



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Proposed Ordinance Amending
the Marijuana Business Tax to
Increase the Rate from 7% to
10% of Gross Receipts

DATE: May 23, 2013

RECOMMENDATION

Adopt an ordinance amending Section 4.66.250 of Chapter 4.66 of Title 4 of the San José Municipal Code to increase the Marijuana Business Tax rate from 7% of gross receipts to 10% of gross receipts, effective on July 1, 2013.

OUTCOME

Adoption of the recommendation would increase the Marijuana Business Tax rate from 7% of gross receipts to 10% of gross receipts, commencing on July 1, 2013.

BACKGROUND

In November 2010, Measure U (the "Marijuana Business Tax") was approved by a majority of voters in San José. Measure U, which enacted the Marijuana Business Tax provisions in Chapter 4.66 of the Municipal Code (the "Code"), allows the City of San José (the "City") to impose a business tax on all marijuana businesses conducting business within the City at a maximum monthly rate up to 10% of gross receipts, as defined by Chapter 4.66. Measure U also allows the City Council, at any time, to set a lower tax rate for marijuana businesses. The City Council may also increase the tax rate from time to time, provided that the tax rate does not exceed 10% of gross receipts. Measure U does not legalize or otherwise permit marijuana businesses in San José. The Marijuana Business Tax is in addition to the current business tax imposed on businesses in San José.

On December 13, 2010, the City Council set the tax rate at 7% of gross receipts, beginning on March 1, 2011.

ANALYSIS

When the City Council approved the Mayor's March Budget Message, it directed the City Attorney's Office to return to the Council before the adoption of the FY 2013-2014

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Budget with an ordinance for consideration that would increase the Marijuana Business Tax rate from 7% to 10% of gross receipts. In order to provide public notice of the proposed increase, a public meeting was agendized for May 21 in advance of the City Council taking action on the proposed increase and the City provided newspaper notice as well, and other notice requirements as set forth in the Brown Act.

The Marijuana Business Tax is a general tax and the revenue is deposited into the City's General Fund.

Under the City's Charter, an ordinance enacting a new tax rate does not require a second reading and may take effect immediately. Consistent with the City Council's direction, the proposed ordinance specifies the 10% rate will take effect on July 1, 2013 to coincide with the start of the new fiscal year.

PUBLIC OUTREACH/INTEREST

The memorandum and the proposed ordinance increasing the Marijuana Business Tax rate from 7% to 10% of gross receipts will be posted to the City's agenda webpage for the June 4, 2013 Council Meeting.

COORDINATION

This memorandum was coordinated with the Budget Office and the Finance Department.

CEQA

Not a Project; File No. PP10-068(c), Municipal Code or Policy.

RICHARD DOYLE
City Attorney

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