

RESOLUTION NO. 2016-06-28-1503-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STOCKTON, CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016; REQUESTING CONSOLIDATION OF THE GENERAL MUNICIPAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE; SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF STOCKTON AT THE NOVEMBER 8, 2016 MUNICIPAL ELECTION A BALLOT MEASURE TO AMEND CHAPTERS 5.98 AND 5.99 OF THE STOCKTON MUNICIPAL CODE TO INCREASE THE CITY'S MEDICAL CANNABIS BUSINESS LICENSE TAX RATE, AND TO MAKE OTHER CONFORMING CHANGES IN LIGHT OF NEW STATE LAW; AND DIRECTING AND AUTHORIZING ADDITIONAL STEPS NECESSARY TO PLACE THE MEASURE ON THE BALLOT

Pursuant to section 9222 of the California Elections Code, the City Council has authority to place propositions on the ballot to be considered at a Municipal Election; and

The City of Stockton (the "City"), pursuant to Chapter 5.98 of the Stockton Municipal Code, 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, which amount may be increased or decreased by ordinance or resolution of City Council, so long as the rate does not exceed the maximum rate of \$25.00 per \$1,000.00 of gross receipts per year; and

The City Council desires to increase and establish a range of rates for the City's medical cannabis business license tax, to be at a minimum of \$35.00 and a maximum of \$50.00 per \$1,000.00 of gross receipts of medical cannabis businesses, as set by resolution of City Council, but not to exceed the maximum rate of \$50.00 per \$1,000.00 of gross receipts; and

The City, pursuant to Chapter 5.99 of the Stockton Municipal Code, also authorizes a business license tax on the gross receipts of marijuana businesses involving non-medical or recreational marijuana, in the amount of \$100.00 per \$1,000.00 of gross receipts per year, in the event State or Federal law is approved or adopted to allow for the use of marijuana for any non-medical business, personal, or recreational purpose or activity; and

The City Council desires to amend the Stockton Municipal Code to allow for such increase in the tax rate to medical cannabis businesses, and to implement a minimum and maximum allowable tax rate that may be imposed, and to revise the applicable definitions for the medical cannabis business license tax and marijuana business license tax to better encompass the range of medical cannabis businesses authorized and regulated by new state law, the Medical Marijuana Regulation and Safety Act; and

Pursuant to the California Constitution, article XIII C, section 2(b) and California Government Code section 53723, the City's existing and proposed medical cannabis business license tax and marijuana business license tax are general taxes used for general municipal services, which may be established and increased only upon approval by a majority vote of the qualified electors voting in the election; and

California Constitution article XIII C, section 2(b) and California Government Code section 53724(c), any election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

Pursuant to California Government Code section 53724(b), any such measure may be presented to the voters only if the ordinance or resolution so proposing is approved by a two-thirds vote of the governing body; and

The next regularly scheduled General Municipal Election for members of the City Council and the next statewide General Election will be held on Tuesday, November 8, 2016; now, therefore,

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

SECTION 1. The City Council of the City of Stockton hereby calls and gives notice of a General Municipal Election to be held on Tuesday, November 8, 2016, in the City of Stockton, County of San Joaquin. Said General Municipal Election shall be held and conducted, and the votes canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this Resolution, said General Municipal Election shall be held as provided for in the City Charter and otherwise in accordance with the Elections Code of the State of California. The City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 2. Pursuant to California Elections Code section 10400 and following, the City Council hereby requests that the Board of Supervisors of the County of San Joaquin, State of California, order the consolidation of the City's General Municipal Election with the statewide General Election to be held on Tuesday, November 8, 2016, for the purpose of submitting to the qualified voters of the City the ballot proposition set forth in this Resolution. The consolidated election shall be held and conducted in the manner prescribed in Section 10418. The Board of Supervisors is requested to issue instructions to the County Clerk – Registrar of Voters to take any and all steps necessary for the holding of the consolidated election. The Board of Supervisors of the County of San Joaquin is authorized to canvas the returns of that election with respect to the votes cast in the City and certify the results to the City Council. The City recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for all costs.

SECTION 3. The City Council of the City of Stockton hereby submits to the qualified voters of the City of Stockton at the General Municipal Election of November 8, 2016, a ballot measure to amend the Stockton Municipal Code pertaining to medical cannabis business license taxes and marijuana business license taxes, and orders the full text of the ordinance attached hereto as Exhibit "1," and by this reference incorporated herein and made an operative part hereof, to be submitted to the qualified voters accordingly.

The ballot proposition shall be presented and printed upon the ballot submitted to the voters in the following form:

MEASURE ___:		
APPROVING AMENDMENTS TO THE CITY OF STOCKTON'S MUNICIPAL CODE GOVERNING BUSINESSES SUBJECT TO THE MARIJUANA BUSINESS LICENSE TAX AND INCREASING THE CITY OF STOCKTON'S MEDICAL CANNABIS BUSINESS LICENSE TAX		
<p>Shall Ordinance 2016-06-28-1503 be adopted to amend provisions of the City of Stockton Municipal Code governing businesses subject to the marijuana business license tax and to increase the rate for the medical cannabis business license tax to a minimum of \$35.00 and a maximum of \$50.00 per \$1,000 of the annual gross receipts of medical cannabis businesses, estimated to raise \$672,000-\$1,000,000 annually for general City services, which tax shall continue until repealed by the City Council or City voters?</p>	YES	
	NO	

SECTION 3. The City Attorney of the City of Stockton is hereby authorized and directed to prepare an impartial analysis of the measure by August 19, 2016 in accordance with section 9280 of the Elections Code, showing the effect of the measure on existing law and the operation of the measure.

SECTION 4. The City Council requests that the San Joaquin County Board of Supervisors add the proposed ballot proposition authorized by this Resolution to the ballot for the General Municipal Election to be held November 8, 2016.

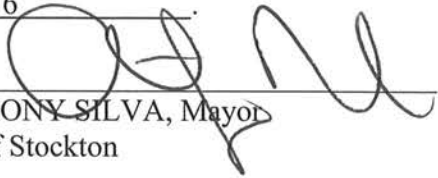
SECTION 5. Written arguments may be filed in favor or against the measures. The deadline for filing arguments for or against the measure shall be August 19, 2016, for the direct arguments, and August 29, 2016, for rebuttal arguments.

SECTION 6. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City of Stockton's cost of placing the measure on the ballot.

SECTION 7. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the measure to be printed. The City Clerk is authorized, instructed and directed to procure and furnish any and all printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 8. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of San Joaquin County and the Registrar of Voters of San Joaquin County.

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



ORDINANCE NO. **2016-06-28-1503**

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~~ 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 eCode, 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 Marijuana 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

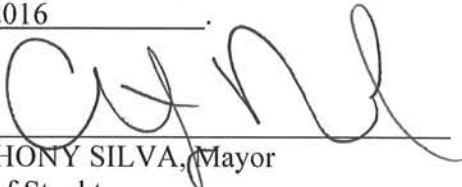
If approved by a majority of the voters voting on the measure at the November 8, 2016 municipal election, this ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this ordinance.

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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

