



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** April 29, 2019

Approved

Date

5-9-19

**SUBJECT: ORDINANCE AMENDING CHAPTER 4.66 OF THE SAN JOSE MUNICIPAL CODE TO RENAME THE MARIJUANA BUSINESS TAX TO THE CANNABIS BUSINESS TAX AND TO ESTABLISH A TIERED CANNABIS BUSINESS TAX RATE STRUCTURE FOR VARIOUS CATEGORIES OF CANNABIS BUSINESS ACTIVITIES**

## RECOMMENDATION

Adopt an ordinance amending Chapter 4.66 of Title 4 of the San José Municipal Code to rename the Marijuana Business Tax to the Cannabis Business Tax, to make other technical revisions to change the term “marijuana” to “cannabis” throughout Chapter 4.66, and to reduce the Cannabis Business Tax for persons engaged in the cultivation, manufacturing, distribution or laboratory testing of cannabis.

## OUTCOME

Adoption of the recommendation renames the Marijuana Business Tax (“MBT”) the Cannabis Business Tax (“CBT”) and reduces the CBT rate for persons engaged in the cultivation, manufacturing, distribution, or laboratory testing of cannabis. The reduced tax rates would be effective on July 1, 2019.

## BACKGROUND

On January 15, 2019, the City Council approved changes to Chapter 6.88 of the San José Municipal Code (“Code”) to add manufacturing, distribution, and laboratory testing to the categories of regulated cannabis businesses in the City of San José (“City”). The City Council also directed the Administration to work with the City Attorney and return to City Council before June 30, 2019 with an ordinance amending Chapter 4.66 of the Code for implementation of a revised CBT rate structure.

April 29, 2019

**Subject: Ordinance Amending Chapter 4.66 of the San José Municipal Code to Rename the Marijuana Business Tax to the Cannabis Business Tax and to Establish a Tiered Cannabis Business Tax Rate Structure for Various Categories of Cannabis Businesses**

Page 2

## **ANALYSIS**

The City's current CBT rate is set at 10% of gross receipts for all cannabis business activities that take place within the City as defined in Chapter 4.66 of the Code. As the City expands regulations to allow more cannabis business activity within the City, the gross receipts generated from the additional cannabis business activity in the City are subject to the City's existing CBT rate, which is 10%.

As presented in the Director of Finance's Memorandum dated January 2, 2019<sup>1</sup> and discussed and approved by the City Council on January 15, 2019, the proposed ordinance amends Section 4.66.250 to reduce the CBT rate for cultivation, manufacturing, distribution, or laboratory testing as set forth below:

<b><u>Business Activity</u></b>	<b><u>Current Rate</u></b>	<b><u>Recommended Rate</u></b>
Cultivation <sup>2</sup>	10%	4%
Manufacturing	10%	3%
Distribution	10%	2%
Laboratory Testing	10%	0%

Under the City's Charter, an ordinance enacting a new tax rate does not require a second reading and the new tax rate may be effective immediately unless otherwise specified. For ease of administration, the reduced tax rates set forth in the proposed ordinance will be effective on July 1, 2019.

Staff is also recommending that the current Marijuana Business Tax be renamed the Cannabis Business Tax and the term "marijuana" be replaced with "cannabis" throughout Chapter 4.66 to better align with the terminology currently used by the City in Chapter 6.88 and the cannabis business regulations. These minor revisions to Chapter 4.66 do not impose a new tax or increase an existing tax rate and, therefore, can be adopted by the City Council without voter approval.

## **EVALUATION AND FOLLOW-UP**

The 2019-2020 Proposed Budget includes a revenue estimate of \$13.5 million for the Marijuana Business Tax (which will be renamed the Cannabis Business Tax). This tax revenue will

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<sup>1</sup> <https://sanjose.legistar.com/View.ashx?M=F&ID=6965869&GUID=CC77DA3D-5B21-4C06-8846-8576E12A3121>

<sup>2</sup> Expanding cultivation beyond the existing 16 registered cannabis businesses was not included in the approved updates to Chapter 6.88 of the Code on January 15, 2019. The reduced tax rate proposed for cultivation is being established in the event future standalone cannabis cultivation is permitted in the City and does not entitle any person to cultivate cannabis unless the person has complied with the Municipal Code and all other applicable laws.

HONORABLE MAYOR AND CITY COUNCIL

April 29, 2019

**Subject: Ordinance Amending Chapter 4.66 of the San José Municipal Code to Rename the Marijuana Business Tax to the Cannabis Business Tax and to Establish a Tiered Cannabis Business Tax Rate Structure for Various Categories of Cannabis Businesses**

Page 3

continue to be monitored and reported to the Public Safety, Finance and Strategic Support Committee as part of the Bi-Monthly Financial Reports, Mid-Year Budget Review, and Annual Reports, as appropriate.

### **PUBLIC OUTREACH**

This memorandum and proposed ordinance will be posted to the City's website for the May 21, 2019 Council meeting. Additionally, Finance staff will conduct two voluntary conference calls to discuss the tax rate changes with the 16 registered cannabis business and other interested parties prior to the July 1, 2019 effective date.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

### **COMMISSION COORDINATION**

This item does not require any input from a board or commission.

### **CEQA**

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

/s/

JULIA H. COOPER  
Director of Finance

For questions, please contact Rick Bruneau, Deputy Director of Finance, at (408) 535-8310.