



**CITY OF URBANA, ILLINOIS
FINANCE DEPARTMENT**

MEMORANDUM

TO: Mayor Diane Wolfe Marlin and City Council Members
FROM: Elizabeth Hannan, Finance Director
DATE: August 29, 2019
SUBJECT: **Municipal Cannabis Retailers' Occupation Tax**

Attached is a revised version of Ordinance 2019-08-047, which would impose a 3% tax on sale of cannabis in the City of Urbana. Revisions include removing the word "recreational" in several places where it was used in the recitals, and other minor corrections.

The original item provided to the City Council is available here
https://www.urbanaininois.us/sites/default/files/attachments/Ordinance_2019-08-047_all.pdf.

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 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 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 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 to 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 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 section 22-16 of this article, or the application of any provision of the said section, 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:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, 2019.

Diane Wolfe Marlin, Mayor