

Ordinance No. 33-10 N.S.

**AN ORDINANCE OF THE CITY OF RICHMOND IMPOSING A GENERAL
BUSINESS LICENSE TAX ON CANNABIS BUSINESSES AND AMENDING THE
RICHMOND MUNICIPAL CODE**

Be it ordained by the People of the City of Richmond:

Section 1. Code Amendment. Chapter 7.04 of the Richmond Municipal Code is hereby amended to add new definitions to Section 7.04.020, to be codified in their appropriate placement in the alphabetical order of that section, and to read as follows:

"Cannabis business" means any commercial activity that involves planting, cultivating, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, selling at wholesale, and/or retail marijuana, any part of the plant Cannabis sativa L. or its derivatives. For purposes of this definition, "commercial activity" includes, but is not limited to, any activity in which a person receives money or any other thing of value in exchange for providing a good or performing an act or service, even if such good, act or service is provided in the context of a "club," "cooperative" or similar organization, and regardless of whether such organization is operated for profit.

"Gross receipts" means the total amount received (whether in cash, in credit, or in property of any nature) by a person for the sale of goods or the performance of any act or service in connection with a cannabis business.

(1) Gross receipts shall be calculated and reported on either a cash or an accrual basis as those terms are used in the context of federal taxation. Where gross receipts are reported on an accrual basis, they shall constitute the total amount charged, rather than the total amount received, and a deduction may be made amounts that have been written off as a "bad debt" in compliance with Internal Revenue Service guidelines. Such "bad debts" that are later collected shall be included in the Gross Receipts for the year in which they are collected.

(2) Except as otherwise provided in this section, no deduction shall be made from Gross Receipts on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever.

(3) The following shall be excluded from gross receipts:

(A) Cash discounts allowed on sales (such as, but not limited to, volume discounts, promotional discounts, inventory clearance discounts and the like);

(B) Amounts refunded by a seller to a purchaser for the return for resale of a previously purchased item (whether such amounts are refunded in cash or in the form of a store credit or the like);

(C) The amount of any federal excise tax, and of any of any sales, transactions or use tax collected by the seller from a purchaser, so long as such excise tax or other tax is required by law to be included in or added to the purchase price and collected from the consumer or purchaser and regardless of whether or not the amount the tax is stated to customers as a separate charge.

Section 2. Code Amendment. Chapter 7.04 of the Richmond Municipal Code is hereby amended to add a new Section 7.04.139 to read as follows:

7.04.139 Cannabis businesses.

(a) Every person engaged in a cannabis business shall, in lieu of any license fee otherwise provided by this chapter for that business, pay an annual license tax of one hundred dollars (\$100.00) for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof.

(b) The tax shall be payable in advance and the tax for each year shall be based on gross receipts for the prior year. For the initial year of operation of a cannabis business, the tax shall be based on the Tax Collector's reasonable estimate, based on such information as is provided by an applicant for a license, of the likely gross receipts of the business, which tax shall be adjusted upon payment of the tax for the second year of operation in light of the actual gross receipts of the business.

(c) The exemption contained in Section 7.04.140 for charitable organizations shall not apply to persons engaged in a cannabis business.

Section 3. Amendment of Ordinance Rule-Making. This Ordinance may be repealed or amended by the City Council without a vote of the People except as follows: as required by Article XIIC of the California Constitution, any amendment that increases the amount or rate of tax beyond the levels authorized by this Ordinance may not take effect unless approved by a vote of the People. The City Council may impose the tax in any amount or rate which does not exceed the rate approved by the voters of the City. The voters are aware of the rule-making authority conferred on the Tax Collector by Section 7.04.320 of the Richmond Municipal Code and, without limitation, intend that authority to extend to the tax imposed by this Ordinance.

Section 4. Revenue Measure. The tax adopted by this Ordinance is enacted solely to raise revenue for municipal purposes and is not intended for the purpose of regulation. The People of the City determine the tax to be an appropriate general tax for the purpose of raising revenue. Proceeds of the tax will be deposited in the general fund of the City and will be available for any lawful municipal purpose. This Ordinance does not, in itself, authorize the conduct of any business or activity in the City, but merely provides for the taxation of such businesses or activities. As set forth in Section 7.04.370 of the Municipal Code, no license issued pursuant to Chapter 7.04 of the Municipal Code as a consequence of payment of the tax adopted by this Ordinance shall be construed as authorizing the conduct or continuance of any

illegal or unlawful business.

Section 5. Severability. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Richmond hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

Section 6. Majority Approval Effective Date. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

Section 7. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code Section 21000 et seq., including without limitation Public Resources Code Section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

Section 8. Execution. Upon certification of the vote by which the people of the City of Richmond adopt this Ordinance, the Mayor and City Clerk are authorized to execute it where indicated below to give evidence of that adoption.

I hereby certify that this ordinance was adopted by a vote of the People of the City of Richmond on November 2, 2010.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney