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RECREATIONAL CANNABIS IN ILLINOIS COUNTIES: The Cannabis Regulation and Tax Act¹

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RECREATIONAL CANNABIS IN ILLINOIS COUNTIES

A. The Cannabis Regulation and Tax Act

Under Illinois Public Act 101-0027 (“the Cannabis Regulation and Tax Act”), beginning January 1, 2020, for persons over 21 years of age, possession, cultivation, consumption, use, purchase, obtaining, or transporting an amount of cannabis for personal use that does not exceed the possession limit will no longer be a criminal or civil offense under State law or the ordinances of any unit of local government of this State.

B. Possession Limits

1. Illinois Residents

The possession of cannabis for Illinois residents over the age of 21 is limited to 30 grams of cannabis flower, 5 grams of cannabis concentrate, and cannabis-infused products containing not more than 500 milligrams of THC. These limits are cumulative, *i.e.*, you can have all three up to each respective limit. Patients registered in the medical cannabis pilot program may possess more than 30 grams of cannabis if it is grown and secured in their residence under certain conditions.

2. Non-Illinois residents

The possession of cannabis for non-Illinois residents over the age of 21 is limited to 15 grams of cannabis flower, 2.5 grams of cannabis, and cannabis-infused products containing not more than 250 milligrams of THC. These limits are also cumulative.

C. Type and Number of Licenses Available

In 2020, the Illinois Department of Professional Regulation will make up to 75 dispensing licenses available. Pursuant to section 15-40(m) of the Cannabis Regulation and Tax Act, the regulation of dispensing organizations and medical cannabis dispensing employer and employee training is an exclusive function of the State. As such, regulation by a unit of local government,

including a home rule unit, of such topics is prohibited unless otherwise authorized by the Act. The Cannabis Regulation and Tax Act clearly states that subsection (m) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

The Illinois Department of Agriculture will make available up to 40 infuser licenses and up to 40 craft grower licenses in 2020. By December 21, 2021, the Department of Agriculture may issue up to 60 additional infuser licenses. After January 1, 2022, the Department of Agriculture may, by rule, modify or raise the number of infuser licenses, and modify or change the licensing application process to reduce or eliminate barriers to such licenses. Similarly, the number of craft grower licenses is set to increase by 60 additional licenses by December 21, 2021. After January 1, 2022, the Department of Agriculture may, by rule, modify or raise the number of craft grower licenses. However, at no time may the aggregate number of craft grower licenses exceed 150 licenses.

The Department of Agriculture may also modify or change the number of adult use cultivation center licenses available, which at no time may exceed 30 such licenses.

D. The Effect of the Cannabis Regulation and Tax Act on Employers

The Cannabis Regulation and Tax Act includes amendments to the Right to Privacy in the Workplace Act (820 ILCS 55) clarifying that discrimination against employees for using products that are lawful under Illinois law is prohibited. However, nothing in the Cannabis Regulation and Tax Act prevents employers from adopting reasonable zero tolerance or drug free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on-call provided that the policy is applied in a nondiscriminatory manner.

Employers are free to discipline an employee or terminate their employment in the event the employee violates the employer's employment policies or workplace drug policy. However, if an employer does elect to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.

An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that the employee displays specific, articulable symptoms while working that decrease or lessen the employee's performance of job duties or tasks. Such symptoms may include the employee's speech, physical dexterity, agility, coordination, demeanor, irrational, unusual behavior, or negligence or carelessness in operating equipment or machinery. Other symptoms may include the employee's disregard for the safety of other employees or individuals, or an involvement in any accident that results in serious damage to equipment or property as well as disruption of a production or manufacturing process or carelessness that results in any injury to the employee or others. Therefore, policies that require testing of employees who are involved in accidents that result in serious damage to equipment or property or to injury to the employee or others are still supported under the Cannabis Regulation and Tax Act.

E. County Cannabis Retailers' Occupation Tax Law

Pursuant to section 5-1006.8 of the Counties Code (55 ILCS 5/5-1006.8), a County Board may, by ordinance, impose a tax upon the gross receipts of sales from individuals engaged in the business of selling cannabis at retail locations in the county. Section 5-1006.8 does not, however, apply to medical cannabis purchased pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/5). The tax rate, which may only be imposed in 0.25% increments may not exceed (i) 3.75% of the gross receipts of sales made in unincorporated areas

of the county; (ii) .75% of the gross receipts of sales made in a municipality located in a non-home rule county; or (iii) 3% of gross sales receipts made in a municipality located in a home rule county. In other words, once a county adopts the tax, it applies to all businesses selling cannabis at retail within the county regardless of whether the business is located within a municipality or in the unincorporated area of the county. However, the location of the business determines the applicable rate at which the county tax is applied.

The Department of Revenue is charged with collecting and enforcing the County Cannabis Retailers' Occupation Tax. On or before the 25th day of each calendar month, the Department of Revenue will prepare and certify to the Comptroller the amount of money to be disbursed from the Local Cannabis Consumer Excise Tax Trust Fund to counties from which retailers have paid taxes or penalties under the County Cannabis Retailers' Occupation Tax during the second preceding calendar month. The amount to be paid to each county is the amount collected under the County Cannabis Retailers' Occupation Tax from sales made in the county during the second preceding calendar month (accounting for any credits and debits), less the 1.5% the Department of Revenue retains for administering the tax, which is transferred into the Tax Compliance and Administration Fund.

F. Additional Taxes Imposed

Beginning January 1, 2020, a tax will be imposed upon purchasers for the privilege of using cannabis. Any cannabis, other than a cannabis-infused product, with a THC level at or below 35% will be taxed at a rate of 10% of the purchase price. Any cannabis, other than a cannabis-infused product, with a THC level above 35% will be taxed at a rate of 25% of the purchase price. A cannabis-infused product will be taxed at a rate of 20% of the purchase price. In addition, a tax will be imposed on the privilege of cultivating and processing adult use cannabis at a rate of 7%

of the gross receipts from the sale of cannabis by a cultivator to a dispensing organization. These additional taxes are imposed by the State of Illinois and are in addition to any municipal or county cannabis retailers' occupation tax. The proceeds are paid into the Cannabis Regulation Fund at the State of Illinois for distribution pursuant to this Act, including to the Local Government Distributive Fund.

G. State Revenues

The Cannabis Regulation and Tax Act creates the Cannabis Regulation Fund. This fund is to serve as the repository of all moneys collected from state taxes, license fees and other amounts required to be transferred into the Fund. The funds will be distributed to multiple state agencies for implementation of the Act. The legalization of adult cannabis also includes a new source of Local Government Distributive Fund dollars. A portion of the Cannabis Regulation Fund revenues (8% of deposits) will go to local governments, via the Local Government Distributive Fund for the purpose of funding crime prevention programs, training and interdiction efforts.

H. County Ordinances

1. Zoning

Any non-home rule county within the unincorporated territory of the county may enact reasonable zoning ordinances or resolutions regulating cannabis business establishments as long as the ordinances or resolutions are not in conflict with the Cannabis Regulation and Tax Act. That said, no unit of local government (including a home-rule unit or any non-home rule county within the unincorporated territory of the county) may prohibit home cultivation or unreasonably prohibit use of cannabis authorized by the Cannabis Regulation and Tax Act. Any non-home rule county, within the unincorporated territory of the county, may enact ordinances to prohibit or significantly limit a cannabis business establishment's location.

In order to secure a state license, the different cannabis business establishments are required to supply evidence of complying with local zoning ordinances.

For a dispensing organization, an applicant must include in their state application for a license a copy of the current local zoning ordinance sections relevant to dispensary operations and documentation of the approval, the conditional approval or the status of a request for zoning approval from the local zoning office that the proposed dispensary location is in compliance with the local zoning rules. Until the Illinois Department of Financial and Professional Regulation has inspected and verified that an applicant is in compliance with local zoning laws, that Department cannot issue a license. Moreover, a dispensing organization shall maintain compliance with State and local building, fire, and zoning requirements or regulations.

Similarly, if the Department of Agriculture makes available additional cultivation center licenses, applicants for such licenses must provide the Department of Agriculture with a copy of the current local zoning ordinance or permit and verification that the proposed cultivation center is in compliance with the local zoning rules and distance limitations established by the local jurisdiction. The Department of Agriculture cannot issue a cultivation center license until the Department of Agriculture has inspected the cultivation center site and proposed operations and verified that they are in compliance with this Act and local zoning laws, and the application must be denied if the applicant would not be in compliance with local zoning rules. Like cultivation centers, craft growers must also submit a copy of the current local zoning ordinance or permit and verification that the proposed craft grower is in compliance with the local zoning rules and distance limitations established by the local jurisdiction, and the application must be denied if the applicant would not be in compliance with local zoning rules. Craft growers cannot be located in areas zoned residential.

For infusers, applicants must also submit a copy of the current local zoning ordinance or permit and verification that the proposed craft grower is in compliance with the local zoning rules and distance limitations established by the local jurisdiction. Such applications must be denied by the Department of Agriculture if the applicant would not be in compliance with local zoning rules. An infuser organization also may not be located in an area zoned for residential use.

Lastly, transporting organization applicants must submit a copy of the current local zoning ordinance or permit and verification that the transporting organization is in compliance with the local zoning rules and distance limitations established by the local jurisdiction. Such applications must be denied by the Department of Agriculture if the applicant would not be in compliance with local zoning rules.

Personal cannabis cultivation by an Illinois resident 21 years of age or older who is a registered qualifying patient under the Compassionate Use of Medical Cannabis Pilot Program Act may occur only on residential property lawfully in the possession of the qualifying patient or with the consent of the person in lawful possession of the property. An owner or lessor of residential property may prohibit the home growing of cannabis by a lessee.

2. Business Regulation

Any non-home rule county, within the unincorporated territory of the county, may adopt ordinances or rules regulating governing the time, place, manner, and number of cannabis business establishment operations (including minimum distance limitations between cannabis business establishments and locations it deems sensitive, e.g., colleges and universities) through the use of conditional use permits long as such ordinances or rule are not in conflict with the Cannabis Regulation and Tax Act. No non-home rule county within an unincorporated territory of the county, however, may unreasonably restrict the time, place, manner, and number of cannabis

business establishment operations authorized by the Cannabis Regulation and Tax Act. Any non-home rule county within the unincorporated territory of the county may regulate the on-premises consumption of cannabis at or in a cannabis business establishment within its jurisdiction in a manner consistent with the Cannabis Regulation and Tax Act. Note that a cannabis business establishment authorized or permitted by units of local government to allow on-site consumption shall not be deemed a public place within the meaning of the Smoke Free Illinois Act.

3. Enforcement

With regard to enforcement of such ordinances or rules, a county may establish civil penalties for violation of an ordinance or rule governing the time, place, and manner of operation of a cannabis business establishment or a conditional use permit. However, a non-home rule county within the unincorporated territory of the county, may not regulate in a manner more restrictive than the regulation of those activities by the State under the Cannabis Regulation and Tax Act.

I. Home Cultivation (Home Grow)

Pursuant to the Cannabis Regulation and Tax Act, home cultivation of cannabis is limited to those Illinois residents who are 21 years old and registered participants in the Compassionate Use of Medical Cannabis Pilot Program. These qualifying users will be limited to five plants. In other words, nonmedical users are still prohibited from home growing cannabis. The Cannabis Regulation and Tax Act provides for a civil penalty for nonmedical growers of at least \$100 but not more than \$200 for growing up to five plants. Nonmedical users who grow more than five plants are subject to criminal penalties which, depending on the number of plants grown range from a Class 4 felony (for more than 5 plants but not more than 20 plants) to a Class 1 felony (for more than 200 plants).

J. Limitations Related to Where Cannabis can be Possessed or Used

While the Cannabis Regulation and Tax Act permits cannabis usage pursuant to its terms for those over the age of 21, it does not insulate those individuals who engage in criminal conduct. Additionally, the Cannabis Regulation and Tax Act does not prevent the imposition of any civil, criminal, or other penalties for those individuals engaging in prohibited conduct.

1. Motor Vehicles

Pursuant to newly enacted Section 11-502.15 of the Illinois Vehicle Code (625 ILCS 5/11-502.15), no driver of a vehicle in Illinois may use cannabis in the passenger area of the vehicle while driving on a highway of this state. In addition, no driver of a vehicle in Illinois may possess cannabis within any area of any motor vehicle upon a highway in this State except where the cannabis is in a sealed, odor-proof, child-resistant cannabis container. With regard to vehicle passengers, section 11-502.15 further prohibits any passenger from possessing cannabis in the passenger area of a motor vehicle upon a highway in this State except where the cannabis is in a sealed, odor-proof, child-resistant cannabis container.

Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis is a violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code (625 ILCS 5/11-501, 11-502.1). Moreover, nothing in this Act shall be construed to prevent the arrest or prosecution of a person for reckless driving or driving under the influence of cannabis if probable cause exists.

Additionally, because private businesses are free to restrict or prohibit the use of cannabis on their property, such businesses can impose the same restrictions or prohibitions on areas where vehicles are parked.

2. Possessing Cannabis

The Cannabis Regulation and Tax Act prohibits the possession of cannabis in a school bus (unless otherwise permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act). It also prohibits the possession of cannabis on the grounds of any preschool or primary or secondary school (unless otherwise permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act). Possession is also prohibited in private residences used at any time to provide licensed child care or other similar social services. Under the Cannabis Regulation and Tax Act possession of cannabis in any correctional facility is prohibited. As previously noted, possession of cannabis is prohibited in a private vehicle unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving

3. Using Cannabis

The Cannabis Regulation and Tax Act prohibits the use of cannabis in a school bus, (unless otherwise permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act). Use of cannabis is also prohibited on the grounds of any preschool or primary or secondary school (unless otherwise permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act) or in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises. Use of cannabis is prohibited in any correctional facility. It is also prohibited in any public place. The term "public place" means any place where a person could reasonably be expected to be observed by others. A "public place" includes all parts of buildings owned in whole or in part, or leased, by the State of Illinois or a unit of local government.

However, a "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.

The use of cannabis by a law enforcement officer, corrections officer, probation officer, or firefighter while on duty or the use of cannabis by a person who has a school bus permit or a Commercial Driver's License while on duty is also prohibited by the Cannabis Regulation and Tax Act. The Act also prohibits the use of cannabis in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act. Likewise, smoking cannabis is prohibited in any place where smoking is prohibited under the Smoke Free Illinois Act (410 ILCS 82/1 *et. seq.*). Finally, nothing in the Cannabis Regulation and Tax Act requires an individual or business entity to violate the provisions of federal law, including colleges or universities that must abide by the Drug-Free Schools and Communities Act Amendments of 1989, that require campuses to be drug free.

In addition to usage, the Cannabis Regulation and Tax Act also prohibits individuals from facilitating the use of cannabis by other individuals who are themselves not allowed to use cannabis under either the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Pilot Program Act. Transferring cannabis to any person contrary to the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Pilot Program Act is also a prohibited activity under the Cannabis Regulation and Tax Act.

K. Model Ordinances

In the final pages of this paper, you will find two model ordinances for your review, adaptation, and use: (1) An Ordinance Prohibiting Cannabis Business Establishments; and (2) An Ordinance Establishing A County Cannabis Retailers' Occupation Tax. Prior to adopting any ordinances, you should consult with your county's State's Attorney.

L. Anticipated Changes

Many of the Act's changes detailed above are effective January 1, 2020. Between now and then, several things will happen. Most importantly, members of the General Assembly will return to Springfield in November. Undoubtedly, additional legislation related to this Act and its requirements will be introduced, and likely enacted. The state administrative agencies will review their policies and practices to determine what additional rules will need to be promulgated for proper oversight and enforcement of the Act's requirements. Consequently, it is more likely than not that the material contained herein will need to be reviewed and revised as statutes and rules are enacted or revised. Therefore, further guidance and updates to this paper will be forthcoming.

MODEL ORDINANCES

ORDINANCE NO. _____

**AN ORDINANCE
PROHIBITING CANNABIS BUSINESS ESTABLISHMENTS**

WHEREAS, County of _____, a body politic and corporate of the state of Illinois (“_____ County”) is a non-home rule unit of local government pursuant to Article VII, § 8 of the 1970 Illinois Constitution; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Cannabis Regulation and Tax Act, Public Act 101-0027, which provides that the County has the authority to enact ordinances to prohibit or significantly limit a cannabis business establishment's location; and

WHEREAS, the County 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 County; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF _____ 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. Cannabis Business Establishments Prohibited. Chapter ___ of the County Code of the County of _____ shall be amended by the addition of [Article/Chapter] _____ that will read as follows:

[ARTICLE / CHAPTER/ SECTION] _____ Cannabis Business Establishments Prohibited.

1. Definitions. The following words and phrases shall, for the purposes of this [Article / Chapter / SECTION], have the meanings respectively ascribed to them by this section, as follows:

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

ADULT-USE CANNABIS 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.

ADULT-USE CANNABIS 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.

ADULT-USE CANNABIS 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.

ADULT-USE CANNABIS 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.

ADULT-USE CANNABIS 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.

ADULT-USE CANNABIS 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.

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

2. Cannabis Business Establishments Prohibited. The following Adult-Use Cannabis Business Establishments are prohibited in the County of _____. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the County of _____ of any of the following:

[REMOVE ANY OF THE FOLLOWING THAT WILL BE PERMITTED]

- Adult-Use Cannabis Craft Grower
- Adult-Use Cannabis Cultivation Center
- Adult-Use Cannabis Dispensing Organization
- Adult-Use Cannabis Infuser Organization or Infuser
- Adult-Use Cannabis Processing Organization or Processor
- Adult-Use Cannabis Transporting Organization or Transporter

3. Public Nuisance Declared. Operation of any prohibited Cannabis Business Establishment within the County in violation of the provisions of this [Article / Chapter / Section] is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

4. Violations. Violations of this Article [Article / Chapter / Section] may be enforced in accordance with the provisions of [Article / Chapter / Section] ___ of this Code.

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.

Passed by the County Board this _____ day of _____, 20_____.

AYES: _____
 NAYS: _____
 PRESENT: _____
 ABSTAIN/ABSENT: _____

Approved this _____ day of _____, 20__.

CHAIRPERSON, _____ COUNTY

ATTEST:

 COUNTY CLERK

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COUNTY CANNABIS RETAILERS' OCCUPATION TAX IN THE COUNTY OF _____, ILLINOIS

WHEREAS, the County of _____, a body politic and corporate of the state of Illinois (“_____ County”) is a non-home rule unit of local government pursuant to Article VII, § 8 of the 1970 Illinois Constitution; and

WHEREAS, the Illinois General Assembly enacted Public Act 101-0027, effective January 1, 2020, which is a comprehensive revision of State statutes regulating the adult use of cannabis in Illinois counties; and

WHEREAS, the County has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois County Cannabis Retailers' Occupation Tax Law (55 ILCS 5/5-1006.8) (the “Act”); and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a county cannabis retailers' occupation tax which will be collected by the Illinois Department of Revenue;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF _____, ILLINOIS, THAT THIS ORDINANCE ESTABLISHING A COUNTY CANNABIS RETAILERS' OCCUPATION TAX BE AND HEREBY IS ADOPTED AS FOLLOWS:

SECTION I: 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 II: 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 locations in the County on the gross receipts from these sales at the following rates:

- (i) [up to 3.75% in .25% increments] of the gross receipts from these sales made in the course of that business in unincorporated areas of _____ County; and
- (ii) [up to 0.75% in .25% increments] of the gross receipts of sales made in a municipality located in _____ county; and

(b) The imposition of this tax is in accordance with the provisions of the County Cannabis Retailers' Occupation Tax Law (55 ILCS 5/5-1006.8).

SECTION III: Collection of tax by retailers.

(a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (the "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 IV: Severability. The provisions and sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

SECTION V: 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.

Passed by the County Board this _____ day of _____, 20_____.

AYES: _____
NAYS: _____
PRESENT: _____
ABSTAIN/ABSENT: _____

Approved this _____ day of _____, 20__.

_____ COUNTY
CHAIRPERSON, _____

ATTEST:

COUNTY CLERK