that there will be a significant gap that will need to be closed. City staffing has been reduced by more than ten full-time equivalent positions over the past few years, and it would be extremely difficult to make further reductions without affecting services to Urbana residents. Implementation of this tax would move the City closer to eliminating the budget gap and preserve the City’s ability to provide much needed services to the community.

**Alternatives:**

1. Forward the Ordinance amending the City Code to impose a Municipal Cannabis Retailers’ Occupation Tax at a rate of 3% effective January 1, 2020 for action at the September 3, 2019 City Council meeting.
2. Provide direction to impose the tax at a different rate or choose not to impose the tax.

**Recommendation:** Forward the Ordinance amending the City Code to impose a Municipal Cannabis Retailers’ Occupation Tax at a rate of 3% effective January 1, 2020 for action at the September 3, 2019 City Council meeting.

Attachments: Illinois Municipal League Adult-use Cannabis Fact Sheet

## Adult-Use Cannabis

Public Act 101-0027 creates the Cannabis Regulation and Tax Act and was signed into law by Governor JB Pritzker on June 25, 2019. Effective January 1, 2020, the Act legalizes the possession and private use of cannabis for Illinois residents over 21 years of age.



7/15/19

### LOCAL REGULATION OF CONSUMPTION

Municipalities may not restrict the private consumption of cannabis that is authorized by the Act. However, the Act prohibits the use of cannabis in public places, schools and child care facilities among other locations. Municipalities may adopt and enforce local ordinances to regulate possession and public consumption of cannabis so long as the regulations and penalties are consistent with the Act.

### HOME GROW LIMITED TO MEDICAL PROGRAM PARTICIPANTS

Home grow cannabis will be authorized only for medical cannabis program participants, and is limited to five plants in their residence and subject to specified restrictions. Home grow of recreational cannabis by non-medical participants is prohibited. [More information about the medical cannabis program is available via this link.](#)



### ZONING

The Act preserves local zoning authority and directly authorizes municipalities to prohibit (opt out) or significantly limit the location of cannabis businesses by ordinance. Municipalities will have the authority to enact reasonable zoning regulations that are not in conflict with the act. This would include the authority to opt out of either commercial production or distribution (dispensaries) of adult-use cannabis within their jurisdiction. Municipalities also may enact zoning ordinances and regulations designating the time, place, manner and number of cannabis business operations, including minimum distances between locations through conditional use permits.

### BUSINESS REGULATION

In addition to zoning authority, municipalities will have the authority to allow for on-premise use of cannabis at locations to be determined locally. The Act anticipates that local authorities will engage in inspections of cannabis-related businesses. Municipalities may establish and impose civil penalties for violations of the local ordinances and regulations.



## LOCAL REVENUE

Municipalities, by ordinance, may impose a Municipal Cannabis Retailers' Occupation Tax on adult-use cannabis products of up to 3% of the purchase price, in .25% increments. Counties may impose up to 3.75% in unincorporated areas, in .25% increments. The taxes imposed under this Act shall be in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any unit of local government, such as sales tax.



## SMOKE FREE ILLINOIS ACT

The Act applies the restrictions of the Smoke Free Illinois Act on smoking cannabis, and provides that property owners may prohibit the use of cannabis by any guest, lessee, customer or visitor. In addition, lessors may prohibit cultivation of cannabis by their lessees.

## EMPLOYER PROVISIONS

The Act provides employer protections including that nothing in the enactment prohibits employers from adopting reasonable zero-tolerance or drug-free workplace employment policies concerning drug testing, smoking, consumption, storage or use of cannabis in the workplace or while on-call. These policies must be applied in a nondiscriminatory manner. Employers may prohibit the use of cannabis by employees in the workplace, and engage in discipline, including termination, for violations of those policies and workplace rules.

## STATE LICENSING

The Act authorizes the production and distribution of cannabis and cannabis products through state-licensed cultivators, craft growers, infusers, transporters and dispensaries. Cannabis transporters will be separately licensed by the Act, as well. A market study due in March 2021 will inform future licensing. The state will issue licenses according to a graduated scale. By the end of the first year, there will be up to 295 dispensing organizations. The Act will allow up to 500 dispensing organizations by January 1, 2022. Cultivators will be capped at 50, and 100 craft growers will be allowed. By that same date, 100 infusers will also be authorized to be licensed.

## GRANTS AND INVESTMENT

The Act establishes the Restore, Reinvest and Renew (R3) Program to invest in communities historically impacted by economic disinvestment and violence. The Illinois Criminal Justice Information Authority (ICJIA) will identify R3 areas that qualify for funding, and grants will be awarded by the R3 Board. A 22-member R3 Board will award grants throughout the state, subject to an application process and the Government Accountability and Transparency Act (GATA); the R3 Board shall be chaired by the Lt. Governor.

## SOCIAL EQUITY

The Act provides for a social equity program to establish a legal cannabis industry that is accessible to those most adversely impacted by the enforcement of drug-related laws in this state, including cannabis-related laws. Qualifying social equity applicants may be awarded financial assistance and incentives if they are interested in establishing cannabis related businesses.

## DECRIMINALIZATION AND EXPUNGEMENTS

A significant portion of the Act addresses the decriminalization of cannabis through mandatory and discretionary expungements of criminal convictions relating to non-violent cannabis offenses.

## STATE REVENUE

State revenues derived from the Cannabis Regulation and Tax Act will be deposited into the Cannabis Regulation Fund. The funds will be distributed to multiple state agencies for implementation of the Act. The legalization of adult cannabis also includes a new source of Local Government Distributive Fund (LGDF) dollars. A portion of the Cannabis Regulation Fund revenues (8% of deposits) will go to local governments, through LGDF, which will be used to fund crime prevention programs, training and interdiction efforts. The Cannabis Regulation Fund is derived from moneys collected from state taxes, license fees and other amounts required to be transferred into the Fund.



**ORDINANCE NO. 2019-08-047**

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 22 BY  
ADDING ARTICLE II, SECTIONS 22-16 THROUGH 22-19**

**(Municipal Cannabis Retailers' Occupation Tax)**

**WHEREAS**, the City of Urbana, Illinois (the "City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, 5 ILCS 220/1 *et seq.*, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

**WHEREAS**, on June 25, 2019, the Illinois Governor signed into law the Cannabis Regulation and Tax Act (Public Act 101-0027; 410 ILCS 705/1-1 *et seq.*) (the "Act"); and

**WHEREAS**, the Act legalizes the sale by a state-issued licensed dispensing organization and the personal recreational consumption and possession of cannabis in certain quantities by persons age of 21 years or older as more fully provided for in the Act; and

**WHEREAS**, the Act allows municipalities such as the City to regulate the retail sale of cannabis for personal recreational consumption and possession of cannabis in certain quantities so long as such regulations are not inconsistent with the Act; and

**WHEREAS**, the Act permits the City to impose a municipal cannabis retailers' occupation tax on the sale of cannabis for personal recreational consumption and possession with such tax not to exceed three percent (3%) of the purchase price; and

**WHEREAS**, the Act requires the City to amend certain of its Ordinances including those pertaining to the possession of cannabis and cannabis and drug paraphernalia; and



**WHEREAS**, this Ordinance amends certain sections of the Urbana City Code as provided in the Exhibit appended hereto and incorporated herein.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Illinois as follows:

**Section 1.** Urbana City Code Chapter 22, “Taxation” shall be and hereby is amended by adding a new ARTICLE II, “HOME RULE MUNICIPAL RETAILERS’ OCCUPATION TAX ON CANNABIS SALES, Sections 22-16 – 22-29 as follows with the underlined language representing language to be added.

UCC CHAPTER 22. – TAXATION

ARTICLE II. – MUNICIPAL CANNABIS RETAILERS’ OCCUPATION TAX

Sec. 22-16. – Imposition of Municipal Cannabis Retailer’s Occupation Tax.

A tax is hereby imposed upon all persons engaged in the business of selling cannabis or cannabis-infused products, other than cannabis sold pursuant to a legally issued prescription pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act, at retail within the city at the rate of 3% of the gross receipts from these sales made in the course of that business with this tax being imposed in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22). The tax shall also be imposed upon the sale of any food and/or beverage for human consumption where such food and/or beverage is infused with cannabis as defined in 410 ILCS 705/65-5.

Sec. 22-17. Collection and enforcement.

The tax imposed by this article, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. Such Department of Revenue shall have full power to administer and enforce the provisions of this article. Any tax required to be collected pursuant to or as authorized by section 22-16 of this article and any such tax collected by such retailer and required to be remitted to such Department of Revenue shall constitute a debt owed by the retailer to the State of Illinois. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect as provided in 65 ILCS 5/8-11-22.



Sec. 22-18. – Severability.

If any provision of subsection 22-1(c) this article, or the application of any provision of the said subsection, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this article.

Sec. 22-19. – Effective date.

This article shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of January, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to September 30, 2019.

Secs. 22-20–22.29. – Reserved.

**Section 2.** This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

**Section 3.** The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. Further, the City Clerk shall cause a certified copy of this Ordinance to be filed with the Illinois Department of Revenue by no later than September 30, 2019.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSTENTIONS:

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Charles A. Smyth, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Diane Wolfe Marlin, Mayor