

VILLAGE OF SOUTH ELGIN

ORDINANCE 2019 - 51

AN ORDINANCE ADOPTING AND LEVYING A
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF SOUTH ELGIN
THIS 2ND DAY OF DECEMBER, 2019

Published in pamphlet form
by authority of the President
and Board of Trustees of the
Village of South Elgin
Kane County, Illinois, this
2nd day of December, 2019

ORDINANCE NO. 2019 - 51

**AN ORDINANCE ADOPTING AND LEVYING A
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

WHEREAS, on and after January 1, 2020, the Municipal Cannabis Retailers' Occupation Tax Law, 65 ILCS 5/8-11-22, authorizes the Village of South Elgin, County of Kane, State of Illinois to impose a tax upon 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 Village on the gross receipts from these sales made in the course of that business; and

WHEREAS, if imposed, the tax may not exceed 3% of the gross receipts from these sales and may only be imposed in 1/4% increments; and

WHEREAS, if the ordinance imposing the tax is adopted and filed with the Illinois Department of Revenue on or before the first day in April, the Department will proceed to administer and enforce the tax as of the first day of September next following the adoption and filing; and

WHEREAS, the Village desires to adopt this Ordinance to impose a 3% tax on the gross receipts from taxable sales under the Law.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF SOUTH ELGIN, KANE COUNTY, ILLINOIS AS FOLLOWS:

SECTION ONE: That the Village of South Elgin Code of Ordinances be and the same is hereby amended by adding a new tax under Title III, Chapter 37 "Taxation" to read as follows:

CANNABIS RETAILERS' OCCUPATION TAX

§ 37.65 TAX IMPOSED.

A tax is hereby imposed upon all persons engaged in the business of selling cannabis at retail at the rate of 3% of the gross receipts from such sales made in the course of such business while this Ordinance is in effect. This Municipal Cannabis Retailers' Occupation Tax shall not be applicable to the sales of cannabis purchased under the Compassionate Use of Medical Cannabis Program Act. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-22 of the Illinois Municipal Code (65 ILCS 5/8-11-22). Persons subject to any tax imposed under this Ordinance may reimburse themselves for their tax liability hereunder by separately stating this tax as an additional charge, which charge may be stated in combination or in a single amount, with any state tax that such sellers are required to collect.

§ 37.66 TAX COLLECTED.

The tax hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce this Ordinance; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner provided by law; and to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this Ordinance.

SECTION 2: FILING. The Village Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue on or before April 1, 2020.

SECTION 3: CONFLICT. 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 4: SEVERABILITY. All provisions of this Ordinance shall be deemed severable. In the event any provision of this Ordinance, or any application thereof, shall be found invalid or unenforceable, such finding shall not affect all other provisions of this Ordinance and all other lawful applications thereof.

SECTION 5: 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 and after January 1, 2020, and after the Department of Revenue is authorized to administer and enforce the tax.

APPROVED AND ADOPTED by the Board of Trustees of the Village of South Elgin this 2nd day of December, 2019, pursuant to roll call vote as follows:

AYES: Trustees Lieser, Sweet, Barconi, Richmond & Kolodziej (5)

NAYS: Trustee Guess (1)

ABSENT: (0)

ABSTAIN: (0)

APPROVED this 2nd day of December, 2019.


Steven Ward, Village President

ATTEST:


Margaret M. Gray, Village Clerk



CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of South Elgin, Kane County, Illinois, and that the foregoing is a true and exact copy of Ordinance 2019-51 enacted on December 2, 2019 and approved on December 2, 2019 as the same appears from the official records of the Village of South Elgin.


Margaret M. Gray, Village Clerk





Illinois Department of Revenue

Legal Services Office
101 W. Jefferson St. MC 5-500
Springfield, IL 62794

August 20, 2020

Margaret M. Gray
Village Clerk
Village of South Elgin
10 N. Water St.
South Elgin, IL 60177-1602

Re: Ordinance No. 2019-51
Municipal Cannabis Retailers' Occupation Tax

Dear Ms. Gray:

This is to acknowledge receipt of the Village of South Elgin's Ordinance No. 2019-51 imposing a Municipal Cannabis Retailers' Occupation Tax on sales of adult use cannabis at the rate of 3%. You may use the Department of Revenue's "Tax Rate Finder" located at mytax.illinois.gov to determine the combined state and local retailers' occupation tax rate on adult use cannabis sales in your location.

Public Act 101-593 renumbered the section of the Illinois Municipal Code (65 ILCS 5/Act) where the Municipal Cannabis Retailers' Occupation Tax Law is codified as Section 8-11-23 and provided that "[a]n ordinance or resolution imposing or discontinuing a tax under this Section or effecting a change in the rate thereof that is adopted on or after June 25, 2019 . . . and for which a certified copy is filed with the Department on or before April 1, 2020 shall be administered and enforced by the Department beginning on July 1, 2020."

If and when a licensed cannabis dispensary opens in South Elgin and begins making retail sales of adult use cannabis, the Department shall collect, administer, and enforce South Elgin's Municipal Cannabis Retailers' Occupation Tax, in accordance with the provisions of 65 ILCS 5/8-11-23.

If you have any questions regarding this letter, please contact our office at the number listed below. If you have questions regarding the distribution of the tax, please contact the Department's **Local Tax Allocation Division at (217) 785-6518.**

Very truly yours,

A handwritten signature in cursive script that reads "Samuel J. Moore by Rachel Neal".

Samuel J. Moore
Associate Counsel
(217) 782-2844

Cc: Aaron Allen, Local Tax Allocation Division