



# City of South San Francisco

P.O. Box 711 (City Hall,  
400 Grand Avenue)  
South San Francisco, CA

## City Council

Resolution: RES 86-2018

File Number: 18-492

Enactment Number: RES 86-2018

RESOLUTION ESTABLISHING NOVEMBER 6, 2018 AS THE DATE FOR A MUNICIPAL ELECTION FOR A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL TO AMEND CHAPTER 6.16 TO THE SOUTH SAN FRANCISCO MUNICIPAL CODE TO ADOPT A CANNABIS BUSINESS LICENSE TAX; ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH ELECTION, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN MATEO CONSOLIDATE THE ELECTION WITH THE STATEWIDE GENERAL ELECTION PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE.

FILED IN THE OFFICE OF THE  
CHIEF CLERK  
OF SAN MATEO COUNTY

JUL 09 2018

MARK CHURCH

DEPUTY CLERK

WHEREAS, on November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Cannabis Act (AUMA), which legalized the possession, use, and cultivation of non-medical cannabis for those who are 21 years of age or older and established a state system to regulate commercial cannabis activity; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which repealed the Medical Cannabis Regulation and Safety Act (MCRSA), incorporated certain licensing provisions from MCRSA, and created a single regulatory scheme for both medical and non-medical cannabis; and

WHEREAS, subject to certain exceptions, MAUCRSA generally establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of cannabis, including cannabis products, and to tax the commercial growth and retail sale of cannabis; and

WHEREAS, on December 13, 2017, the City Council adopted Ordinance No. 1548-2017 amending Chapter 20.410 of the South San Francisco Municipal Code to prohibit the retail sale and outdoor cultivation of cannabis; and

WHEREAS, on February 14, 2018, the City Council adopted Ordinance No. 1551-2018 amending Chapter 20.410 to permit commercial cannabis manufacturing, testing, distribution, and delivery uses within the boundaries of the city, create a local application process for the issuance of operator permits for those uses, and prohibit microbusinesses; and

WHEREAS, on April 11, 2018, the City Council adopted Ordinance No. 1554-2018 amending Chapter 20.410 of the Municipal Code to permit and regulate indoor commercial cannabis cultivation within a fully enclosed structure in the City; and



WHEREAS, the City Council desires to place before the voters a ballot measure to enact an ordinance allowing the City Council to implement an excise tax on cannabis businesses within the City; and

WHEREAS, revenues from a cannabis business tax would be for unrestricted general revenue purposes and would go into the City's general fund and could be used for any legitimate government purpose; and

WHEREAS, Article XIIIIC, section 2(b) of the California Constitution requires that any general tax for unrestricted general revenue purposes, such as a business license tax, must be submitted to and approved by a majority vote of the voters voting on the issue of imposing any general tax; and

WHEREAS, a substantial portion of the City's General Fund is used for public safety purposes (police and fire protection services) and the City Council has determined that a cannabis business license tax is an effective way of offsetting the impact of commercial cannabis on the City's public safety services, including police, fire, and code enforcement; and

WHEREAS, after receiving information at its June 13, 2018 City Council meeting, and after subsequently receiving testimony from the public, the City Council determined that the public interest would be well served by asking the voters of South San Francisco to authorize a cannabis business license tax effective January 1, 2019; and

WHEREAS, Article XIIIIC, section 2(b) also requires that an election by the voters to approve a general tax must be consolidated with an election for City Councilmembers; and

WHEREAS, the November 6, 2018 election includes an election of members of the City Council; and

WHEREAS, as a general tax, a cannabis business license tax in the City must be approved by a majority vote to impose the following rates: one percent (1%) of gross receipts and up to two and a half percent (2.5%) of gross receipts for testing; one percent (1%) of gross receipts and up to four percent (4%) of gross receipts for cultivation; one percent (1%) of gross receipts and up to three percent (3%) of gross receipts for distribution; one percent (1%) of gross receipts and up to five percent (5%) of gross receipts for manufacturing; and one percent (1%) of gross receipts and up to five percent (5%) of gross receipts for delivery-only; and

WHEREAS, a proposed ordinance attached hereto and incorporated herein by reference as Exhibit A ("Ordinance") would implement the adoption of this tax; and

WHEREAS, pursuant to Government Code section 53724 and Election Code section 9222, the City Council desires to submit the Ordinance to the voters of the City.

WHEREAS, after considering the foregoing information, the City Council believes that the proposed adoption of a cannabis business license tax should be authorized by the voters of South San Francisco in the amount described herein, effective January 1, 2019; and

WHEREAS, the cost of conducting the election is included in the City Clerk's Fiscal Year 2018-19



Operating Budget; and

WHEREAS, based on all of the information presented at the June 13, 2018 City Council meeting, both written and oral, including without limitation the staff reports, minutes, and other relevant materials (hereafter the "Record"), the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378(b)(4), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, BE IT RESOLVED that the City Council of South San Francisco hereby RESOLVES as follows:

SECTION 1. Findings. The City Council finds and determines that each of the findings set forth above are true and correct.

SECTION 2. Call for Election. Pursuant to California Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of South San Francisco a measure that, if approved by a majority vote, would impose a cannabis business license tax setting forth rates based on a percentage of gross receipts with maximum rates for each type of permitted cannabis business in the City, with the additional funds generated to be used for unrestricted general revenue purposes. This measure shall be designated by letter by the San Mateo County Registrar of Voters. Pursuant to California Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the established statewide election to be conducted on November 6, 2018.

SECTION 3. Ballot Language. The ballot language for the proposed measure shall be as follows:

<p>10 10 9 11 12 9 2</p> <p>72</p>	<p>To maintain the quality of life in South San Francisco by providing public safety services to address the impact of commercial cannabis operations permitted within the City and for unrestricted general revenue purposes, shall an ordinance be adopted establishing an ongoing business license tax on all cannabis businesses of no more than 5% of gross receipts to vary by each type of permitted business, providing approximately \$100,000 to \$700,000 or more in revenues annually?</p>	<p>YES</p> <hr/> <p>NO</p>
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This question requires the approval of a majority of those casting votes.

SECTION 4. Proposed Measure. The full text of the proposed measure to be submitted to the voters is attached as Exhibit A hereto, authorizing the general tax to be approved by the voters pursuant to Section 3. The City Council hereby approves the proposed measure, the form thereof, and its submission to the voters of the City at the November 6, 2018 election.

SECTION 5. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in an official newspaper, in accordance with Section 12111 of the California Elections Code and Section 6061 of the California Government Code.

SECTION 6. Request to Consolidate and Conduct Election and Canvass Returns.



(a) The City Council hereby requests that the San Mateo County Board of Supervisors consolidate the election called by this Resolution with the statewide election to be conducted on November 6, 2018 and order the election to be conducted by the Registrar of Voters. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of San Mateo County and the Registrar of Voters of San Mateo County on or before August 10, 2018.

(b) The election on the measure set forth in Section 3 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the measure set forth in Section 3 shall be held in San Mateo County in the City of South San Francisco on November 6, 2018, as required by law, and the Board of Supervisors of San Mateo County is authorized to canvass the returns of the election with respect to the votes cast in the City of South San Francisco and certify the results to the City Council of the City of South San Francisco.

(d) At the next regular meeting of the City Council of the City of South San Francisco occurring after the returns of the election for the measure set forth in Section 3 have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

#### SECTION 7. Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the measure shall be by 5:00 p.m. on Friday, August 17, 2018.

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on Monday, August 27, 2018.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare, by Monday, August 17, 2018, an impartial analysis of the measure showing the effect of the measure.

(f) Council Member Richard Garbarino is hereby authorized to file a written argument, not to exceed three hundred (300) words, in favor of the proposed measure, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote. In the event that an argument is filed against the measure, the Mayor and Vice Mayor/Council Member are also authorized to file a rebuttal argument, not to exceed two hundred fifty (250) words, on behalf of the City Council. The rebuttal argument may

also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

**SECTION 8. Appropriation of Necessary Funds.** The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the measure on the election ballot.

**SECTION 9. Services of City Clerk.** The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

EXHIBIT A - Ordinance

\* \* \* \* \*

At a meeting of the City Council on 6/13/2018, a motion was made by Mark Addiego, seconded by Pradeep Gupta, that this Resolution be approved. The motion passed.

**Yes:** 4 Mayor Normandy, Councilmember Garbarino, Councilmember Gupta, and Councilmember Addiego

**No:** 1 Mayor Pro Tem Matsumoto

Attest by

Krista Martinelli

STATE OF CALIFORNIA }  
COUNTY OF SAN MATEO } SS

I, Krista Martinelli, City Clerk of the city of South San Francisco, County of San Mateo, State of California, do hereby certify that the above and foregoing is a full, true and correct copy of

Resolution 86-2018  
the original of which is on file in my office, and that I have carefully compared the same with the original.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the City of South San Francisco this 25th day of June 2018

KRISTA MARTINELLI

City Clerk of the City of South San Francisco

By

City Clerk



*Full Text starts*  
*Not to include in Full Text*  
..Title →

An ordinance amending South San Francisco Municipal Code Chapter 6.16 to adopt a cannabis business license tax.

*Not to include in Full Text*  
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WHEREAS, on November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Cannabis Act (AUMA), which legalized the possession, use, and cultivation of non-medical cannabis for those who are 21 years of age or older and established a state system to regulate commercial cannabis activity; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which repealed the Medical Cannabis Regulation and Safety Act (MCRSA), incorporated certain licensing provisions from MCRSA, and created a single regulatory scheme for both medical and non-medical cannabis; and

WHEREAS, subject to certain exceptions, MAUCRSA generally establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of cannabis, including cannabis products, and to tax the commercial growth and retail sale of cannabis; and

WHEREAS, the City Council desires to impose a cannabis business license tax for the privilege of operating within the City; and

WHEREAS, revenues from a cannabis business tax would be for unrestricted general revenue purposes and go into the City's general fund and could be used for any legitimate government purpose; and

WHEREAS, Article XIIC, section 2(b) of the California Constitution requires that any general tax for unrestricted general revenue purposes, such as a business license tax, must be submitted to and approved by a majority vote of the voters voting on the issue of imposing any general tax; and

WHEREAS, the tax imposed by this Ordinance is an excise tax on the privilege of conducting business within the City and will only become effective if approved by a majority of the City's voters at the November 7, 2017 municipal election; and

WHEREAS, based on all of the information presented at the June 13, 2018 City Council meeting, both written and oral, including without limitation the staff reports, minutes, and other relevant materials (hereafter the "Record"), the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378(b)(4), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH SAN FRANCISCO, SUBJECT TO VOTER APPROVAL, DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. Incorporation of Recitals.**

The City Council of South San Francisco, subject to voter approval, finds that all Recitals are true and correct and are incorporated herein by reference.

**SECTION 2. Amendments**

Chapter 6.16 of the South San Francisco Municipal Code is hereby amended to add Section 6.16.037 Cannabis Business to read as follows:

Section 6.16.037 Cannabis Business.

(a) "Cannabis business" means a person issued a cannabis operator permit pursuant to Chapter 20.410.

(b) The license tax is as follows and may be adjusted by City Council by resolution or ordinance:

(1) One percent of gross receipts and up to two and a half percent of gross receipts for commercial cannabis testing operations.

(2) One percent of gross receipts and up to four percent of gross receipts for commercial cannabis cultivation operations.

(3) One percent of gross receipts and up to three percent of gross receipts for commercial cannabis distribution operations.

(4) One percent of gross receipts and up to five percent of gross receipts for commercial cannabis manufacturing operations.

(5) One percent of gross receipts and up to five percent of gross receipts for commercial cannabis delivery-only operations.

(c) One percent of gross receipts and up to five percent of gross receipts for a commercial cannabis business not otherwise included in subdivision (b) of this section.

(d) The license tax imposed is an excise tax and not a sales and use tax and is in addition to any other fees required under Chapter 20.410.

(e) The payment of a tax required under this section, and its acceptance by the City, shall not entitle any person to engage in any cannabis business unless the person has complied with all of the requirements of Chapter 20.410 and all other applicable state or local laws. No tax paid under this Section shall be construed as authorizing the conduct or



continuance of any illegal or unlawful business, or any business in violation of any state or local laws.

(f) Commercial cannabis businesses operating unlawfully in the City are subject to the license taxes under this section, in addition to any applicable penalties or fines under local and state laws.

### **SECTION 3. Compliance with the California Environmental Quality Act**

The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). This ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the ordinance is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

### **SECTION 4. Severability**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

### **SECTION 5. Effective Date of Tax**

If this ordinance is approved by a majority of the voters voting on the issue at the November 6, 2018 election, pursuant to Elections Code Section 9217, this ordinance shall be considered adopted on that date and the tax shall become effective January 1, 2019, or no sooner than 10 days after the City Council certifies the results of the election, whichever occurs later.

### **SECTION 6. Voter Approval Required**

This ordinance shall only become operative if the tax imposed is approved by a simple majority of voters voting on the question at the November 6, 2018 election.

### **SECTION 7. Publication**

This Ordinance shall be published once, with the names of those City Councilmembers voting for or against it, in the South San Francisco Examiner, a newspaper of general circulation in the City of South San Francisco, in accordance with Government Code Section 36933.

— Fall  
Text  
ends