

CITY OF DAVIS - MEASURE C

ORDINANCE NO. 2469

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS ADDING SECTION 19.04.100 TO THE CITY OF DAVIS MUNICIPAL CODE RELATED TO MARIJUANA BUSINESS LICENSE TAXES IMPOSED FOR GENERAL MUNICIPAL PURPOSES, SUBJECT TO THE APPROVAL OF A MAJORITY OF THE VOTERS VOTING AT THE GENERAL MUNICIPAL ELECTION HELD ON JUNE 7, 2016

WHEREAS, recently enacted state law, the Medical Marijuana Regulation and Safety Act ("MMRSA"), authorizes and regulates a comprehensive medical marijuana industry, including commercial cultivation, manufacturing, and distribution of medical marijuana; and

WHEREAS, in light of the MMRSA, the City Council recently adopted Ordinance No. 2469 in order to retain local land use control over marijuana uses and authorize and regulate the limited cultivation of medical marijuana by qualified patients and primary caregivers, subject to future review and possible amendment; and

WHEREAS, there are currently numerous proposed and active voter initiatives regarding the legalization, decriminalization and regulation of recreational marijuana use which are being circulated for qualification to appear on the state ballot in the upcoming November 2016 general election; and

WHEREAS, the growing statewide trend toward greater access and regulation of marijuana, both for medical purposes and possible recreational uses, presents a unique opportunity for the City to impose a general tax on future marijuana businesses that may operate in the City; and

WHEREAS, a general business license tax based on the gross receipts derived from such marijuana businesses would generate essential funds for protecting vital City services and facilities and place such businesses on more equal footing with existing City businesses; and

WHEREAS, the City Council is authorized to impose general and special taxes in order to fund municipal services and facilities, subject to requisite voter approval as set forth in Government Code section 53720 et seq.; and

WHEREAS, after a study of the financial issues facing the City, and after extensive efforts to gauge the public's opinions and priorities, the City Council has determined that the most reasonable and financially prudent action it can take to preserve fiscal stability of the City and to protect vital services and facilities is to place before the voters a ballot measure to impose a general business license tax on the gross receipts of marijuana businesses, in the event such business become legal, permitted, and operational in the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are hereby found to be true and accurate and are incorporated into this Ordinance by this reference.

SECTION 2. Amendment. Section 19.04.100 is hereby added to the City of Davis Municipal Code to read in full as set forth in Exhibit A, attached hereto and incorporated by this reference.

SECTION 3. Voter Approval. Section 19.04.100 shall impose a general tax as defined by Government Code section 53723, and therefore must be approved by a majority of voters voting in an election on the tax. Approval of this Ordinance is therefore subject to and conditioned upon the approval by the voters of the imposition of the general tax imposed by this Ordinance. If a majority of the voters voting in the election do not vote in favor of the imposition of the tax, this ordinance shall not take effect.

SECTION 4. 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. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.



SECTION 5. Effective Date. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after the date of its final passage and adoption, provided, however, that the effective date is subject to and conditioned upon approval by the voters as set forth in Section 3 of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Davis this 16th day of February, 2016, by the following vote:

AYES: Davis, Frerichs, Lee, Swanson, Wolk

NOES: None

s/ Daniel M. Wolk
Mayor

ATTEST:

s/ Zoe S. Mirabile, CMC
City Clerk

EXHIBIT A

19.04.100 Marijuana Businesses.

Every person engaged in a marijuana business shall pay an annual business license tax as follows:

- (a) Ten percent (10%) of each dollar of gross receipts shall be due to the City for the reporting period.
- (b) Notwithstanding the tax rate imposed in subsection (a), the City Council may, in its discretion, at any time by resolution implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rate established under subsection (a).
- (c) For purposes of this section, the following terms have the following meanings:
 - (1) "Gross receipts" has the meaning as defined in Section 19.01.010, as it pertains to the marijuana business' reporting period, and includes receipts from the sale of marijuana and from the sale of paraphernalia used for consuming marijuana and any other products, goods, or services sold or provided by the marijuana business.
 - (2) "Marijuana" has the same meaning as "Cannabis" as defined in California Business and Professions Code Section 19300.5(f)
 - (3) "Marijuana business" means a business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, distributing, providing, or selling wholesale and/or retail sales of marijuana. A marijuana business includes any facility, building, structure or location, whether fixed, mobile, permanent or temporary, but excluding dispensaries that only provide medical marijuana for medical purposes.
 - (4) "Reporting period" means a year, quarter or calendar month, as determined by the administrator.
- (d) The purpose of this tax is to raise revenue to fund general municipal services.
- (e) No payment of any tax required under this section shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this section implies or authorizes that any activity connected with the cultivation, possession or provision of marijuana is legal unless otherwise authorized and allowed by the State of California and permitted by the City. This section is in addition to any other requirements set forth in this Chapter and is not intended to exempt, substitute, or replace any other requirements necessary for a marijuana business to legally operate in the City.

