

**24-O-15**

**AN ORDINANCE**

**AMENDING TITLE 3, CHAPTER 2 “MUNICIPAL OCCUPATION TAXES”  
OF THE CITY OF EVANSTON CITY CODE BY ADDING A NEW  
SECTION 18 “MEDICAL CANNABIS PRIVILEGE TAX”**

**WHEREAS**, the City of Evanston (“City”) as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, the Illinois Compassionate Use of Medical Cannabis Pilot Program, 410 ILCS 130/1 *et seq.* (the “Act”), which was signed into law on August 1, 2013 and took effect on January 1, 2014, allows for the sale and use of medical cannabis in the State of Illinois, subject to certain strict restrictions; and

**WHEREAS**, it is anticipated that a “medical cannabis dispensing organization” as defined by the Act, 410 ILCS 130/10(o) (“dispensary”), will be located in the City pursuant to applicable State of Illinois permits, licenses and certifications issued under the Act and subject to local regulations including receiving a building permit and any applicable zoning restrictions; and

**WHEREAS**, the Medical Cannabis Cultivation Privilege Tax Law, 410 ILCS 130/190 *et seq.* (the “Law”), was enacted as part of the Act; and

**WHEREAS**, Section 200 of the Law, 410 ILCS 130/200, provides that the City may impose an “occupation or privilege” tax with regard to the distribution of medical cannabis within the City; and

**WHEREAS**, pursuant to said authority and the City’s home rule powers, the City has determined to impose a tax on the privilege of the distribution of medical cannabis within the City as set forth in this Ordinance,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

**SECTION 1:** The above recitals are incorporated herein as though fully set forth.

**SECTION 2:** Title 3, Chapter 2 of the Evanston City Code of 2012, as amended, is hereby amended to add a new Section 18 entitled “Medical Cannabis Privilege Tax” to read as follows:

**3-2-18. – MEDICAL CANNABIS PRIVILEGE TAX**

**3-2-18-1: DEFINITIONS:**

For the purpose of the taxes enumerated in this Section, the following definitions shall apply:

<i>Act</i>	Compassionate Use of Medical Cannabis Pilot Program Act, 410 130/1 <i>et seq.</i>
<i>Cultivation Center</i>	A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis as defined in Section 10 of the Act, 410 130/10(E), as amended.
<i>Dispensing Organization</i>	A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients as defined Section in 10 of the Act, 410 130/10(j), as amended, located in the

	City of Evanston, Illinois.
<i>Director of Administrative Services</i>	Director of Administrative Services or his or her designee.
<i>Medical Cannabis</i>	Cannabis as defined in Section 10 of the Act, 410 ILCS 130/10(b), as amended, and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered by a variety of routes, including, but not limited to: vaporizing or smoking dried buds; administering tinctures or tonics; applying topicals such as ointments or balms; consuming infused food products, such as soda or teas; or taking capsules.
<i>Medical Cannabis Infused Product</i>	Food, oils, ointments, or other products containing usable cannabis that are not smoked as defined in Section 10 of the Act, 410 ILCS 130/10(q), as amended.
<i>Ounce</i>	28.35 grams
<i>Person</i>	An individual, partnership, corporation, or public or private organization as defined in Section 195 of the Act, 410 ILCS 130/195, as amended.
<i>Qualifying Patient</i>	A person who has been diagnosed by a physician as having a debilitating medical condition.
<i>Sales Price</i>	The consideration for a sale valued in money, whether received in money or otherwise, including cash, credits, property, and services, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost, or any other expense whatsoever.

### **3-2-18-2: MEDICAL CANNABIS PRIVILEGE TAX IMPOSED:**

- (A) A tax is imposed and levied upon the cultivation center engaged in the privilege of the sale of medical cannabis or medical infused product to a dispensing organization located within the City of Evanston at the rate of six percent (6%) of the sales price per ounce. This tax shall be in addition to any and all other taxes imposed upon such sales and distribution.
- (B) The tax on a package or unit of medical cannabis infused product shall be based on the weight in ounces of usable cannabis as shown on the label required by 8 Ill. Adm. Code 1000.420, as amended.

### **3-2-18-3: COLLECTION OF TAX:**

- (A) Except as otherwise provided herein, the tax levied herein shall be collected by each cultivation center that sells medical cannabis to a dispensing organization located within the City. The cultivation center shall remit the tax and file returns in accordance with this Section.

- (B) Any cultivation center which shall pay the tax levied by this section shall collect the tax from each dispensing organization to which the sale of medical cannabis is made.
- (C) This tax shall be paid by a cultivation center and is not the responsibility of a dispensing organization or a qualifying patient.

#### **3-2-18-4. ADMINISTRATION AND ENFORCEMENT.**

The Director of Administrative Services or his/her designee is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the City. It shall be the responsibility and duty of the Director of Administrative Services or his/her designee to collect all amounts due the City from the owners, operators and licensees of motels and hotels within the City.

#### **3-2-18-5. BOOKS AND RECORDS.**

Every cultivation center and dispensing organization required to collect the tax imposed by this Section shall keep accurate books and records of its business or activity, including original source documents and books of entry denoting the transaction that gave rise, or may have given rise, to the tax liability or any exemption that may be claimed. All such books and records shall be kept in the English language and, at all times during business hours of the day, shall be subject to and available for inspection by the Finance Director.

#### **3-2-18-5. TRANSMITTAL OF TAX REVENUE.**

- (A) A cultivation center shall file tax returns showing tax receipts received with respect to sales during each one month period it completes any sales to a dispensing organization located within the City and continuing on the first day of every month thereafter on forms prescribed by the Finance Director. The monthly return for each completed calendar month shall be due within twenty (20) days of the completion of the calendar month. At the time of filing such tax returns, the owner shall pay to the Director of Administrative Services all taxes due for the period to which the tax return applies.
- (B) If for any reason any tax is not paid on or before the twentieth day of the month, a penalty at the rate of ten percent (10%) per thirty (30) day period, or portion thereof, from the day of delinquency shall be added and collected.

#### **3-2-18-6. REGISTRATION.**

Every cultivation center and dispensing organization shall register with the Director of Administrative Services within 30 days after the date of commencing such business in the City.

**3-2-18-7. PENALTY.**

Any person, firm or corporation who violates any of the provisions of this Section 18 shall be fined two hundred dollars (\$200.00) for each offense. A separate offense shall be deemed committed on each day on which a violation occurs or continues to exist.

**3-2-18-8. DEPOSIT OF FUNDS.**

All proceeds resulting from the imposition of this tax, including; interest and penalties, shall be deposited in the City's general fund.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 5:** This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

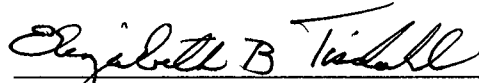
**SECTION 6:** The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: March 23, 2015

Approved:

Adopted: April 13, 2015

April 15, 2015

  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

  
Rodney Greene, City Clerk (NB)

  
W. Grant Farrar, Corporation Counsel