SPECIAL PEORIA COUNTY BOARD
MEETING AGENDA
Wednesday, September 25, 2019
5:00 PM
County Courthouse • 324 Main Street • County Board Room 403 • Peoria, Illinois 61602
Voice: (309) 672-6056 • Fax: (309) 672-6054 • TDD: (309) 672-6073
www.peoriacounty.org

CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
ROLL CALL BY THE COUNTY CLERK

I. CITIZENS' REMARKS
(To address the County Board, fill out a card and submit it to the Chairman before the Board Meeting.)

II. ZONING ORDINANCE AND RESOLUTIONS
  1. A recommendation from your Executive Committee to approve an Ordinance amending
     Chapter 22 of the Peoria County Code to Establish a County Cannabis Retailers’
     Occupation Tax. (Pending Committee Approval)
  2. A recommendation from your Executive Committee to approve an Ordinance amending
     Chapter 6 of the Peoria County Code to Establish Article V. Adult Use of Business
     Establishments for Cannabis Permitted. (Pending Committee Approval)

III. MISCELLANEOUS AND ANNOUNCEMENTS

IV. ADJOURNMENT
ISSUE:
For ORDINANCE: Amendments to Chapter 22 of the Peoria County Code to Establish a County Cannabis Retailers’ Occupation Tax

BACKGROUND/DISCUSSION:
Public Act 101-0027, the Cannabis Regulation and Tax Act, legalized the use of recreational cannabis, its taxation, and created social justice programs related to the legalization of cannabis. Specific to taxation, the Act created provisions for counties and municipalities to establish retailers’ occupation tax (a form of sales tax) on the sale of recreational cannabis. Sale of cannabis is a local issue to be determined by either the county or municipality within parameters established in the Act. For counties, the Act amended Retailers’ Occupation Tax section of the Counties Code, which is the same section that permits counties to create Retailers’ Occupation Taxes for public safety, public infrastructure, and public transportation. The current Statute does require a voter approved referendum for any or all of these three sales taxes. There is no provision in the Act for a referendum for the Retailers’ Occupation Tax related to cannabis. The Act requires an Ordinance, like the one attached, be approved by a simple majority of the members present at a duly noticed County Board meeting.

Public Act 101-0363 made the Compassionate Use of Medical Cannabis Pilot Program permanent and amended the County Retailers’ Occupation Tax section of the Counties Code a second time related to the taxation of cannabis. As currently amended, the Statute permits the County to establish a tax on retail sales in the unincorporated areas of the County in 0.25% increments up to 3.75%. The Statute also permits the County to establish a tax on retail sales within a municipality in 0.25% increments up to 3.00%.

Taxes imposed by the County Board that are not subject to a voter approved referendum are regulated by Chapter 22 of the Peoria County Code. The proposed Ordinance, as attached, creates a new Article, Article XI, in Chapter 22 of our Code of Ordinances. It is staff’s recommendation as shown in the proposed Ordinance to enact the maximum tax rate permitted by the Acts, as follows:

- 3.75% - for the Unincorporated Areas of the County
- 3.00% - within any Municipality

For the Illinois Department of Revenue to be positioned to collect taxes generated by the gross sales of adult use recreational cannabis, local governments need to transmit an Ordinance, like the one under consideration, to the Department before October 1, 2019. At this time, it is unclear how much revenue might be generated by the taxation of recreational cannabis. The Act creates the opportunity for Trinity Health, to automatically receive a license to sell cannabis to adults for recreational purposes in addition its sales for medical purposes at its dispensary on North University Street in Peoria, and at a second location, provided the City of Peoria permits the sale of adult use recreational cannabis within its corporate limits. Within the five (5) county area that includes Peoria County, the State will also issue another three (3) licenses to own and operate a dispensary for recreational cannabis. Additionally, a question was asked at the most recent Executive Committee meeting regarding the County’s share of cannabis related state sales taxes that will be a part of the Local Government Distributive Fund (LGDF). Staff researched and confirmed that regardless of a county’s or municipality’s decision to permit or prohibit the sale of cannabis, the local government will receive a proportional share of eight percent (8%) of state sales tax gross revenues through the LGDF. Staff did budget $50,000 in cannabis related revenues in the Sheriff’s budget. To achieve this amount, Trinity Health would need at least $1.67 Million in gross sales per year, excluding the LGDF distribution. Staff believes the $50,000 in revenue is a conservative amount capable of being achieved.
Staff also evaluated the potential for lost revenue to the black market. Staff believes that those that currently purchase cannabis illegally in the black market will likely continue to do so, and the likelihood of lost sales tax revenue to this underground marketplace is minimal. The opportunity for new markets of law-abiding citizens is significantly greater and would likely outweigh any minimal increase in sales tax avoidance. Of greater interest is the potential for competition. As an example, what would happen if East Peoria permits the sale of cannabis, but taxes it less than the City of Peoria, or taxes it at the same rate as the City of Peoria, but Tazewell County does not enact the County Retailers Occupation Tax. In this scenario, a customer could purchase the same item in Peoria and pay substantially more in sales taxes than the identical purchase in East Peoria. Given the proximity between Peoria and Est Peoria, it is possible Peoria and with-it Peoria County could lose sales tax revenue to East Peoria and Tazewell County. With the deadline fast approaching, most governments will be adopting similar ordinances as the same time as Peoria County. We will need to monitor receipts, and if competition is being stifled due to our tax rates, then the County Board may, at a future meeting, reduce its share – the retailers’ occupation tax – of the sales taxes as a means of persuading customers to purchase cannabis in Peoria and not East Peoria.

COUNTY BOARD GOALS:

FINANCIAL STABILITY
INFRASTRUCTURE STEWARDSHIP
EFFECTIVE SERVICE DELIVERY
HEALTHY VIBRANT COMMUNITIES
WORKFORCE DEVELOPMENT
COLLABORATION

STAFF RECOMMENDATION:  

COMMITTEE ACTION:  

PREPARED BY:  Scott A. Sorrel, County Administrator  
DEPARTMENT:  County Administration  
DATE:  September 17, 2019
TO THE HONORABLE COUNTY BOARD

COUNTY OF PEORIA, ILLINOIS

Your Executive Committee does hereby recommend passage of the following:

An Ordinance Amending Chapter 22 of the Peoria County Code to Establish a County Cannabis Retailers’ Occupation Tax

ORDINANCE

WHEREAS, the County of Peoria, a body politic and corporate of the state of Illinois ("Peoria 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; and

WHEREAS, the Illinois General Assembly also enacted Public Act 101-0363, effective January 1, 2020, which is a comprehensive revision to State statutes making the Compassionate Use of Medical Cannabis Pilot Program permanent and amending the County Cannabis Retailers’ Occupation Tax Law (55 ILCS 5/5-1006.8), 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, Chapter 22 of the Peoria County Code establishes various forms of taxation within the statutory authority of the Peoria County Board, 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”) as amended by both Public Act 101-0027 and Public Act 101-0363; 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 PEORIA, ILLINOIS, that Chapter 22 of the Peoria County Code of Ordinances is hereby amended and this Ordinance establishing a county cannabis retailers’ occupation tax be and hereby is adopted as follows:

CHAPTER 22. Article XI. - County Cannabis Retailers’ Occupation Tax

Section 22-85. - 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 22-86. - 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. 3.75% of the gross receipts from these sales made in the course of that business in unincorporated areas of Peoria County; and
   ii. 3% of the gross receipts of sales made in a municipality located in Peoria 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 22-87. - 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 22-88. - 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 22-89. - 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.

RESPECTFULLY SUBMITTED,

EXECUTIVE COMMITTEE
ISSUE:
For ORDINANCE: Amendments to Chapter 6 of the Peoria County Code to Permit Adult Use Business Establishments for Cannabis

BACKGROUND/DISCUSSION:
Public Act 101-0027, the Cannabis Regulation and Tax Act, legalized the use of recreational cannabis, its taxation, and created social justice programs related to the legalization of cannabis. In staff’s presentation to the August Public Safety and Justice Committee and August Executive Committee, the first Policy Consideration was, “Does the County Board wish to adopt an Ordinance that Prohibits the Sale or Production of Recreational Cannabis?” The majority of the members that spoke at either or both committee meetings did not want to adopt such an ordinance like what Morton and El Paso have done in recent weeks. The majority of the discussion by the members favored an ordinance that permits the sale and production of recreational cannabis.

Chapter 6 of the Peoria County Code establishes regulations for a variety of businesses, including but not limited to raffles and poker runs, bed and breakfasts, and sexually oriented businesses. The attached Ordinance amends Chapter 6 to create a new Article, Article V, which will establish the initial business regulations for adult use recreational cannabis. More specific regulations will be forthcoming through an amendment to Chapter 20 of the Peoria County Code, which is the Unified Development Ordinance. However, the initial business regulations define, directly from the Act, each of the seven (7) different types of adult use cannabis operations, and that each of them is permitted and further regulated by Chapter 20. This Ordinance is applicable to the unincorporated geography of the County as each municipality has the authority in the Act to prohibit or permit within their own corporate limits.

COUNTY BOARD GOALS:

FINANCIAL STABILITY
INFRASTRUCTURE STEWARDSHIP
EFFECTIVE SERVICE DELIVERY
HEALTHY VIBRANT COMMUNITIES
WORKFORCE DEVELOPMENT
COLLABORATION

STAFF RECOMMENDATION:
APPROVAL

COMMITTEE ACTION:

PREPARED BY: Scott A. Sorrel, County Administrator
DEPARTMENT: County Administration
DATE: September 17, 2019
TO THE HONORABLE COUNTY BOARD
COUNTY OF PEORIA, ILLINOIS

Your Executive Committee does hereby recommend passage of the following:

An Ordinance Amending Chapter 6 of the Peoria County Code to Establish Article V. Adult Use Business Establishments for Cannabis Permitted.

ORDINANCE

WHEREAS, the County of Peoria, a body politic and corporate of the state of Illinois ("Peoria 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; and

WHEREAS, the Illinois General Assembly also enacted Public Act 101-0363, effective January 1, 2020, which is a comprehensive revision to State statutes making the Compassionate Use of Medical Cannabis Pilot Program permanent and amending the County Cannabis Retailers’ Occupation Tax Law (55 ILCS 5/5-1006.8), 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 Cannabis Regulation and Tax Act, Public Act 101-0027, which provides that the County has the authority to permit adult-use cannabis business establishments; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF PEORIA, ILLINOIS, that Chapter 6 of the Peoria County Code of Ordinances is hereby amended and this Ordinance, Adult Use Business Establishments for Cannabis Permitted, be and hereby is adopted as follows:

CHAPTER 6. Article V. Section 6-150. - 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 6-151. - Definitions.
The following words and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this section, as follows:
(a)      ADULT-USE CANNABIS BUSINESS ESTABLISHMENT: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.
(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

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

Section 6-152. – Cannabis Business Establishments Permitted.
The following Adult-Use Cannabis Business Establishments are permitted in the County of Peoria. The location, operation, ownership of such establishments within the County of Peoria shall be of any of the following. They may be further regulated by Chapter 20 of the Peoria County Code, as amended:
(a) Adult-Use Cannabis Craft Grower
(b) Adult-Use Cannabis Cultivation Center
(c) Adult-Use Cannabis Dispensing Organization
(d) Adult-Use Cannabis Infuser Organization or Infuser
(e) Adult-Use Cannabis Processing Organization or Processor
(f) Adult-Use Cannabis Transporting Organization or Transporter

Section 6-153. - 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 6-154. - 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.

RESPECTFULLY SUBMITTED,

EXECUTIVE COMMITTEE
County of Peoria
County Board
Peoria County Courthouse, Room 502
324 Main Street, Peoria, Illinois 61602
Phone (309) 672-6056  Fax (309) 672-6054  TDD (309) 672-6073
arand@peoriacounty.org

Date: September 12, 2019

PETITION FOR SPECIAL BOARD MEETING

We, the undersigned members of the Peoria County Board, request a special meeting of the County Board to be held:

Date: Wednesday, September 25, 2019
Time: 5:00 pm
Place: Peoria County Courthouse
324 Main Street, Board Room 403
Peoria, IL

Subject: Cannabis Regulation and Tax Act

Signed:  

Date:

9/12/19
9/16/2019
9/16/2019
9/16/19
9/17/19
9-17-19