

**CITY OF RIVERBANK**  
**ORDINANCE NO. 2018-008**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,  
CALIFORNIA, AMENDING CHAPTER 34: TAXATION OF TITLE III:  
ADMINISTRATION, BY ADDING SUBCHAPTER CANNABIS BUSINESS TAX  
SECTIONS 34.70 THROUGH 34.71, IMPOSING A BUSINESS LICENSE TAX AT A  
RATE OF UP TO TEN PERCENT (10%) ON THE GROSS RECEIPTS OF  
COMMERCIAL CANNABIS BUSINESSES IN THE CITY**

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**WHEREAS**, in 1996, the voters of the state of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and known as “The Compassionate Use Act of 1996” of “CUA”); and

**WHEREAS**, in 2003, the California Legislature passed SB 420 (Medical Marijuana Program Act), which amended the Health and Safety Code to permit the establishment of medical cannabis dispensaries for the distribution of cannabis for medical purposes; and

**WHEREAS**, on October 9, 2015, Governor Brown signed three bills into law (AB 266, AB 243, and SB 643), collectively referred to as the Medical Marijuana Regulation and Safety Act (the “MMRSA”). MMRSA set up a state licensing system for commercial medical cannabis uses while also allowing cities to maintain local control of cannabis cultivation; and

**WHEREAS**, in 2016, the voters of California approved Proposition 64 entitled the “Control, Regulate and Tax Adult Use of Marijuana Act” (“AUMA”). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age or older and the personal cultivation of up to six (6) cannabis plants within a private residence; and

**WHEREAS**, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

**WHEREAS**, on August 22, 2017, the City Council of the City of Riverbank (“City Council”) adopted Ordinance No. 2017-007 amending the City of Riverbank’s (“City”) municipal code, thereby authorizing commercial cannabis activity in the City; and

**WHEREAS**, the City Council seeks authorization to enact a tax on cannabis businesses; and

**WHEREAS**, this Ordinance would tax businesses engaged in commercial cannabis activity at a maximum rate of up to ten percent (10%) of monthly gross receipts, as directed by the City Council by resolution; and

**WHEREAS**, the City Council of the City finds that it is in the best interest of the health, welfare, and safety of the public to submit this Ordinance to the qualified voters of the City at the next Statewide General Election on November 6, 2018.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF RIVERBANK DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Amending Chapter 34: Taxation of Title III: Administration, of the Riverbank Municipal Code by adding a new subsection Cannabis Business Tax Sections 34.70 through 34.71, which shall read as follows:

***Cannabis Business Tax***

**Section**

**34.70 Definitions**

**34.71 Cannabis business tax**

***CANNABIS BUSINESS TAX***

**§ 34.70 DEFINITIONS.**

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

***BUSINESS*** means professions, trades, occupations, gainful activities, and all and every kind of calling whether or not carried on for profit.

***CANNABIS*** or ***MARIJUANA*** has the meaning as defined in California Health and Safety Code section 11018.

***CANNABIS BUSINESS*** means any business activity involving the commercial cultivation, distribution, and exchange of cannabis, including, but not limited to, the planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing,

wholesale and retail sales, whether fixed, mobile, permanent, or temporary, where cannabis is made available, sold, given, distributed, or otherwise provided in accordance with the existing laws of the state of California, whether for medical or non-medical reasons.

**CITY** means the City of Riverbank, a municipal corporation of the state of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

**COLLECTOR** means the Director of Finance or other City officer or employee charged with the administration of this chapter.

**FIXED PLACE OF BUSINESS** means the premises occupied in the City for the particular purpose of conducting a business there and regularly kept open for that purpose with a competent person in attendance for the purpose of attending to such business.

**GROSS RECEIPTS** means the total amount charged or received for the performance of any act, service, or employment of whatever nature it may be, whether or not such service, act, or employment is done as a part of or in connection with the sale of goods, wares, merchandise, for which a charge is made or credit allowed. Gross receipts shall be calculated without any deduction on account of any of the following: (i) the cost of tangible property sold or bartered; (ii) the cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or (iii) transportation costs.

**PERSON** means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, societies, and individuals transacting and carrying on any business in the City.

**REPORTING PERIOD** means a year, quarter, or calendar month, as determined by the Collector.

### **§ 34.71 CANNABIS BUSINESS TAX.**

(A) Every person engaged in a cannabis business shall pay an annual business license tax of up to 10 cents for each \$1.00 of gross receipts, regardless whether the City has authorized the cannabis business.

(B) The tax rate shall be set by resolution of the City Council. The City Council may, in its discretion, implement such cannabis business tax rate it deems appropriate, and may by resolution increase or lower such tax rate from

time to time, provided that the cannabis business tax shall not exceed 10 cents for each \$1.00 of gross receipts.

(C) Any tax adopted by the City Council pursuant to this chapter shall apply only to those cannabis businesses operating outside the scope of a development agreement approved by the City Council. However, the tax may apply to all cannabis businesses in the event the City Council cancels the Cannabis Pilot Program.

(D) The Collector shall establish reporting periods for the periodic collection of gross receipts. The reporting period may fall under yearly, quarterly, or monthly reporting, or any reasonable reporting period established by the Collector.

(E) Failure to pay the cannabis business tax shall be subject to penalties, interest charges, and assessments as the City Council may establish by resolution, and the City may use any and all code enforcement remedies available at law to collect such payments.

(F) The payment of the cannabis business tax shall not 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 shall be applied or construed as authorizing the sale of cannabis.

(G) The Collector or his or her designee shall annually audit any cannabis business taxes imposed by this section to verify that tax revenues have been properly expended in accordance with the law.

(H) The cannabis business tax is not a sales tax and shall not be assessed as such.

(I) This section was submitted to the qualified voters of the City for approval. Any amendment to the maximum tax rate therefore may not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change or revise any other provisions of this section as the City Council deems in the best interest of the City. The City Council or City Manager may promulgate rules, regulations and procedures to implement this section and to ensure the efficient and timely collection of any taxes or any related penalties imposed by this section.

**SECTION 2.** This is a City Council sponsored initiative ordinance that shall only be amended by the qualified voters of the City as provided in the ordinance. The City Council reserves the right and authority to amend the ordinance as authorized, or at any time after a state or federal law is enacted, which requires

amendments in order for the ordinance to be in compliance with such law or laws.

**SECTION 3.** 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 which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The People of the City hereby declare that they would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**SECTION 4.** After its adoption by the voters, this ordinance shall be in full force and effect ten (10) days after (12/22/2018) the vote is declared by the legislative body, pursuant to the provisions of Elections Code sections 9217 and 15400, and as provided by law.

**PASSED, AND ADOPTED** this 11<sup>th</sup> day of December, 2018.

**ATTEST:**

**APPROVED:**

**ORIGINAL DOCUMENT ON FILE WITH THE CITY CLERK**

**Annabelle H. Aguilar, CMC**  
**City Clerk / Elections Official**

**Richard D. O'Brien**  
**Mayor**

**APPROVED AS TO FORM:**

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**Tom P. Hallinan, City Attorney**