AN ORDINANCE
AMENDING TITLE 4 OF THE ELGIN MUNICIPAL CODE, 1976, AS AMENDED, ENTITLED “REVENUE AND FINANCE” BY ADDING A NEW CHAPTER 4.25 THERETO ENTITLED “MUNICIPAL CANNABIS RETAILERS’ OCCUPATION TAX”

WHEREAS, the City of Elgin is a home rule unit pursuant to Article VII, Section 6 of the Illinois Constitution, and as a home rule unit may exercise any power and perform any function pertaining to its government affairs; and

WHEREAS, Public Act 101-0027, known as the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq. (the “Act”), which became effective on June 25, 2019, will allow the possession, use, transportation and dispensing of adult-use cannabis in Illinois effective January 1, 2020; and

WHEREAS, Public Act 101-0027, as amended by Public Act 101-0593, also created a new Section 8-11-23 of the Illinois Municipal Code (65 ILCS 5/8-11-23) authorizing imposition by municipalities of a municipal cannabis retailers’ occupation tax at a rate not to exceed three percent (3%) of the gross receipts of cannabis sold in a municipality so long as the city permits the retail sale of cannabis in the city, except for retail sales made under the Illinois Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1, et seq.; and

WHEREAS, pursuant to the Act, the city has enacted reasonable zoning regulations which will allow as conditional uses the location of adult-use cannabis dispensaries making retail sales of cannabis within certain zoning districts in the city, subject to compliance by such dispensaries with certain specified conditions; and

WHEREAS, the city council of the city desires to make certain amendments to the Elgin Municipal Code in order to levy a municipal cannabis retailers’ occupation tax at a rate of three percent (3%) on the gross receipts of cannabis sold in the city, should such sales occur within the city pursuant to the Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq.; and

WHEREAS, the city council of the city finds that levying a tax on cannabis sales pursuant to Section 8-11-23 of the Illinois Municipal Code (65 ILCS 5/8-11-23), at a rate of three percent (3%) of the gross receipts of cannabis sold in the city is in the best interests of the city, the residents, property owners and businesses, and will further the public’s health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, ILLINOIS:

Section 1. That Title 4 of the Elgin Municipal Code, 1976, as amended, entitled “Revenue and Finance” be and is hereby further amended by adding a new Chapter 4.25 thereto entitled “Municipal Cannabis Retailers’ Occupation Tax” to read as follows:
Chapter 4.25
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX

4.25.010: TAX IMPOSED:

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 Program Act, at retail in the City of Elgin at the rate of three (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 Section 8-11-23, of the Illinois Municipal Code (65 ILCS 5/8-11-23), as amended, and is in addition to any and all other taxes and charges.

4.25.020: COLLECTION:

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 chapter."

Section 2. 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 3. That all ordinances or parts of ordinance in conflict with the provisions of this ordinance be and are hereby repealed to the extent of any such conflict.

Section 4. That this ordinance shall be in full force and effect upon its passage and publication in the manner provided by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of July, 2020. Certified copies of this ordinance shall be sent to the Illinois Department of Revenue prior to April 1, 2020.
Section 5. The city clerk of the City of Elgin is directed to file certified copies of this ordinance with the Illinois Department of Revenue prior to April 1, 2020.

David J. Kaptain, Mayor

Presented: December 18, 2019
Passed: December 18, 2019
Vote: Yeas: 8  Nays: 1
Recorded: December 18, 2019
Published: December 19, 2019

Attest:
Kimberly Dewis, City Clerk