



AGENDA SUPPLEMENT

TO: Mayor Knight & Board of Trustees

FROM: Kevin Timony, Village Administrator

ITEM: Ordinance Imposing a Municipal Cannabis Retailers' Occupation Tax

BACKGROUND

The Cannabis Regulations and Tax Act (PA 101-0027) authorizes municipalities to impose, by ordinance, a tax upon all businesses selling cannabis at retail within the municipality. This tax may be imposed at a rate up to 3% of gross receipts from retail cannabis sales. The Illinois Department of Revenue (IDOR) has advised that if a proper ordinance is adopted and filed with their office on or before June 1, 2020, then IDOR will administer and enforce the tax beginning on September 1, 2020. Any ordinance filed on or after June 2, 2020 will be implemented by IDOR on September 1st of the following year.

ORDINANCE

Please find enclosed an ordinance that establishes a municipal cannabis retailer's occupation tax in the Village of Wauconda. The enclosed ordinance levies a 3% additional sales tax on the sale of recreational cannabis in the Village. The ordinance provides for the tax to take effect "on and after January 1, 2020." This effective date is consistent with the provisions of the new Act. While the Village is passing the ordinance before January 1, 2020, the effective date of the imposition of the tax under the ordinance is January 1st. Also included in the ordinance is the definition of "cannabis" as used in the new Act.

Please note that passage of this ordinance does not make the retail sale of cannabis legal in the Village, this only establishes the allowed additional sales tax. The legalization of retail cannabis sales will take place later this year as we continue to work through Committee on the required zoning ordinance and other licensing criteria.

Please feel free to contact me with any questions or if you need any additional information.

2019-O-____

AN ORDINANCE IMPOSING A MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX FOR THE VILLAGE OF WAUCONDA, LAKE COUNTY, ILLINOIS

WHEREAS, the Village of Wauconda has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/11-8-22 et seq. (Act); and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a municipal cannabis retailers' occupation tax which will be collected by the Illinois Department of Revenue and remitted to the Village of Wauconda from and after January 1, 2020.

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WAUCONDA, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I: That the preceding "Whereas" clauses are hereby incorporated into this Ordinance as if they were fully set forth herein.

SECTION II: There is hereby created a new division entitled "Municipal Cannabis Retailers' Occupation Tax" within Chapter 35 of the Wauconda Municipal Code to provide as follows:

Municipal Cannabis Retailers' Occupation Tax

Section 35.42 - Tax imposed; Rate.

- A. Effective on and after January 1, 2020, a tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village at the rate of 3% of the gross receipts from these sales made in the course of that business.
- B. The imposition of this tax is in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

Section 35.43 - Collection of tax by retailers.

- A. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. 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.

- B. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

- C. Effective date.
The tax provided for herein shall take effect for all retail cannabis sales on or after the first day of January, 2020.

- D. Filing with Illinois Department of Revenue.
Upon its passage, approval and publication in pamphlet form as provided by law, two duly certified copies of this Ordinance shall be sent to the

Local Tax Allocation Division (3-500)
Illinois Department of Revenue
101 W. Jefferson
Springfield, Illinois 62702

Section 35.44 – Definition of Cannabis.

As used in Section 35.42 above, the term “Cannabis” means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, “cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin

extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. “Cannabis” does not include industrial hemp as defined and authorized under the Industrial Hemp Act. “Cannabis” also means concentrate and cannabis-infused products. (Source: 410 Ill. Comp. Stat. Ann. 705/1-10)

SECTION III: Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action arising, acquired or existing under any act or ordinance or portion thereof hereby repealed or amended by this ordinance; nor shall any just or legal right, claim, penalty or remedy of any character of the corporate authority existing on the effective date hereof be lost, impaired or affected by this Ordinance.

SECTION IV: All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

SECTION V: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the Corporate Authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION VI: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

Passed this 1st day of October, 2019.

	Ayes:	Nays:	Absent/Abstain:
Chuck Black	_____	_____	_____
Tim Howe	_____	_____	_____
Richard G. Morino	_____	_____	_____
Adam Schlick	_____	_____	_____
Tom Shaw	_____	_____	_____
Jeff A. Sode	_____	_____	_____

APPROVED:

By: _____ Date: _____
LINCOLN F. KNIGHT, MAYOR

ATTEST:

By: _____
CHERYL FALK-NOVAK, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on October 1, 2019.

I hereby certify that the above ordinance was published in pamphlet form on _____, 2019 as provided by law.

CHERYL FALK-NOVAK, Village Clerk