

RESOLUTION NO. 18-___

Resolution Of The City Council Of The City Of Emeryville Establishing Initial Tax Rates For A Cannabis Business License Tax, Contingent Upon Measure S Taking Effect Following The November 6, 2018 General Election

WHEREAS, on October 9, 2015, Governor Brown approved a series of bills commonly referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"), effective on January 1, 2016, which established a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis, also known as marijuana; and which recognized the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, distribution, delivery, and sale of medical cannabis; and

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, known as the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA"), which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of recreational cannabis, also known as marijuana; and which recognizes the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, distribution, delivery, and sale of recreational cannabis; and

WHEREAS, the MCRSA and AUMA set forth a comprehensive framework to regulate cannabis and cannabis products from seed to ingestion by a consumer, which includes uniform health and safety standards designed to implement quality control, a labeling and a track-and-trace program, and other consumer protections; and

WHEREAS, on April 4, 2017, the City Council of the City of Emeryville adopted Ordinance No. 17-003 to regulate cannabis businesses and cannabis activity within the City, and Ordinance No. 17-002 amending the City's Planning Regulations to allow for cannabis related land uses; and

WHEREAS, in June 2017, the California State Legislature passed SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), to integrate the MCRSA and AUMA into one regulatory framework; and

WHEREAS, on July 24, 2018, at a duly noticed public meeting, the City Council adopted Resolution No. 18-113, ordering the submission to the qualified electors of the City of Emeryville at the general municipal election to be held on November 6, 2018, the proposed "ORDINANCE AMENDING SECTION 3-1.124, "ANNUAL BUSINESS TAX BASED ON GROSS RECEIPTS", AND ADDING SECTION 3-1.129, "CANNABIS BUSINESSES", TO CHAPTER 1, "BUSINESS TAXES", OF TITLE 3, "FINANCE", OF THE CITY OF EMERYVILLE MUNICIPAL CODE" (the "Cannabis Business License Tax Ordinance", also known as "Measure S"), which would impose an excise tax on the privilege of conducting business within the City of up to six percent (6%) on all cannabis businesses operating within the City; and

WHEREAS, the section to be codified as Section 3-1.129(a) of the proposed Cannabis Business License Tax Ordinance provides that the City Council may set the actual tax rate by resolution so long as it does not exceed six percent (6%) of annual gross receipts; and,

WHEREAS, the City Council held a study session on September 17, 2018 to consider initial cannabis tax rates contingent on passage of Measure S, and received public comment during the study session; and

WHEREAS, the City Council wishes to set cannabis business tax rates for an initial term of three years; and

WHEREAS, the City recognizes the volatility of the newly-legalized cannabis market and will therefore set low initial tax rates to balance the financial needs of the City with the desire of the City to support and encourage the industry to engage in a regulated market; now, therefore be it

RESOLVED, that the City Council of the City of Emeryville hereby establishes the initial cannabis business license tax rates for the Cannabis Business License Tax Ordinance, contingent on the passage of Measure S, beginning from the effective date Measure S as follows:

Business Type	Tax Rate
Testing	1% of gross receipts; with tax from gross receipts from testing of products produced in Emeryville subject to rebate to testing business
Distribution	1% of gross receipts
Manufacturing	2% of gross receipts
Delivery	3% of gross receipts
Storefront Retail	3% of gross receipts

and be it further

RESOLVED, that the initial cannabis business license tax rates listed above are applicable to gross receipts resulting from each listed business activity and cannabis businesses shall maintain documentation necessary to segregate gross receipts accordingly; and be it further

RESOLVED, that the City Council hereby directs the Police Chief to modify the Cannabis Business Operator Permits for East Bay Therapeutics and Rochambeau, Inc. to eliminate the Conditions of Approval requiring community benefits in the form of payments to the

City or community grant programs on the same day that the Cannabis Business Tax Ordinance takes effect; and be it further

RESOLVED, that this Resolution shall take effect only upon passage of the Cannabis Business Tax Ordinance, and shall take effect on the same day that the Cannabis Business Tax Ordinance takes effect.

ADOPTED by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 30, 2018 by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY