

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STOCKTON AMENDING CHAPTER 5.98 OF THE STOCKTON MUNICIPAL CODE TO INCREASE THE CITY'S MEDICAL CANNABIS BUSINESS LICENSE TAX RATE, AND AMENDING CHAPTER 5.99 OF THE STOCKTON MUNICIPAL CODE TO INCREASE THE MARIJUANA BUSINESS LICENSE TAX RATE, AND TO MAKE OTHER CONFORMING CHANGES IN LIGHT OF NEW STATE LAW, SUBJECT TO THE APPROVAL OF A MAJORITY OF THE VOTERS VOTING ON THE TAX MEASURE AT THE NOVEMBER 8, 2016 MUNICIPAL ELECTION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. FINDINGS AND INTENT

The City Council of the City of Stockton finds that:

1. The City currently imposes a business license tax on the gross receipts of medical cannabis dispensaries, in the amount of \$25.00 per \$1,000.00 of gross receipts per year, pursuant to Stockton Municipal Code Chapter 5.98. The City Council is authorized, pursuant to that Chapter, to implement any lower tax rate, and may increase such tax rate, by ordinance or resolution, so long as the rate does not exceed the maximum rate of \$25.00 per \$1,000.00 of gross receipts per year.
2. In 2010, the City's qualified voters enacted Stockton Municipal Code Chapter 5.99, pertaining to "marijuana businesses," in the event that Proposition 19 or any subsequent State or Federal law was approved or adopted to allow for the use of marijuana for any non-medical business, personal, or recreational purpose or activity. Chapter 5.99 authorizes a business license tax on any marijuana business, excluding medical cannabis dispensaries under Chapter 5.98, in the amount of up to \$100.00 per \$1,000.00 of gross receipts per year. Proposition 19 failed to pass at the November 2, 2010 general election, and therefore Chapter 5.99 has never been implemented.
3. Effective January 1, 2016, the Medical Marijuana Regulation and Safety Act ("MMRSA") was enacted by the California legislature to authorize and regulate a comprehensive medical marijuana industry, including commercial cultivation, manufacturing, and distribution of medical marijuana. Additionally, there are numerous proposed and active voter initiatives regarding the legalization, decriminalization and regulation of recreational marijuana use which, if qualified, may be approved by California voters at the November 8, 2016 statewide election.
4. In light of the changes and potential changes to state law, including the additional authorizations and regulations imposed by the MMRSA, the City Council believes amendments to the existing medical cannabis business license tax and marijuana business license tax are timely and necessary. Specifically, the City Council believes amendments to increase to the range of rates which may be imposed on medical cannabis businesses, and updates to the applicable definitions of both Chapters 5.98 and 5.99 in order to better

match new state law, will provide a greater opportunity for the City to generate essential funds for vital City services and facilities, as the existence and operation of medical cannabis businesses in the State continue to expand.

5. The City Council is authorized to impose general and special taxes to fund municipal services and facilities, subject to the requisite voter approval as set forth in Article XIII C of the California Constitution and Government Code section 53720 *et seq.* Additionally, pursuant to Government Code section 53739 an ordinance or resolution presented for voter approval may state a range of rates or amounts so that Council may impose the tax at any rate or amount that is less than or equal to the maximum amount authorized by the voter-approved ordinance or resolution.
6. The City Council has determined that a reasonable and prudent action it can take to preserve fiscal stability in the City and to protect municipal services and facilities is to amend the existing medical cannabis business license tax to increase the applicable tax rate from the current \$25.00 per \$1,000.00 of gross receipts per year, to an authorized range of \$35.00 to \$50.00 per \$1,000 of gross receipts per year, and to make other conforming language changes in light of new state law. Additionally, the City Council has determined that certain language and definitional changes should be made to Chapter 5.99 regarding non-medical related marijuana business, in the event future changes in the law allow for the use of marijuana for non-medical purposes.
7. The medical cannabis business license tax and marijuana business license tax, and amendments thereto, are intended solely to raise revenue for municipal purposes and are not intended for regulatory purposes. The medical cannabis business license tax does not authorize the conduct or continuance of any illegal business or of a legal business in an illegal manner, nor does it authorize any particular business activity to be conducted in the City, unless otherwise authorized and allowed by the State of California and permitted by the City. Likewise, the marijuana business license tax only authorizes a tax in the event such businesses become lawful by local and State law, it does not authorize the establishment and operation of marijuana businesses in the City.

SECTION II. AMENDMENT OF CODE

Title 5, Chapter 5.98 of the Stockton Municipal Code, is hereby amended to read as follows:

Chapter 5.98 MEDICAL CANNABIS BUSINESS LICENSE TAX

5.98.010 Purpose and intent.

This chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation. No payment of any tax required under this chapter shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. This chapter is not intended to authorize any activity connected with a Medical Cannabis Business, unless otherwise authorized and allowed by the State of California and permitted by the City.

5.98.020 Definitions.

For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

“City” means the City of Stockton.

“City Council” means the City Council of the City of Stockton.

“Code” means the Stockton Municipal Code.

“Gross receipts” mean the total of the amounts of monetary consideration actually received or receivable for the Medical Cannabis Business, including receipts from the sale of ~~m~~Medical ~~marijuana~~Cannabis, ~~m~~Medical ~~marijuana~~Cannabis products or paraphernalia, and any other products, goods, or services sold or provided by the Medical Cannabis Business, overhead costs, operating expenses, or related services whatsoever, including, but not limited to: membership dues, any monetary contributions, payments, reimbursements ~~or~~ and fees for conducting and operating the Medical Cannabis Business. ~~cultivation, distribution, dispensing, storing, exchanging, processing, delivering, making available, or transmitting medical marijuana or medical marijuana edible products, pursuant to Health and Safety Code Sections 11362.5 and 11362.7 through 11362.83, overhead costs, operating expenses, or services in connection therewith.~~ Included in ~~g~~Gross receipts shall be all receipts, cash, credits, and property of any kind without deduction of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever.

“Licensee” means ~~a person who has been issued a business license for transacting or carrying on the business of operating a Medical Cannabis Dispensary pursuant to this code.~~ “Medical Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not, the seeds thereof, the resin, whether crude or purified, extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, which is intended to be made available to, distributed to, or used by medical cannabis patients pursuant to State law, including the Compassionate Use Act of 1996 set forth in Health and Safety Code section 11362.5, as may be amended from time to time. Medical Cannabis includes products that contain Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis.

“~~Medical Cannabis Dispensaries~~Business” means any facility, building, structure or location, whether fixed, mobile, permanent, or temporary, ~~collective or cooperative,~~ for-profit or non-profit, that plants, cultivates, harvests, transports, manufactures, compounds, produces, converts, processes, prepares, stores, packages, distributes, provides or otherwise makes available Medical Cannabis, for wholesale and/or retail sales. To qualify as a Medical Cannabis Business under this Chapter, the business may not provide “Marijuana” for any non-medical business, personal, or recreational purpose or activity, pursuant to the terms of Chapter 5.99 of this Code. ~~where medical cannabis (also known as medical marijuana) is made available to, distributed by, or distributed to~~

~~one or more of the following: a qualified patient, a person with an identification card, or a primary caregiver in accordance with Health and Safety Code Sections 11362.5, 11362.7 through 11362.83, or as these laws may be amended from time to time.~~

5.98.030 Payment of tax.

Notwithstanding any provision to the contrary, every business, including non-profit organizations, operating as a “~~Medical Cannabis Dispensary~~Business,” shall pay an annual business license tax to the City in the following tax amounts:

- A. On, or after January 1, 2011, a maximum of \$25.00 for each \$1,000.00 of Gross receipts per year.
- B. On, or after January 1, 2017, a minimum of \$35.00 up to a maximum of \$50.00 for each \$1,000.00 of Gross receipts per year, to be set by ordinance or resolution of the City Council.
- C. Notwithstanding the tax rates imposed by ~~subsection A~~this section, the City Council may, in its discretion, at any time by ordinance or resolution implement any lower tax rate it deems appropriate, and may increase such tax rate from time to time not to exceed the maximum tax rate authorized by this section.~~imposed by subsection A.~~

5.98.040 Administrative guidelines.

In addition to rules and regulations that may be established by the City Council pursuant to Section 5.04.230 of this ~~e~~Code, the City Manager may establish and amend administrative guidelines as needed to administer this chapter. The administrative guidelines shall have the force of law and shall be enforceable in the same manner and to the same extent as the provisions of this chapter.

5.98.050 Effective date.

~~Unless otherwise specified, t~~The ordinance codified in this chapter shall take effect only if approved by a majority of voters voting on the measure at the November 8, 2016 municipal election. and be in full force and effect 30 days after its passage.

SECTION III. AMENDMENT OF CODE

Title 5, Chapter 5.99 of the Stockton Municipal Code, is hereby amended to read as follows:

Chapter 5.99 MARIJUANA BUSINESS LICENSE TAX

5.99.010 Purpose and intent.

This chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation. This chapter shall ~~take effect~~apply only if (1) Proposition 19, also known as “The Regulate, Control and Tax Cannabis Act of 2010” is passed and adopted by the voters of the

~~State of California on November 2, 2010; or shall become effective at such date and time as any State or Federal law is subsequently enacted or amended from time to time that would similarly allow for or permit~~ authorizes the use of ~~m~~Marijuana for any non-medical business, personal, or recreational purpose or activity; and (2) Marijuana businesses, as defined in this chapter, are otherwise authorized to operate pursuant to all applicable City and State laws and regulations. This chapter shall not be construed to authorize the conduct or continuance of any illegal business or of a legal business in an illegal manner. No business license shall be issued until and unless the City Council adopts or enacts regulations which specifically allow the establishment and operation of ~~m~~Marijuana businesses, as defined in this chapter, within the City.

5.99.020 Definitions.

For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

“City” means the City of Stockton.

“City Council” means the City Council of the City of Stockton.

“Code” mean the Stockton Municipal Code.

“Gross receipts” shall be defined as set forth in Section 5.04.010 of this ~~e~~Code, unless otherwise provided.

“Marijuana” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuana” includes products that contain Marijuana, concentrates and extractions.

“Marijuana business” means any facility, building, structure or location, whether fixed, mobile, permanent or temporary, for-profit or non-profit business, firm, corporation, partnership, entity, organization, association, or any person engaged in cultivation, planting, harvesting, production, processing, distribution, transportation, manufacturing, compounding, converting, processing, preparing, storing, packaging, testing, or selling, whether retail or wholesale, of ~~m~~Marijuana for any non-medical business, personal, or recreational purpose or activity.; any part of the plant Cannabis sativa L or any of its derivatives. Marijuana business shall not include medical cannabis dispensaries, as defined in Section 5.98.020 of this code.

5.99.030 Payment of tax.

A. In addition to any requirements imposed by this ~~C~~code, a ~~m~~Marijuana business shall pay an annual business license tax in the amount of \$100.00 per \$1,000.00 of ~~g~~Gross receipts.

B. The City Council may, in its discretion, at any time by ordinance or resolution impose the tax authorized by this section at a lower rate. No action by the City Council under

this subsection shall prevent it from subsequently increasing the tax rate for Mmarijuana business to the maximum specified in this section.

5.99.040 Effective date of this chapter.

The ordinance codified in this chapter shall take effect only if approved by a majority of voters voting on the measure at the November 8, 2016 municipal election. If approved and enacted by the voters, this chapter shall only apply when and if State or Federal law authorizes the use of Marijuana for any non-medical business, personal, or recreational purpose or activity, and Marijuana businesses, as defined in this chapter, are otherwise authorized to operate pursuant to all applicable City and State laws and regulations. Section 4 of the ordinance codified in this chapter shall take effect upon the date that the ordinance codified in this chapter is passed and adopted by the voters of City of Stockton, as confirmed by the City Council’s declaration of the vote, but will only be implemented if Proposition 19, also known as “The Regulate, Control and Tax Cannabis Act of 2010,” is passed and adopted by the voters of the State of California on November 2, 2010, or upon the effective date of any State or Federal law that may be subsequently enacted or amended from time to time that would similarly allow for or permit the use of marijuana for any non-medical business, personal, or recreational purpose or activity. No business license for any marijuana business shall be issued by the City until and unless the City Council enacts an ordinance and/or regulations specifically permitting the establishment and operation of marijuana businesses within the City.

SECTION IV. SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION V. SUPERSEDE

If approved by a majority of the voters voting on the measure at the November 8, 2016 municipal election, this ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this ordinance.

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SECTION VI. EFFECTIVE DATE

This ordinance relates to the levying and collecting of a general tax and shall take effect only if approved by a majority of the voters voting on the measure at the November 8, 2016 Municipal Election. If approved by a majority of the voters voting on the measure, this ordinance shall become effective ten (10) days after the City Council declares and certifies by resolution the results of the election and that the measure was approved by a majority of voters voting thereon.

PASSED, APPROVED AND ADOPTED by at least a two-thirds vote of all members of the City Council of the City of Stockton: June 28, 2016.

ANTHONY SILVA, Mayor
City of Stockton

ATTEST:

BONNIE PAIGE, City Clerk
City of Stockton