



**MEMORANDUM**

TO: Houston City Council Members  
THROUGH: Virgie Thompson, Mayor *VT*  
FROM: Sonya Pevan, City Clerk *SP*  
DATE: March 2, 2022  
SUBJECT: City of Houston Marijuana Excise Licenses- Internal Audit

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**Background Information**

On December 22, 2021, the City Clerk noticed local Marijuana Excise Licensees that an internal audit would be performed by the City Clerk. The audit would be for calendar year 2021. This memorandum contains a description and background information of the audit as well as recommendations and goals for the Clerk's office to consider relating to the audit. The audit took approximately 2 months to complete and 14 accounts were audited, this did not include retail marijuana establishments.

Goals of the audit were threefold: to review the city's policy (HMC) on issuing marijuana excise licenses; and the internal procedures of the City Clerk's office; and to review the licensees accounts as fairly as possible.

**Clerk's Findings**

**HMC 5.10.040 License Required. (Business)**

- There were 10 cases noted where the applicant did not attach an addendum M to the business license application.
- There were 2 cases noted where a licensee did not apply for a business license. The cases were not caught by the Clerk's office.

**HMC 5.10.080 Violations- Remedies.**

- There were no cases noted where the City Clerk office assessed a civil penalty or a violation was assessed pursuant to HMC 1.16.

**HMC 4.24.050 License required-Issuance.**

- The application meets code standards.

- There were no cases where the City Clerk refused an application based on a finding the applicant willfully withheld requested information.
- There were 12 cases noted where the City did not receive a copy of the state marijuana establishment licenses in a timely matter.

HMC 4.24.060 License fee.

- I did not note any instances where a licensee did not pay for a license if one was granted.

HMC 4.24.070 Expiration and renewal of licenses.

- The Clerk's office noticed licenses of the renewal requirement.
- There were 3 cases noted where licenses did not renew by June 30, 2022.

HMC 4.24.090 Ownership change to be reported.

- There were no cases noted that the clerk's office was not noticed in a timely matter of an ownership change. (1).

HMC 4.24.090 Transfer of License.

- There were no cases noted that the clerk's office was not noticed in a timely matter of an ownership change. (1).

HMC 4.24.100 Refund or credit of tax or licensee fee.

- The application meets code standards.
- There was 1 case was noted for a refund, the request was managed in a timely fashion.

HMC 4.24.110 Display or license- Surrender of license- Suspension or revocation of license.

- There were no cases noted for failure to surrender a license. (1)
- There were 3 cases noted where the City Clerk started the suspension revocation process for failure to pay taxes. In all three cases the licensees submitted approved payment plans.

HMC 4.24.120 Tax returns.

- There were numerous cases noted where returns were not signed.
- There were numerous cases noted where returns did not submit a copy of the state tax return.
- There were numerous cases noted where returns did not include a name, address and license number.
- There were no cases noted where the return did not include amount of marijuana transferred, or tax due.

HMC 4.24.130 Involuntary returns.

- There was 1 case noted where an involuntary return was submitted by the Clerk's office.

HMC 4.24.130 Amended Tax returns.

- There was 1 case that was noted that submitted an amended tax return. (request for refund).

HMC 4.24.150 Application of payments.

- The audit did not review the application of payments.

HMC 4.24.160 Prohibited acts and penalties.

- The audit did not include a review of penalties paid.

HMC 4.24.170 Civil Fraud

- No cases of civil fraud were noted. I do not believe any licensee intentionally misrepresented facts with the intent to evade payment of taxes.

HMC 4.24.180 Tax lien

- There were 3 cases noted that licensees were required to sign a Confession of Judgment as determined by the City Clerk and approved by the Mayor, to date the City Clerk has not filed the Confession of Judgments with the courts due to failure to pay on a payment plan.

HMC 4.24.190 Interest on unpaid tax.

- The audit did not include a review of penalties paid.

HMC 4.24.200 Taxpayer, licensee, or other person remedies.

- No appeals were filed by any person aggrieved by an action of the City Clerk including this audit to date.

HMC 4.24.210 Inspection and maintenance of documents and records.

- There was one (1) instance the City Clerk requested additional documentation due to a request for a refund. The City Clerk has not had to enter a premise to obtain additional documentation. The refund was denied because the licensee failed to provide accurate documentation as requested.  
There has been no other review of licensee's inspection of records.

HMC 4.24.220 Administrative regulations.

- The Clerk's office has no written procedures that has been approved by the Mayor.

HMC 4.24.230 Confidentiality of records.

- There were no instances noted where the confidentiality of records was unsecure.

**Goals/Recommendations**

I recommend the following goals for the Clerk's office:

- Review HMC 4.24.070, *Expiration and Renewal of Licenses* in regards to the expiration of City and state licenses, and if they can be concurrent with State licenses. Via possible participation in a steering committee. Submit legislation to the Council if applicable.
- The City is not presently set up administratively to audit financial returns of the licenses. Receive quotes and budget for FY2023 to outsource an audit of the financial portion if recommended by the City Clerk.
- Utilize the City's program Banyon in regards to issuing and managing licenses.
- Draft internal procedures in regards to the review of marijuana excise license applications and returns.
- Ensure that marijuana excise license applications are thoroughly reviewed for all requirements before the license is granted.
- Ensure that all marijuana excise returns are reviewed more thoroughly and managed in a timely matter.
- Adopt an internal procedure that penalties pursuant to HMC 1.16 will be assessed within 90 days for the failure to obtain a City Business or Excise License.
- Bi- annually provide for an internal audit of accounts by the City Clerk.

### **Conclusion**

My recommendations above are based upon review of the 14 marijuana excise licenses and provisions of HMC 4.24 Excise Tax on Marijuana, HMC 5.10 Marijuana Regulations and HMC 1.16 General Penalty.

As of February 28, 2022, out of the 14 marijuana excise tax licenses:

- ✓ 11 licensees are current.
- ✓ 2 licensees are actively working to provide additional documentation.
- ✓ 1 licensee has not responded.



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December 22, 2021

Re: Internal Review of City of Houston Excise Tax Accounts

Dear Business Owner:

I am conducting an internal review on all City of Houston excise tax records for the periods January, 2021 to December, 2021.

The purpose of the review is to determine the accuracy of reported transfers, including current State, and City licenses and to ensure the accuracy of our records.

Should the review find deficiencies in accounting records or reporting of tax, I will notify you of the deficiency and possibly request additional records. Houston Municipal Code 4.24.210 provides that the City Clerk may review the records of any licensee.

**Retail Sales**- If your business is selling any items retail, or providing a service within the city you must submit a sales tax return under HMC 4.20. No additional license is required. if you have any questions on City sales tax, please contact Amy or me.

If you have any questions, please let me know.

Sincerely,

CITY OF HOUSTON

Sonya Pevan, CMC,  
City Clerk

CC: Amy Hansen, Deputy City Clerk  
Sally Schug, City Treasurer

Attached: HMC 4.24.210 – 4.24.230

#### 4.24.210 Inspection and maintenance of documents and records.

A. Marijuana cultivation facilities shall keep complete and accurate records to support the information to be included in the monthly tax returns required by this chapter, including information regarding transfers. The records must include an accounting that inventories live plants, trimmings, and any dried product on the first and last day of each month including:

1. An invoice, sales receipt or other record memorializing the transfer of marijuana from a marijuana cultivation facility, which must separately state the amount of tax due after the sale or transfer.

B. Any person selling marijuana at a retail marijuana store who cannot produce records showing taxes were paid on any marijuana in their possession are secondarily liable for the unpaid tax on marijuana.

C. Persons subject to the chapter shall keep such other documents and records as the City Clerk prescribes.

D. The City Clerk may, during business hours, enter the business premises of a licensee under this chapter, so far as it may be necessary for the purpose of examining such products and the related business records. (Ord. 16-09(S) § 5, 2016)

#### 4.24.220 Administrative regulations.

The City Clerk may adopt policies and procedures providing for the application and interpretation of this chapter and provide forms for reporting and collecting the tax imposed by this chapter, so long as they are approved by the Mayor prior to implementation and do not conflict with any federal, state or local law. (Ord. 20-07 § 9, 2020; Ord. 16-09(S) § 5, 2016)

#### 4.24.230 Confidentiality of records.

A. All tax returns, documents, records, and/or reports filed with the City pursuant to this chapter and all data obtained from tax returns, documents, records, and/or reports are confidential as provided by HMC 2.50.050(F) and may not be released for inspection by any person except the Mayor, Treasurer, City Attorney, or the Council; provided, however, that such data may be released upon court order.

B. It is the duty of the City Clerk to safely keep tax returns, documents, records, and/or reports and all data thereof secure from public and private inspection except as provided by this chapter.

C. This section does not prohibit the City from compiling and publishing statistical evidence concerning the data submitted; provided, that no identification of particular tax returns, documents, records, and/or reports is made. Nothing in this section shall be deemed to prohibit the internal auditor from examining the tax returns, documents, records, and/or reports; provided, that no information obtained from specific or identified tax returns shall be made available to persons other than those authorized to review them under subsection (A) of this section. (Ord. 16-09(S) § 5, 2016)