

**ORDINANCE NO. 20 – 034**

**AN ORDINANCE ESTABLISHING AND IMPOSING MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX AND AMENDING TITLE 3 (BUSINESS AND LICENSE REGULATIONS), CHAPTER 1 (MUNICIPAL OCCUPATION TAXES) OF THE NAPERVILLE MUNICIPAL CODE**

**RECITALS**

1. **WHEREAS**, the City of Naperville is a home rule unit of local government pursuant to the provisions of Article VII, Section 6 of the Constitution of the State of Illinois; and
2. **WHEREAS**, pursuant to Article VII, Section 6(a), of the Illinois Constitution, the City of Naperville ("City") may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare which includes the broad general power to tax; and
3. **WHEREAS**, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/8-11-23 et seq. (Act); and
4. **WHEREAS**, this Ordinance is intended to impose the tax authorized by the Act providing for a municipal cannabis retailers' occupation tax which will be administered, collected and enforced by the Illinois Department of Revenue; and
5. **WHEREAS**, the City of Naperville's City Council has determined that establishing and imposing the tax authorized by the Act at three percent (3.00%), effective July 1, 2020, is in the best interests of the City and the public; and

**WHEREAS**, the Ordinance establishing and imposing the tax authorized by the Act, must be adopted and filed with the Illinois Department of Revenue on or before May 1, 2020 in order for the Illinois Department of Revenue to administer and enforce the tax authorized by the Act as of July 1, 2020;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority, as follows:**

**SECTION 1: Recitals.** The Recitals set forth above are found to be true and correct and are hereby incorporated herein and made part hereof in their entirety by reference as though fully set forth in this Section1.

**SECTION 2: Tax imposed.** 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 Program Act, at retail in the City of Naperville at the rate of three percent (3.00%) of the gross receipts from such cannabis sales made in the City of Naperville. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-23 of the Illinois Municipal Code (65 ILCS 5/8-11-23).

**SECTION 3: Illinois Department of Revenue to administer.** The tax imposed by this Ordinance, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Ordinance.

**SECTION 4: Codification of Tax.** Title 3 (Business and License Regulations), Chapter 1 (Municipal Occupation Taxes) of the Naperville Municipal Code is hereby

amended by the addition of Section 12 - Municipal Cannabis Retailers' Occupation Tax that will read as follows:

**3-1-12: - MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX:**

1. Tax Imposed; Rate.

1. 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 Program Act, at retail in the City of Naperville at the rate of three percent (3.00%) of the gross receipts from such cannabis sales made in the City of Naperville.
2. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-23 of the Illinois Municipal Code (65 ILCS 5/8-11-23).

2. Collection of tax by retailers.

1. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue. Any tax reimbursement collected by such retailer and required to be remitted to the Illinois 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 of Illinois tax that sellers are required to collect.

3. The Illinois Department of Revenue to administer.

1. The tax imposed by this Ordinance, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Ordinance.

**SECTION 5: Repeal of conflicting provisions.** All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

**SECTION 6: Severability.** If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or

unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance or resolution or their application, that can be given effect without the invalid or unenforceable provision or its application. Each invalid or unenforceable provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

**SECTION 7: Clerk to file Ordinance with Illinois Department of Revenue.**

The Municipal Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue on or before May 1, 2020 and the Illinois Department of Revenue shall administer and enforce the tax hereby imposed as of July 1, 2020.

**SECTION 8: 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 three percent (3.00%) Municipal Cannabis Retailers' Occupation Tax provided for herein shall take effect for all sales on or after July 1, 2020, so long as a certified copy of this Ordinance is filed with the Illinois Department of Revenue on or before May 1, 2020.

PASSED this 7<sup>th</sup> day of April, 2020.

AYES: CHIRICO, KELLY, KRUMMEN, SULLIVAN, WHITE

NAYS: COYNE, GUSTIN, HINTERLONG

APPROVED this 8<sup>th</sup> day of April, 2020.

ATTEST:

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Steve Chirico, Mayor City of Naperville

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Pam Gallahue, Ph.D., City Clerk City of Naperville