



Monday, September 30, 2019

5:30 PM

Civic Center Theatre

Special Meeting City Council Agenda

I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Introduction, Meeting Protocols and Appearance of Citizens*-Mayor Moore Wolfe

V. Staff Presentation-Scot Wrighton

Presentation-September 30th, 2019

VI. Question 1

Should Marijuana Retail Dispensaries be permitted in the City of Decatur?

Public Comment

Presentation Ordinance Options

Ordinance Adding Chapter 52.3 to City Code-Prohibiting Cannabis Dispensing Organizations

Ordinance Adding Chapter 51.6 to City Code-Municipal Cannabis Retailer's Occupation Tax

VII. Question 2

Should Various Marijuana processing facilities be permitted in the City of Decatur?

Public Comment

Presentation of Ordinance Options

Ordinance Adding Chapter 52.2 to City Code-Prohibiting Cannabis Business Establishments

Ordinance Adding Chapter 52.4 to City Code-Cannabis Business Establishments

VIII. Question 3

What Ordinance Restrictions should be placed on the open consumption/use of Marijuana?

Public Comment

Presentation of Ordinance Options

Ordinance Amending City Code Chapter 34 - Traffic and Parking

Ordinance Amending City Code Chapter 73 - Offenses

IX. Adjournment

***Policy relative to Appearance of Citizens:**

A 15 minute time period is provided for citizens to appear and express their views before the City Council. Each citizen who appears will be limited to 3 minutes. No immediate response will be given by City Council or City staff members. Citizens are to give their documents to the Police Officer for distribution to the Council.

SUBJECT: Presentation-September 30th, 2019

ATTACHMENTS:

Description	Type
Presentation-September 30th, 2019	Cover Memo

September 26, 2019

TO: Mayor & City Council

FROM: Scot Wrighton, City Manager 

RE: Special Meeting on Recreational Cannabis

The Illinois Cannabis Regulation and Tax Act (HB1438; P.A. 101-0027) presents a number of impactful policy issues for the Decatur City Council to consider. The Act legalizes the production, sale and adult use of recreational cannabis within the State of Illinois effective January 1, 2020. Implementation of the Act includes the creation of a state-controlled licensing program to accommodate various categories of recreational cannabis businesses and the authorization of various taxes and fees that local governments may collect, if they choose to permit these businesses.

Several provisions of the Act are ambiguous, and there appear to be some drafting errors in the legislation. For this reason, the Illinois General Assembly will consider several amendments to the new law when they convene for the 6-day “Veto Session” in late October (see attached article).

Estimating the potential revenues to the city of Decatur that could be derived from permitting retail dispensary sales of marijuana is little more than guesswork. While the State of Illinois has estimated total annual state revenues will grow from \$140 million to \$375 million in less than five years (from this new revenue source), their estimate assumes that adjoining states will not legalize marijuana, and it does not account for the ways black market sales depress legal sales. Even if the State’s estimates are reliable, there is no way to predict the volume of sales in Decatur. Using Decatur’s total sales tax revenues as a percentage of Statewide sales tax revenue (adjusted for variations in rates), or using Decatur’s population as a percentage of Statewide population, are both crude and imprecise methods of guessing at how much cannabis revenue Decatur might receive [using the State’s marijuana tax estimates as a base]. In the absence of a better yardstick, when employing these measurement methods Decatur cannabis revenue from sales and excise taxes could be \$206,000 to \$360,000 annually, assuming the city adopts the maximum tax rate. This range does not account for black market effects, or for Decatur’s lower income levels—both of which will depress the revenue estimates.

The pros and cons of allowing retail marijuana dispensaries in Decatur have been controversial topics for months. Broadly speaking, however, from the city’s standpoint, the main arguments in favor of allowing retail dispensary sales are: 1) it allows the city to collect additional tax revenue; 2) if the city “opts out” people may simply go to other cities to obtain marijuana and potentially take non-marijuana retail transactions with them; and 3) it provides additional business opportunities for new and existing business persons that could add to the local economy. The

arguments against allowing retail dispensary sales are: 1) expanding local access to marijuana could result in additional law enforcement, criminal justice and drug treatment costs in the future that offset added revenues; 2) because marijuana sales are cash-only transactions [since the trade remains illegal at the Federal level], there will be increased criminal activity near dispensary sites; and 3) increased local access to marijuana could contribute to losses in worker productivity and workplace attendance in a job market that already struggles to fill the available job slots. Much of the evidence behind the arguments, for and against, is anecdotal.

A summary of the Act's key provisions is attached. The Act makes numerous policy and governance decisions that completely pre-empt any decision-making by the Decatur City Council. The Act legalizes the personal use of marijuana statewide, no matter what the city decides. The Act decriminalizes marijuana possession statewide, no matter what the city decides. The city can take no action to prohibit medical dispensaries in Decatur (although none are currently licensed). The State, and not the city, issues all licenses for the sale and processing of marijuana. The city of Decatur is allowed to exercise its policy-making discretion in three narrow and restricted areas. It is, therefore, recommended that the City Council focus only on those areas where it is empowered by the Act to make decisions. These are:

1. Should retail dispensaries be permitted inside the Decatur city limits?
2. Regardless of how the City Council answers question #1 above, should certain types of marijuana processing and cultivating facilities be permitted inside the Decatur city limits?
3. Regardless of how the City Council answers questions #1 and #2 above, and without violating the provisions of the Act, how restrictive should city ordinances be that prohibit the use/consumption of marijuana in "public places," and for purposes of enforcement how are "public places" defined?

Depending on how the City Council answers these questions, there are several subordinate questions under each policy category (e.g., rate of taxation, additional land use and zoning requirements, whether to allow marijuana use cafes, what business licensing and inspection requirements should be imposed, etc.).

All Illinois cities are wrestling with these policy questions, and different cities are reaching different conclusions. For example, as of September 19, the attached sampling of 48 Chicago suburbs shows no consensus, with many still undecided.

The city attorney has prepared sample ordinances for each category of policy decision (see attached). Any of them, once put on the floor with a motion and second, can be amended and passed to reflect the wishes of the City Council. Action on September 30 is not mandatory; council may table all or some of the action items. It is recommended that the City Council organize and group public comment, and then engage in their own discussion, using these three questions. I have asked the city attorney to make a short oral summary of the sample ordinances connected to each policy category. This can serve as a point-of-reference for citizen comments.

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Glitch in Illinois Weed Law Could Delay Towns' Tax Revenue

By Michael J. Bologna

Sept. 16, 2019, 2:02 PM

- Law doesn't allow local taxes until September 2020
- Some lawmakers worry local taxes could dampen legal market

A drafting error in the law legalizing recreational marijuana in Illinois starting in January may mean counties and towns have to wait an extra nine months before gathering their share of potential revenue bonanza.

The delay has been attributed to a drafting glitch in the municipal cannabis retailers' occupation tax (MCROT) that will prevent municipalities from collecting taxes until Sept. 1, 2020. MCROT was a prominent feature of H.B. 1438, which made Illinois the 11th state to legalize recreational marijuana.

The state has previously estimated that legalization could bring in more than \$1 billion in revenue over five years. Local governments' share of that prize remains unclear because municipal participation will evolve over time.

Mayors and aldermen across the state are now scrambling to enact local tax ordinances ahead of a soft Oct. 1 deadline that could grant them taxing authority on day one of the state program. They have also been making appointments to lobby legislators during the six-day General Assembly veto session, which starts Oct. 28. Municipal leaders hope to set up MCROT regimes and amend the cannabis law to permit tax collections beginning Jan. 1.

"This could be an issue that is raised for clarification in follow up legislation this fall," said Brad Cole, executive director of the Illinois Municipal League (IML).

Despite the flurry of municipal rulemaking, it remains unclear whether state lawmakers will lend support to the local governments and move up the tax's start date. Some lawmakers fear high local taxes could interfere with cannabis sales as the program gets started.

"There has been a request to make that change but no decision has been made yet," said Rep. Kelly Cassidy (D), one of the architects of Illinois' cannabis statute.

\$1 Billion Over Five Years

Illinois' law permits cities, towns, and villages to impose MCROT on state-authorized purchases of adult-use cannabis at a rate no more than 3% of the purchase price. Counties are authorized to impose the tax at a rate of 3% in incorporated areas and 3.75% in unincorporated areas. The Illinois Department of Revenue is designated to administer and collect the taxes, and remit payments to municipalities.

The department has estimated state revenue from the tax features of the broader statute would total \$140.5 million in FY 2021, \$253.5 million in FY 2022, \$323.5 million in FY 2023, and \$375.5 million in FY 2024.

Revenue department spokesman Sam Salustro said the law directs municipalities to implement MCROT ordinances and register with his agency before June 1 of a given year, in order to start collections on Sept. 1 of that year. As a practical matter, he said, the statutory language prevents the department from collecting MCROT when adult-use cannabis goes live on New Years Day.

"We won't begin enforcing and administering it until the first day of September 2020, so that's almost a year from now," he said.

Rushing to an Artificial Deadline

The IML—the lobbying voice of Illinois' nearly 1,300 towns and cities—in July began telling Illinois' municipalities to act quickly. It also circulated a model ordinance that members could enact quickly.

Chicago attorney Michael Marrs, who advises dozens of Illinois towns on municipal law, said the IML's directives have caused dozens of communities to take action ahead of the artificial deadline.

In recent weeks the cities of Urbana and East Peoria enacted ordinances permitting the imposition of MCROT at a rate of 3%. The Chicago City Council is expected to take similar action before the end of the month. At the same time, several cities, including Naperville, Morton, and Murphysboro, have voted to ban sales of adult use cannabis.

"The reason people are rushing now is in anticipation of there possibly being an amendment to the legislation before January," said Marrs, a partner with Klein, Thorpe and Jenkins Ltd.

"Proceed With Extreme Caution"

Despite this activity, Cassidy and three other lawmakers championing the cannabis program are cautioning towns and cities to rein in their expectations, which could color any debate in the General Assembly for an MCROT move-up date.

The lawmakers have grown increasingly concerned that local taxes might interfere with cannabis sales, ceding much of the marijuana game to black market sellers.

In a local government toolkit released over the summer, the lawmakers counseled communities to, "proceed with extreme caution and avoid immediately taxing to the cap."

Cassidy and her colleagues added, "it's vital to allow the marketplace to mature before increasing tax rates. This has been a huge issue around the country as states and locals have often found that street markets lower prices to compete and maintain market share, so it's critical to allow the new market to gain traction before increasing consumer costs through taxation."

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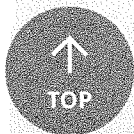
Related Articles

Sacks of Cash Spur States to Seek Cannabis Tax Solutions **Aug. 26, 2019, 3:46 AM**

Vaping Taxes Tempt States but Bring Challenges **July 2, 2019, 3:46 AM**

Illinois Expects \$1 Billion in Cannabis Revenue Over Five Years **June 25, 2019, 12:19 PM**

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MUNICIPALITY	BODY	MOST RECENT ACTION	DATE OF ACTION	POSITION
Villa Park	Board of Trustees	Permitted as Special Use	2/11/19	Permit
Lake Forest	Board of Trustees	Prohibited	7/1/19	Prohibit
La Grange	Board of Trustees	Red Flag Resolution	7/8/19	None
Bannockburn	Board of Trustees	Direct to Plan Commission	7/15/19	None
South Elgin	Board of Trustees	First Steps Consideration	7/16/19	Permit
Buffalo Grove	Board of Trustees	First Steps Consideration	8/5/19	None
Carol Stream	Board of Trustees	First Steps Consideration	8/5/19	None
Grayslake	Board of Trustees	Prohibit Until 1/1/2021	8/6/19	Prohibit
Highland Park	City Council	Taking No Action	8/12/19	Permit
Park Ridge	City Council	Prepare Ordinance	8/12/19	Prohibit
Arlington Heights	Board of Trustees	First Steps Consideration	8/13/19	Permit
Wauconda	Board of Trustees	First Steps Consideration	8/13/19	Permit
Bolingbrook	Board of Trustees	Prohibited	8/13/19	Prohibit
Addison	Plan Commission	Prepare Ordinance	8/14/19	Permit
Lisle	Board of Trustees	First Steps Consideration	8/19/19	None
Glen Ellyn	Board of Trustees	First Steps Consideration	8/19/19	None
Frankfort	Board of Trustees	Prohibited	8/19/19	Prohibit
Rolling Meadows	City Council	Petition by Private Party	8/20/19	Permit
Lake in the Hills	Board of Trustees	First Steps Consideration	8/22/19	None
Deerfield	Plan Commission	First Steps Consideration	8/22/19	Prohibit
Libertyville	Plan Commission	First Steps Consideration	8/26/19	None
La Grange Park	Board of Trustees	First Steps Consideration	8/27/19	Prohibit
Des Plaines	City Council	Direct to Plan Commission	9/3/19	None
Oswego	Board of Trustees	First Steps Consideration	9/3/19	None
Lincolnwood	Board of Trustees	Permitted as Special Use	9/3/19	Permit
Naperville	City Council	Prohibited	9/3/19	Prohibit
Clarendon Hills	Board of Trustees	First Steps Consideration	9/4/19	Prohibit
Riverside	Board of Trustees	Permitted	9/5/19	Permit
Bloomingtondale	Board of Trustees	Prohibited	9/6/19	Prohibit
DeKalb	City Council	First Steps Consideration	9/9/19	Permit
Oak Brook Terrace	City Council	Permitted	9/10/19	Permit
Niles	Board of Trustees	Prepare Ordinance	9/16/19	Permit
Oak Park	Board of Trustees	Permitted as Special Use	9/16/19	Permit
Evanston	City Council	First Steps Consideration	9/16/19	Permit
Wheaton	City Council	Prohibited	9/16/19	Prohibit
Lake Zurich	Board of Trustees	Prepare Ordinance	9/16/19	Prohibit
Oak Brook	Plan Commission	Prohibited	9/16/19	Prohibit
Bartlett	Board of Trustees	Final Consideration	9/17/19	None
Winnetka	Board of Trustees	Public Hearing	9/17/19	None
Northbrook	Plan Commission	First Steps Consideration	9/17/19	Permit
St. Charles	City Council	First Steps Consideration	9/17/19	Permit
Glencoe	Board of Trustees	Direct to Plan Commission	9/17/19	Permit
Winthrop Harbor	Board of Trustees	Permitted	9/17/19	Permit
Downers Grove	Board of Trustees	Prohibited	9/17/19	Prohibit
Hinsdale	Board of Trustees	Prohibited	9/17/19	Prohibit
Lake Bluff	Plan Commission	First Steps Consideration	9/18/19	Prohibit
Warrenville	City Council	First Steps Consideration	9/19/19	None
Lombard	Board of Trustees	Prepare Ordinance	9/19/19	Permit

Permit	19
Prohibit	16
None	13

RECREATIONAL MARIJUANA IN ILLINOIS – STARTING IN 2020

A copy of HB1438 (“the Act”) and two publications regarding the regulation of recreational cannabis published by the Illinois Municipal League were distributed previously to the members of the Decatur City Council. These same publications are also available on the city of Decatur website (www.decaturil.gov). Key points in the new legislation are:

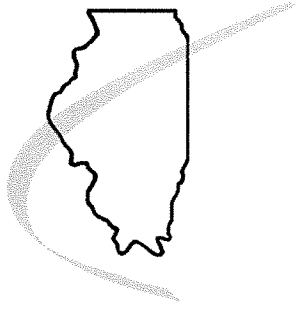
1. Persons 21 and older can use & possess marijuana (30g flower or raw, 5g concentrated, 500mg infused products) in Illinois. Local governments cannot prohibit its possession, or its use in private.
2. Boat, motor vehicle & heavy equipment DUI of cannabis is still illegal.
3. Registered medical cannabis patients 21 and over may grow up to 5 plants at their residence. No home cultivation of recreational cannabis is permitted.
4. Persons under 21, unless a registered medical cannabis patient, may have their drivers license suspended or revoked if they use, purchase, process, grow or use marijuana, or if they attempt to use a fake ID.
5. It is illegal to possess cannabis in a private vehicle unless in a reasonably secured sealed container & it is reasonably inaccessible while vehicle is moving.
6. It is illegal to use or possess cannabis on grounds of any school, school bus, correctional facility, or child care facility unless as a registered medical cannabis patient.
7. It is illegal to use cannabis in any public place, meaning in any place where a person could reasonably be expected to be observed by others. Does not include a private residence.
8. It is illegal to use cannabis in close physical proximity to persons under 21.
9. Cannabis may not be used while driving any vehicle.
10. Cannabis may not be smoked anywhere prohibited under the Smoke Free Illinois Act.
11. Local governments may not prohibit use of cannabis by registered medical cannabis patients. It has been legal for these patients since January 1, 2014. Allowed at 22 (20 currently) cultivation centers and 60 (55 currently) dispensaries.

12. No workplace rules forbidding the use of cannabis, being under the influence of cannabis, or testing positive for cannabis, are in any way altered or repealed by the passage of the Act.

13. Owners of rental residential property may prohibit the use, consumption and smoking of cannabis in or on their property by tenants, guests and others.

14. There are six (6) categories of cannabis business licenses. They are summarized below:

- a. Cultivation Center: Large scale industrial growing facility
 - 01.01.20: Current eligible for 1 license at current location
 - 07.01.21: Max. 30 total licenses may be issued after this date
- b. Craft Grower: Smaller cultivation center (5000-14,000 sq. ft.)
 - Can be co-located with a dispensary or other licensed cannabis business--
 - 07.01.20: 40 licenses possible
 - 12.21.21: 60 additional licenses possible
 - 01.01.22: Max. of 150 after this date
- c. Dispensary: Retail business licensed by IDFP to sell cannabis
 - 01.01.20: Current eligible for 1 license at current location & 1 additional at second location; total 110 possible
 - 05.01.20: 75 additional licenses possible. Decatur BLS Region (Macon County) eligible for 1
 - 12.21.21: 110 additional licenses possible
 - 01.01.22: Increased to max of 500 licenses total after this date.
- d. Processor: Light industrial/manufacturing facility that extracts constituent chemicals or compounds to produce cannabis concentrate in oil, resin, or other forms for sale to dispensaries & infusers.
- e. Infuser: Facility that produces cannabis-infused products. (e.g. edibles)
 - 07.01.20: 40 Licenses possible
 - 12.21.21: 60 additional licenses possible
 - 01.01.22: May modify or raise to unspecified number based on market, and other factors.
- f. Transporter: Transports cannabis on behalf of a cannabis business establishment--
 - 01.01.20: Current cultivation centers eligible
 - 03.01.20: Additional licenses possible if criteria met. No limit



informational

Bulletin

David Harris, Director

Municipalities and Counties may impose a local Cannabis Retailers' Occupation Tax beginning September 1, 2020

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

To: All Illinois Municipal and County Governments

Public Acts 101-27 and 101-363 authorize municipalities (65 ILCS 5/8-11-22) and counties (55 ILCS 5/5-1006.8) to impose, by ordinance, a tax upon all persons engaged in the business of selling cannabis, other than medical cannabis, at retail in the municipality or county on the gross receipts from cannabis sales.

What is the tax rate that counties and municipalities can impose by ordinance on retail sales of cannabis?

Municipalities may impose a tax on retail sales of cannabis, other than medical cannabis, at a rate that may not exceed 3%, imposed in one-quarter percent (0.25%) increments. Counties may impose a tax (also in one-quarter percent increments) on retail sales of cannabis, other than medical cannabis, at the following rates:

- In unincorporated areas of the county, the rate may not exceed 3.75%.
- In a municipality located in the county, the rate may not exceed 3%.

As with any local government tax administered by the Illinois Department of Revenue (IDOR), municipalities and counties must submit their ordinances to IDOR by a statutory deadline in order to begin imposing the tax.

When must counties and municipalities submit cannabis ordinances to IDOR for those ordinances to take effect on September 1, 2020?

The law provides that if a proper ordinance is adopted and filed with IDOR on or before June 1, 2020, then IDOR will administer and enforce the tax beginning on September 1, 2020. Ordinances filed on or after June 2, 2020, will be implemented by IDOR on September 1st of the following year.

Municipalities and counties should submit their ordinances to the following address:

LOCAL TAX ALLOCATION DIVISION (3-500)
ILLINOIS DEPARTMENT OF REVENUE
101 W JEFFERSON
SPRINGFIELD IL 62702

For more information
Visit our website at:
tax.illinois.gov

Call us at:
217 785-6518

Email us at:
rev.localtax@illinois.gov

SUBJECT: Ordinance Adding Chapter 52.3 to City Code-Prohibiting Cannabis Dispensing Organizations

ATTACHMENTS:

Description	Type
Ordinance Adding Chapter 52.3 to City Code-Prohibiting Cannabis Dispensing Organizations	Cover Memo

ORDINANCE NO. 2019-_____

**AN ORDINANCE AMENDING CITY CODE
OF THE CITY OF DECATUR, ILLINOIS
BY THE ADDITION OF CHAPTER 52.3
-PROHIBITING CANNABIS DISPENSING ORGANIZATIONS-**

WHEREAS, the City of Decatur, Illinois, an Illinois municipal corporation, 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, on June 25, 2019, the State of Illinois adopted the Cannabis Regulation and Tax Act ("Act") as Public Act 101-0027; and,

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Act, Section 55-25(5), which provides that the City of Decatur has the authority to enact ordinances to prohibit or significantly limit a Cannabis Business Establishment's location; and

WHEREAS, the City of Decatur has determined that the operation of a Cannabis Dispensing Organization would present adverse impacts upon the health, safety and welfare of the residents, and additional costs, burdens and impacts upon law enforcement and regulatory operations of the City of Decatur; and,

WHEREAS, the Corporate authorities of the City of Decatur in exercise of the power reserved to them under the Act desire to adopt certain regulations to prohibit the location of Cannabis Dispensing Organizations within the City of Decatur.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Decatur as follows:

Section 1. 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. That the City Code of the City of Decatur be, and the same is hereby modified and amended by the adding a new Chapter 52.3 titled "Cannabis Dispensing Organizations Prohibited" thereto. Said new Chapter 52.3 shall provide as set forth in Exhibit A attached hereto and made a part hereof.

Section 3. That the City Clerk be, and she is hereby, authorized and directed to cause the provisions hereof to be appropriately set out in the City Code and to cause the same to be published in pamphlet form according to law.

PRESENTED, PASSED, APPROVED AND RECORDED this 30th day of September,
2019.

JULIE MOORE WOLFE, MAYOR

ATTEST:

CITY CLERK

PUBLISHED THIS _____ day of _____, 2019.

CITY CLERK

CHAPTER 52.3

CANNABIS DISPENSING ORGANIZATIONS PROHIBITED

1. **WORDS AND PHRASES.** Words and phrases in this Chapter which are defined in the Cannabis Regulation and Tax Act, P.A. 101-0027 (“Act”) and as may be amended from time to time, shall have and be given the same meaning and definitions as therein set out unless expressly otherwise provided herein.

2. **DEFINITIONS.** The following words, terms and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this Section, as follows:

CANNABIS BUSINESS ESTABLISHMENT: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

DISPENSING ORGANIZATION: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

PERSON: Any person or individual, firm, partnership, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

3. **CANNABIS DISPENSING ORGANIZATIONS PROHIBITED.** Pursuant to the Authority reserved to the City of Decatur under Section 55-25 of the Cannabis Regulation and Tax Act, Cannabis Dispensing Organizations are prohibited in the City of Decatur. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the City of Decatur any Cannabis Dispensing Organizations.

4. **PUBLIC NUISANCE DECLARED.** Operation of any prohibited Cannabis Dispensing Organizations within the City of Decatur in violation of the provisions of this Article is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

5. **PENALTY.** Any person, firm or corporation who shall violate any provision of this Chapter shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense, and each day of a continuing violation be deemed a separate offense. The penalties or remedies provided herein shall be cumulative and resort to any one or more shall be no defense to prosecution of another.

6. **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.

7. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

SUBJECT: Ordinance Adding Chapter 51.6 to City Code-Municipal Cannabis Retailer's Occupation Tax

ATTACHMENTS:

Description	Type
Ordinance Adding Chapter 51.6 to City Code-Municipal Cannabis Retailers' Occupation Tax	Cover Memo

ORDINANCE NO. 2019-_____

**AN ORDINANCE AMENDING CITY CODE
OF THE CITY OF DECATUR, ILLINOIS
BY THE ADDITION OF CHAPTER 51.6-
-MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX-**

WHEREAS, the City of Decatur, Illinois, an Illinois municipal corporation, 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 5/11-8-22 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.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Decatur as follows:

Section 1. 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. That the City Code of the City of Decatur be, and the same is hereby modified and amended by adding a new Chapter 51.6 titled "Municipal Cannabis Retailers Occupation Tax" thereto. Said new Chapter 51.6 shall provide as set forth in Exhibit A attached hereto and made a part hereof.

Section 3. That the City Clerk be, and she is hereby, authorized and directed to cause the provisions hereof to be appropriately set out in the City Code and to cause the same to be published in pamphlet form according to law.

PRESENTED, PASSED, APPROVED AND RECORDED this 30th day of September, 2019.

JULIE MOORE WOLFE, MAYOR

ATTEST:

CITY CLERK

PUBLISHED THIS _____ day of _____, 2019.

CITY CLERK

CHAPTER 51.6

MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX

Section 1. **TAX IMPOSED; RATE.** In accordance with the provisions of Sections 8-11-22 of Chapter 65 of the Illinois Municipal Code (65 ILCS 5/8-11-22 et. seq.), 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 Decatur at the rate of three percent (3%) of the gross receipts from these sales made in the course of that business.

Section 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 City Code Chapter.

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.

SUBJECT: Ordinance Adding Chapter 52.2 to City Code-Prohobiting Cannabis Business Establishments

ATTACHMENTS:

Description	Type
Ordinance Amending City Code by the Addition of Chapter 52.2-Prohibiting Cannabis Business Establishments	Ordinance

ORDINANCE NO. 2019-_____

**AN ORDINANCE AMENDING CITY CODE
OF THE CITY OF DECATUR, ILLINOIS
BY THE ADDITION OF CHAPTER 52.2
-PROHIBITING CANNABIS BUSINESS ESTABLISHMENTS-**

WHEREAS, the City of Decatur, Illinois, an Illinois municipal corporation, 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, on June 25, 2019, the State of Illinois adopted the Cannabis Regulation and Tax Act ("Act") as Public Act 101-0027; and,

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Act, Section 55-25(5), which provides that the City of Decatur has the authority to enact ordinances to prohibit or significantly limit a Cannabis Business Establishment's location; and

WHEREAS, the City of Decatur has determined that the operation of Cannabis Business Establishments would present adverse impacts upon the health, safety and welfare of the residents, and additional costs, burdens and impacts upon law enforcement and regulatory operations of the City of Decatur; and,

WHEREAS, the Corporate authorities of the City of Decatur in exercise of the power reserved to them under the Act desire to adopt certain regulations to prohibit the location of Cannabis Business Establishments within the City of Decatur.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Decatur as follows:

Section 1. 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. That the City Code of the City of Decatur be, and the same is hereby modified and amended by adding a new Chapter 52.2 titled "Cannabis Business Establishments Prohibited" thereto. Said new Chapter 52.2 shall provide as set forth in Exhibit A attached hereto and made a part hereof.

Section 3. That the City Clerk be, and she is hereby, authorized and directed to cause the provisions hereof to be appropriately set out in the City Code and to cause the same to be published in pamphlet form according to law.

PRESENTED, PASSED, APPROVED AND RECORDED this 30th day of September 2019.

JULIE MOORE WOLFE, MAYOR

ATTEST:

CITY CLERK

PUBLISHED THIS _____ day of _____, 2019.

CITY CLERK

CHAPTER 52.2

CANNABIS BUSINESS ESTABLISHMENTS PROHIBITED

1. **WORDS AND PHRASES.** Words and phrases in this Chapter which are defined in the Cannabis Regulation and Tax Act, P.A. 101-0027 (“Act”) and as may be amended from time to time, shall have and be given the same meaning and definitions as therein set out unless expressly otherwise provided herein.

2. **DEFINITIONS.** The following words, terms and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this Section, as follows:

CANNABIS BUSINESS ESTABLISHMENT: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

CRAFT GROWER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

CULTIVATION CENTER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

INFUSER ORGANIZATION OR INFUSER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

PERSON: Any person or individual, firm, partnership, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

PROCESSING ORGANIZATION OR PROCESSOR: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

TRANSPORTING ORGANIZATION OR TRANSPORTER: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

3. **CANNABIS BUSINESS ESTABLISHMENTS PROHIBITED.** Pursuant to the Authority reserved to the City of Decatur under Section 55-25 of the Cannabis Regulation and Tax Act, the following Cannabis Business Establishments are prohibited in the City of Decatur. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the City of Decatur of any of the following:

- a. Craft Grower
- b. Cultivation Center
- c. Infuser Organization or Infuser
- d. Processing Organization or Processor
- e. Transporting Organization or Transporter

4. **PUBLIC NUISANCE DECLARED.** Operation of any prohibited Cannabis Business Establishment within the City of Decatur in violation of the provisions of this Article is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

5. **PENALTY.** Any person, firm or corporation who shall violate any provision of this Chapter shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense, and each day of a continuing violation be deemed a separate offense. The penalties or remedies provided herein shall be cumulative and resort to any one or more shall be no defense to prosecution of another.

6. **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.

7. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

SUBJECT: Ordinance Adding Chapter 52.4 to City Code-Cannabis Business Establishments

ATTACHMENTS:

Description	Type
Ordinance Adding Chapter 52.4 to City Code-Cannabis Business Establishments	Ordinance

ORDINANCE NO. 2019-_____

**AN ORDINANCE AMENDING CITY CODE
OF THE CITY OF DECATUR, ILLINOIS
BY THE ADDITION OF CHAPTER 52.4
-CANNABIS BUSINESS ESTABLISHMENTS-**

WHEREAS, the State of Illinois has enacted the Cannabis Regulation and Tax Act, P.A. 101-0027 (“Act”) which pertains to the possession, use, cultivation, transportation and dispensing of adult use cannabis which became effective June 25, 2019; and,

WHEREAS, the State of Illinois retains sole authority to regulate the use of cannabis and therefore municipalities cannot legislate concerning the use of cannabis in their municipality if it is in conflict with the State of Illinois; and,

WHEREAS, the State of Illinois authorizes municipalities to enact legislation concerning the retail sale of cannabis and other cannabis business establishments regarding location, zoning and related activity; and,

WHEREAS, the City of Decatur (“Decatur”) desires to encourage the safe use of cannabis and to encourage economic development within Decatur and recognizes that the sale of cannabis will bring purchasers from outside of Decatur and that a dispensary as a destination will benefit other business in Decatur as will other Cannabis Business Establishments; and,

WHEREAS, the Corporate Authorities of the City of Decatur in the exercise of the power reserved to them under the Act desire to adopt certain regulations relating to the retail sale of cannabis and other Cannabis Business Establishments regarding location, zoning and related activity.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Decatur as follows:

Section 1. 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. That the City Code of the City of Decatur be, and the same is hereby modified and amended by the adding of a new Chapter 52.4 titled “Cannabis Business Establishments” thereto. Said new Chapter 52.4 shall provide as set forth in Exhibit A attached hereto and made a part hereof.

Section 3. That the City Clerk be, and she is hereby authorized and directed to cause the provisions hereof to be appropriately set out in the City Code and to cause the same to be published in pamphlet form according to law.

PRESENTED, PASSED, APPROVED AND RECORDED this 30th day of September, 2019.

JULIE MOORE WOLFE, MAYOR

ATTEST:

CITY CLERK

PUBLISHED THIS _____ day of _____, 2019.

CITY CLERK

CHAPTER 52.4

CANNABIS BUSINESS ESTABLISHMENTS

Section 1. **SCOPE.** This Chapter shall apply to the service, distribution, and sale of cannabis, within the City of Decatur.

Section 2. **INTERPRETATION.** This Chapter shall be liberally construed to the end that the health, safety and welfare of the residents of the City of Decatur shall be protected and temperance in the use and consumption of cannabis shall be fostered and promoted.

Section 3. **DEFINITIONS.** Unless the context shall otherwise require, or unless defined in the City Code of the City of Decatur, including this Chapter, terms used in this Chapter shall have the definitions given in the Cannabis Regulation and Tax Act P.A. 101-0027 (“Act”), as amended from time to time. Where not otherwise qualified, the term license or licensee wherever used in this Chapter means a license or licensee of the City of Decatur under this Chapter.

CANNABIS BUSINESS ESTABLISHMENT: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

CRAFT GROWER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

CULTIVATION CENTER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

DISPENSING ORGANIZATION: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

INFUSER ORGANIZATION OR INFUSER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

PERSON: Any person or individual, firm, partnership, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

PROCESSING ORGANIZATION OR PROCESSOR: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

TRANSPORTING ORGANIZATION OR TRANSPORTER: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act (P.A.101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

Section 4. **USE.**

(a) Cannabis may not be consumed within a Cannabis Dispensary or other Cannabis Business Establishments or in or on any parking lot or area adjacent to any such dispensary or establishment for any purpose and in any form, including but not limited to samples, tastings, edible products or byproducts or by smoking.

(b) No licensee, officer, associate, member, representative, agent, employee or person in control of such licensee shall permit the consumption of cannabis in violation of this Chapter.

(c) All Cannabis Dispensaries and Cannabis Business Establishments must post the following sign on the property where the establishment is located:

PURSUANT TO THE CITY CODE OF THE CITY OF DECATUR, IT IS
UNLAWFUL TO CONSUME ANY CANNABIS IN ANY PARKING
LOT OR AREA ADJACENT TO THIS CANNABIS ESTABLISHMENT

Section 5. **HOURS OF OPERATION.** The hours of operation for a dispensary shall be within the hours of 10:00 a.m. and 8:00 p.m.

Section 6. **DISPENSARY PREMISES.** A cannabis dispensary shall only be located in a stand-alone building. Cannabis shall not be sold upon any premises which has any access that leads from such premises to any other portion of the same building used for dwelling or lodging purposes or which is permitted to be used or kept accessible for the public, unless owned and operated by the cannabis dispensary in conjunction with its cannabis dispensary business for purposes other than a dwelling or lodging.

Section 7. **GIVING AWAY OF CANNABIS.** No licensee, individual, partnership or corporation or agent of any of the same shall give away or provide samples or tastings of any cannabis or cannabis products for any purpose.

Section 8. **LICENSES.**

(a). No person shall sell or offer for sale or possess with intention to sell at retail any cannabis or cannabis product or operate a Cannabis Business Establishment without a license issued by the City of Decatur pursuant to this Chapter, in addition to any other or additional licenses required by the State of Illinois and the Act.

(b) Each Cannabis Business Establishment shall have a license issued by the State of Illinois for their respective operation prior to applying for a license with the City of Decatur.

(c) Each license shall be an annual license and shall expire on December 31 next following its issuance and every year thereafter requiring an application for renewal and approval.

Section 9. **NUMBER OF LICENSES.** There shall be a maximum of the following licenses available at any one time in the City of Decatur:

- (a) Cultivation Center: One (1) License
- (b) Craft Grower: Two (2) Licenses
- (c) Processing Organization: Two (2) Licenses
- (d) Dispensing Organization: One (1) License
- (e) Transporting Organization: Two (2) Licenses
- (f) Infuser Organization: Two (2) Licenses

Section 10. **LICENSE APPLICATION.** Application shall be made as required by this Code and in accordance with the Act and shall be delivered by the City Clerk to the Mayor of the City of Decatur or his or her designee who shall act as the Decatur Cannabis Commissioner for action on a form and in a manner provided. All applications shall be verified by the applicant or, if a corporation, by an authorized corporate officer thereof. Any changes occurring during the period of the license shall be reported to the Cannabis Commission by filing with the City Clerk appropriately completed forms furnished by the Clerk within ten (10) days of such change.

Section 11. **LICENSE FEE.** Payment of an annual license fee of Five Thousand Dollars (\$5000.00) shall accompany each application for all Cannabis Business Establishment Licenses.

Section 12. **LOCATION.** No Cannabis Business Establishment licenses shall be issued if issuance would violate the zoning rules and regulations of the City of Decatur, as amended from time to time.

Section 13. **NATURE OF LICENSE.** All Cannabis Business Establishment licenses shall be purely a privilege, issued for a period not to exceed one (1) year after issuance unless revoked

and shall not constitute property, or be subject to attachment, garnishment or execution, or be alienable, assignable, transferable or subject to encumbrance, and shall cease upon the death, or insolvency or cessation of operation of the licensee or the filing for bankruptcy protection.

Section 14. **ACTIVE USE.** If a licensee's business is inactive for a period of ninety (90) consecutive days or more, the license shall become null and void. For the purposes of this Section, the word "inactive" shall mean that the business has ceased operating or is not open to the public absent the showing of substantial reason for the same not within the control of the licensee.

Section 15. **RENEWAL.** Any Cannabis Business Establishment License may be renewed at the expiration of its term provided the applicant is qualified to receive a license under the then current requirements and the premises for which such renewal license is sought are suitable for such purposes; and further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prohibit the City Council of the City of Decatur from decreasing the number of licenses to be issued.

Section 16. **POSTING OF LICENSE.** Each licensee shall immediately post and keep posted while in force, in a conspicuous place on the premises, the Cannabis Business Establishment license so issued. Whenever such license shall be lost or destroyed, a duplicate in lieu thereof shall be issued by the City Clerk upon the direction of the Cannabis Commissioner.

Section 17. **SUSPENSION OR REVOCATION.** The Cannabis Commissioner may suspend or revoke any license issued, if it is determined by the Cannabis Commissioner, subsequent to a hearing in accordance with the Act, that the licensee has violated any ordinance of the City of Decatur, Illinois statute or federal law pertaining to the operation of the licensee's business or the premises where it is located, or any regulation or rule that has been established by the City of Decatur which is not inconsistent with state statute. In addition to suspension or revocation, the Cannabis Commissioner may levy a fine for such violations in an amount not to exceed Five Thousand Dollars (\$5000.00) for each offense, and each day of a continuing violation be deemed a separate offense. In addition to any of the penalties set forth, the Cannabis Commissioner may assess costs including reasonable attorney's fees against the licensee in any proceeding regarding such license held pursuant to law. The penalties or remedies provided herein shall be cumulative and resort to any one or more shall be no defense to prosecution of another.

Section 18. **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 19. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

SUBJECT: Ordinance Amending City Code Chapter 34 - Traffic and Parking

ATTACHMENTS:

Description	Type
City Council Memorandum No. 2019-10	Cover Memo
Ordinance Amending City Code Chapter 34-Traffic and Parking, Section 37-Removal of Vehicles	Ordinance

CITY COUNCIL MEMORANDUM
NO. 2019-10

September 23, 2019

TO: Honorable Mayor Moore Wolfe

FROM: Scot Wrighton, City Manager
James Getz Jr., Police Chief
Wendy Morthland, Corporation Counsel
Amy Waks, Assistant Corporation Counsel

SUBJECT: Amendment to Chapter 34 – Traffic and Parking

SUMMARY RECOMMENDATION: Staff requests that Council pass the proposed ordinance amendment regarding Chapter 34, Section 37.

BACKGROUND: Staff requests that Council pass the proposed ordinance amendment to Chapter 34, Section 37 Removal of Vehicles. Since this Ordinance was passed, the state has amended the Cannabis Control Act and the Drug Paraphernalia Control Act, which provides that the Cannabis Regulation and Tax Act is an exception to possession under the Cannabis Control Act. This amendment reflects that exception.

RECOMMENDATION: Staff recommends the suggested language amendment to Chapter 34, Section 37.

POTENTIAL OBJECTIONS: There are no known or expected objections.

INPUT FROM OTHER SOURCES:

STAFF REFERENCE: Amy Waks, Assistant Corporation Counsel, at 424-2807.

BUDGET/TIME IMPLICATIONS: None.

ORDINANCE NO. _____

ORDINANCE AMENDING CITY CODE
- CHAPTER 34 -
- TRAFFIC AND PARKING -

BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF DECATUR,
ILLINOIS:

Section 1. That Chapter 34 of the City Code of the City of Decatur, Illinois, be, and the same is hereby modified and amended by amending language to Section 37, reflecting the amendment. Said Section 37 as so modified and amended, shall provide as follows:

37. **REMOVAL OF VEHICLES.** Police officers are hereby authorized to remove or cause to be removed a vehicle from a public street or highway to the nearest garage, impound lot or other place of safety, or to a location designated by the Police Chief, under the following circumstances:...

...M. When any vehicle is used in the possession or delivery of a controlled substance as defined and included in the schedules of Article II of the Illinois Controlled Substance Act, 720 ILCS 570/101 et. seq., of cannabis over 10 grams as defined in the Cannabis Control Act, 720 ILCS 550/1 et. seq. and in violation of the Illinois Cannabis Regulation and Tax Act or drug paraphernalia when possessed with the intent to introduce a controlled substance into the human body as defined in the Drug Paraphernalia Control Act, 720 ILCS 600/2 et seq. unless possessed in conjunction with cannabis as permitted by the Illinois Cannabis Regulation and Tax Act.

Section 2. That the City Clerk be, and she is hereby, authorized and directed to cause the provisions hereof to be appropriately set out in the City Code and to cause the same to be published in pamphlet form according to law.

PRESENTED, PASSED, APPROVED AND RECORDED this 30th day of September,
2019.

JULIE MOORE WOLFE, MAYOR

ATTEST:

CITY CLERK

PUBLISHED this _____ day of _____, 2019.

CITY CLERK

ADDITIONS AND DELETIONS

CHAPTER 34 - TRAFFIC AND PARKING -

37. **REMOVAL OF VEHICLES.** Police officers are hereby authorized to remove or cause to be removed a vehicle from a public street or highway to the nearest garage, impound lot or other place of safety, or to a location designated by the Police Chief, under the following circumstances:...

...M. When any vehicle is used in the possession or delivery of a controlled substance as defined and included in the schedules of Article II of the Illinois Controlled Substance Act, 720 ILCS 570/101 et. seq., of cannabis over 10 grams as defined in the Cannabis Control Act, 720 ILCS 550/1 et. seq. and in violation of the Illinois Cannabis Regulation and Tax Act or drug paraphernalia when possessed with the intent to introduce a controlled substance into the human body as defined in the Drug Paraphernalia Control Act, 720 ILCS 600/2 et seq. unless possessed in conjunction with cannabis as permitted by the Illinois Cannabis Regulation and Tax Act.

SUBJECT: Ordinance Amending City Code Chapter 73 - Offenses

ATTACHMENTS:

Description	Type
City Council Memorandum No. 2019-09	Cover Memo
Ordinance Amending Chapter 73- Offenses, Section 24- Possession/Consumption Cannabis, Section 25-Possession Drug Paraphernalia	Ordinance

CITY COUNCIL MEMORANDUM
NO. 2019-09

September 23, 2019

TO: Honorable Mayor Moore Wolfe

FROM: Scot Wrighton, City Manager
James Getz Jr., Police Chief
Wendy Morthland, Corporation Counsel
Amy Waks, Assistant Corporation Counsel

SUBJECT: Amendment to Chapter 73 – Offenses

SUMMARY RECOMMENDATION: Staff requests that Council pass the proposed ordinance amendment regarding Chapter 73, Section 24 and Section 25.

BACKGROUND: Staff requests that Council pass the proposed ordinance amendments to Chapter 73, Section 24 Possession of Cannabis and Section 25 Possession of Drug Paraphernalia. Since this Ordinance was passed, the state has adopted the Cannabis Regulation and Tax Act, making possession and consumption of cannabis legal under certain circumstances. This amendment reflects that adoption.

RECOMMENDATION: Staff recommends the suggested language amendment to Chapter 73, Section 24 and Section 25.

POTENTIAL OBJECTIONS: There are no known or expected objections.

INPUT FROM OTHER SOURCES:

STAFF REFERENCE: Amy Waks, Assistant Corporation Counsel, at 424-2807.

BUDGET/TIME IMPLICATIONS: None.

ORDINANCE NO. _____

ORDINANCE AMENDING CITY CODE

- CHAPTER 73 -

- OFFENSES -

BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF DECATUR, ILLINOIS:

Section 1. That Chapter 73 of the City Code of the City of Decatur, Illinois, be, and the same is hereby modified and amended by amending language to Sections 24 and 25, reflecting the amendment. Said Sections 24 and 25 as so modified and amended, shall provide as follows:

24. POSSESSION/CONSUMPTION CANNABIS.

A. It shall be unlawful for a person to possess thirty (30) grams or less of any substance containing cannabis. This subsection 24(A) shall be repealed on January 1, 2020.

B. DEFINITIONS.

1. For purposes of this Section, cannabis includes marijuana, hashish and other substances which 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 such plant; and any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted there from), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Cannabis does not include industrial hemp as defined and authorized under the Illinois Industrial Hemp Act. Cannabis also means concentrate and cannabis-infused products.

2. For purposes of this Section, public place means any place where a person could reasonably be expected to be observed by others, including but not limited to all parts of buildings owned in whole or in part, or leased, by the State or unit of local government and tobacco or cannabis stores or lounges. Public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

C. Effective January 1, 2020, it shall be unlawful for a person under 21 years of age to purchase, possess, use, process, transport, grow or consume any substance containing cannabis except where authorized by the Illinois Compassionate Use of Medical Cannabis Pilot Program Act or by the Illinois Community College Cannabis Vocational Pilot Program.

D. POSSESSION. Effective January 1, 2020, it shall be unlawful for a person 21 years of age or older to possess cannabis:

1. more than 30 grams of cannabis flower, more than 500 milligrams of THC contained in cannabis-infused product, and more than 5 grams of cannabis concentrate;
2. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
3. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
4. in any correctional facility;
5. in any vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or
6. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

E. CONSUMPTION. Effective January 1, 2020, it shall be unlawful for a person 21 years of age or older to use cannabis:

1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
2. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
3. in any correctional facility;
4. in any motor vehicle;
5. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
6. in any public place; or
7. knowingly in close proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act.

25. POSSESSION DRUG PARAPHERNALIA.

...B. As used in this Section, the following terms shall include and have the following meanings:

- (1) Cannabis shall mean and include any substance defined as cannabis in Section 3 of the Illinois Cannabis Control Act, 720 ILCS 550/3 and the Cannabis Regulation and Tax Act....

Section 2. That the City Clerk be, and she is hereby, authorized and directed to cause the provisions hereof to be appropriately set out in the City Code and to cause the same to be published in pamphlet form according to law.

PRESENTED, PASSED, APPROVED AND RECORDED this 30th day of September, 2019.

JULIE MOORE WOLFE, MAYOR

ATTEST:

CITY CLERK

PUBLISHED this _____ day of _____, 2019.

CITY CLERK

ADDITIONS AND DELETIONS

CHAPTER 73

- OFFENSES -

24. POSSESSION/CONSUMPTION CANNABIS.

A. It shall be unlawful for a person to possess thirty (30) grams or less of any substance containing cannabis. This subsection 24(A) shall be repealed on January 1, 2020.

B. DEFINITIONS.

1. For purposes of this Section, cannabis includes marijuana, hashish and other substances which 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 such plant; and any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted there from), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Cannabis does not include industrial hemp as defined and authorized under the Illinois Industrial Hemp Act. Cannabis also means concentrate and cannabis-infused products.

2. For purposes of this Section, public place means any place where a person could reasonably be expected to be observed by others, including but not limited to all parts of buildings owned in whole or in part, or leased, by the State or unit of local government and tobacco or cannabis stores or lounges. Public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

C. Effective January 1, 2020, it shall be unlawful for a person under 21 years of age to purchase, possess, use, process, transport, grow or consume any substance containing cannabis except where authorized by the Illinois Compassionate Use of Medical Cannabis Pilot Program Act or by the Illinois Community College Cannabis Vocational Pilot Program.

D. POSSESSION. Effective January 1, 2020, it shall be unlawful for a person 21 years of age or older to possess cannabis:

1. more than 30 grams of cannabis flower, more than 500 milligrams of THC contained in cannabis-infused product, and more than 5 grams of cannabis concentrate;
2. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
3. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
4. in any correctional facility;
5. in any vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or
6. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

E. CONSUMPTION. Effective January 1, 2020, it shall be unlawful for a person 21 years of age or older to use cannabis:

1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
2. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
3. in any correctional facility;
4. in any motor vehicle;
5. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
6. in any public place; or
7. knowingly in close proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act.

25. POSSESSION DRUG PARAPHERNALIA.

...B. As used in this Section, the following terms shall include and have the following meanings:

- (1) Cannabis shall mean and include any substance defined as cannabis in Section 3 of the Illinois Cannabis Control Act, 720 ILCS 550/3 and the Cannabis Regulation and Tax Act....