



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 6a

Title:

Recommendation to Approve an Ordinance Amending Title 3, Chapter 3.60 of the Municipal Code Imposing a Municipal Cannabis Retailers' Occupation Tax in the Amount of 3%

Presenter:

Chris Minick, Finance Director

Meeting: Government Operations Committee

Date: September 3, 2019

Proposed Cost: \$-0-

Budgeted Amount: \$ N/A

Not Budgeted:

Executive Summary *(if not budgeted please explain):*

As a supplemental action to recent Committee direction to amend the zoning ordinances to allow and regulate recreational cannabis sales in the City from the August 19 meeting, attached is an ordinance to impose a Municipal Cannabis Retailers' Occupation Tax of 3% on recreational cannabis sales in the City of St Charles. This 3% tax would be in addition to all other taxes and fees applicable to recreational cannabis sales in the City. Currently, the City receives 2% of the gross sales price of general merchandise sales, making the applicable local sales tax equal 5% of the gross amount of recreational cannabis sales. The tax will be administered by the Illinois Department of Revenue (IDOR).

Current state legislation does not allow for imposition of a local tax on recreational cannabis sales until September 1, 2020. Since the IDOR requires 90 days' notice to process a new or amended locally imposed tax, a municipality needs to pass an ordinance imposing a local recreational cannabis sales tax prior to June 1, 2020 in order to have the tax effective on September 1, 2020. However, IML is requesting a change in the law allowing for locally imposed taxes to be effective January 1, 2020, coincident with the date allowing recreational cannabis sales in the state. Based on that recommended legislative change, the Illinois Municipal League (IML) is recommending municipalities pass an ordinance imposing a local recreational cannabis sales tax prior to October 1, 2019. This timeframe would be consistent with current guidance from IDOR that requires 90 days for them to process changes to locally imposed taxes. Passage of the ordinance at this time would allow the local tax to be collected effective January 1, 2020 assuming that the law is changed. Should this change not be made, the IDOR would simply not collect a local tax from any retailers who may be operating a recreational sales establishment in STC until such time as state law allows for collection of a local municipal tax.

Although the exact amount of the tax revenue is difficult to anticipate until we have some history with cannabis sales, projections based on recreational cannabis sales data shared at the August 19 GOC indicate that municipal revenues could be in the magnitude of \$1 million. If the law changes allowing for the tax collections commencing on January 1, 2020 and the City does not have an ordinance on file with IDOR, the City would forgo revenue due to the delayed initiation of collections.

Attachments *(please list):*

Proposed Ordinance

Recommendation/Suggested Action *(briefly explain):*

Seeking a Recommendation to Approve An Ordinance Amending Title 3, Chapter 3.60 of the Municipal Code Imposing a Municipal Cannabis Retailers' Occupation Tax in the Amount of 3%

City of St. Charles, Illinois

Ordinance No. _____

An Ordinance Amending the Municipal Code of the City of St. Charles by the Addition of Chapter 3.60 Imposing a Municipal Cannabis Retailers' Occupation Tax

WHEREAS, the City of St. Charles has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and 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 5/8-11-22 *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;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, as follows

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Adoption of Tax. Title 3 of the Municipal Code of the City of St. Charles shall be amended by the addition of Chapter 3.60 that will read as follows:

Chapter 3.60 Municipal Cannabis Retailers' Occupation Tax.

1. Tax imposed; Rate.

(a) 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 City of St. Charles at the rate of 3% of the gross receipts from these sales made in the course of that business. The Tax levied in Chapter 3.60 shall be paid in addition to any and all other taxes and charges.

(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).

2. 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.

Section 3. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, 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 Ordinance.

Section 4. Effective Date. This Ordinance 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.

Section 5. Codification. The corporate authorities of the City intend that this Ordinance will be made part of the Municipal Code and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section," "Article," "Chapter" or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors can be corrected with the authorization of the City Attorney, or his or her designee.

Section 6. Conflict. All parts of the Municipal Code in conflict with the terms or provisions of this Ordinance shall be and the same are hereby amended or repealed to the extent of such conflict, and said Municipal Code and all other existing ordinances shall otherwise remain in full force and effect.

Section 7. That this Ordinance shall be in full force and effect upon and after its passage in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois this ____ day of _____, 2019.

PASSED by the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2019.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2019.

Mayor Raymond P. Rogina

Ordinance No. _____

Page 3

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:

APPROVED AS TO FORM:

City Attorney

DATE: _____