

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: Board of Supervisors BOARD AGENDA #: *A-6

AGENDA DATE: July 11, 2017

SUBJECT:

Approval of Request to Consolidate the City of Modesto's Advisory Measure Relating to Cannabis Business Tax with the Consolidated District Election to be Held on November 7, 2017

BOARD ACTION AS FOLLOWS:

No. 2017-374

On motion of Supervisor Withrow, Seconded by Supervisor Olsen
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST:


ELIZABETH A. KING, Clerk of the Board of Supervisors

File No. C-6-L-6

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Board of Supervisors BOARD AGENDA #: *A-6
Urgent Routine PW AGENDA DATE: July 11, 2017
CEO CONCURRENCE: _____ 4/5 Vote Required: Yes No

SUBJECT:

Approval of Request to Consolidate the City of Modesto's Advisory Measure Relating to Cannabis Business Tax with the Consolidated District Election to be Held on November 7, 2017

STAFF RECOMMENDATIONS:

1. Approve the consolidation of the City of Modesto's Advisory Measure relating to Cannabis Business Tax with the Consolidated District Election to be held on November 7, 2017.

CONTACT PERSON:

Elizabeth A. King, Clerk of the Board

Phone number: 209-525-4494



BOARD OF SUPERVISORS

City of Modesto
Office of the City Clerk

1010 Tenth Street, Suite 6600
Modesto, CA 95354

2017 JUL -5 P 2:52

July 5, 2017

Ms. Lee Lundrigan
Stanislaus County Elections Division
1021 I Street
Modesto, CA 95354

Re: City of Modesto Advisory Measure Relating to Cannabis
Business Tax - November 7, 2017 Election

Dear Ms. Lundrigan:

Attached are certified copies of Modesto City Council Resolutions requesting submittal of a Measure to be placed on the November 7, 2017 Municipal Election for the City of Modesto. The Resolutions included are listed below:

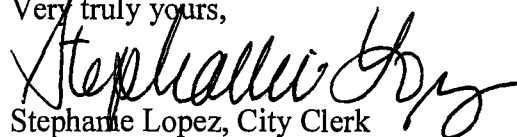
Resolution No. 2017-250 directing the City Clerk to submit to the qualified voters of the City of Modesto at the next regular municipal election a certain measure relating to a proposed ordinance allowing for the imposition of a Cannabis Business Tax of up to 10% on gross receipts of cannabis businesses within the City of Modesto.

Resolution No. 2017-251 directing the City Clerk to transmit a copy of the ballot measures entitled "Cannabis Business Tax" to the City Attorney for the purpose of preparing an impartial analysis of said measure

Resolution No. 2017-252 authorizing the Mayor, or his designated member of the City Council, to file written arguments in favor of or in opposition to the ballot measure entitled "Cannabis Business Tax".

The City Attorney Impartial Analysis will be provided to you next week. If you have any questions, please contact me at (209) 577-5398.

Very truly yours,


Stephanie Lopez, City Clerk

sl
Enclosures
cc: Liz King, Clerk of the Board

**MODESTO CITY COUNCIL
RESOLUTION NO. 2017-250**

RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE QUALIFIED VOTERS OF THE CITY OF MODESTO AT THE NEXT REGULAR MUNICIPAL ELECTION A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE ALLOWING FOR THE IMPOSITION OF A CANNABIS BUSINESS TAX OF UP TO 10% ON GROSS RECEIPTS OF CANNABIS BUSINESSES WITHIN THE CITY OF MODESTO

WHEREAS, the City Council of the City of Modesto 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 go into the City's general fund and could be used for any legitimate government purpose; and

WHEREAS, the City of Modesto is committed to fiscal prudence, responsibility, and self-reliance; and

WHEREAS, pursuant to Elections Code Section 9222, the City Council may submit to the qualified voters of the City a proposition without a petition therefore, by ordinance or resolution; and

WHEREAS, the City Council desires to submit to the qualified voters of the City a measure asking whether to enact an ordinance allowing for the City Council to implement, by resolution, a cannabis business tax of up to 10% on gross receipts of all cannabis businesses within the City; and

WHEREAS, the City Council, pursuant to Resolution 2017-69, called for a general municipal election to be held on and consolidated with the November 7, 2017 general election and for the Stanislaus County Elections Department to conduct such

election on behalf of the City of Modesto and therefore the Council now desires to include this measure on the ballot at said election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. Pursuant to California Elections Code section 9222 and Section 2(b) of California Constitution Article XIII C, the City Council of the City of Modesto proposes to and does hereby, by its own motion, submit to the qualified voters of the City of Modesto, a measure to amend the Modesto Municipal Code via ordinance, as set forth in **Attachment A** to this Resolution. The ordinance shall not take effect unless approved by a simple majority of voters voting on the measure at the November 7, 2017 election. The ordinance specifies that the rate of the cannabis business tax may be up to 10%, as set by City Council resolution, of the gross receipts of any cannabis business within the City. The City of Modesto shall collect the tax from cannabis businesses and place all revenues within the General Fund.

2. In the sample ballot/voter information pamphlet for the November 7, 2017 election shall be printed the full text of the ordinance, which is **attached as Exhibit A**, and ~~included herein by reference.~~

3. On the ballot to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question:

MEASURE ____

Cannabis Business Tax	Yes	<input type="checkbox"/>
Shall the City of Modesto adopt an ordinance establishing a cannabis business tax on all cannabis businesses within the City, up to 10% of gross receipts of each business, potentially generating approximately one million dollars or	No	<input type="checkbox"/>

<p>more in revenues annually for general City services, including neighborhood safety, maintaining parks and recreation, and job creation, with all revenues remaining local, and which continues until repealed by the City Council or the voters?</p>		
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4. The City Council hereby orders the City Clerk to submit said measure to the voters at the General Election on November 7, 2017.

5. Pursuant to Elections Code section 12101 et seq., the City Clerk of the City of Modesto is hereby authorized to prepare all required notices related to the ballot measure and to publish such notices as required by law in *The Modesto Bee*, the official newspaper of said City and a newspaper of general circulation printed and published in said City.

6. The Stanislaus County Elections Department is hereby authorized to canvass the returns of the Regular Municipal Election.

7. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions. The Board of Supervisors is hereby requested to consolidate the election on the measure with the November 7, 2017 election.

8. The approval of this Resolution 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"). The excise tax to be submitted to the voters is 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 tax 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, under CEQA Guidelines section 15060 review under CEQA is not required.

9. This Resolution must be approved by a two-thirds (2/3) vote of all members of the City Council.

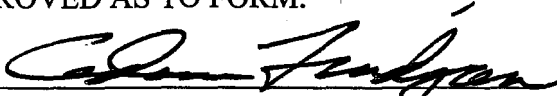
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Ah You, Grewal, Kenoyer, Madrigal, Mayor Brandvold
NOES:	Councilmembers:	Ridenour, Zoslocki
ABSENT:	Councilmembers:	None

ATTEST: 
STEPHANIE LOPEZ, City Clerk


(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

THIS IS TO CERTIFY THAT THIS
IS A TRUE COPY OF THE DOCUMENT ON
FILE WITH THIS OFFICE.

DATE July 5, 2017


SIGNATURE
CITY CLERK
CITY OF MODESTO, CA

ATTACHMENT A
CITY OF MODESTO
CITY COUNCIL
ORDINANCE NO. XX-2017

AN ORDINANCE AMENDING THE MODESTO MUNICIPAL CODE BY ADDING ARTICLE 11, "CANNABIS BUSINESS TAX" TO CHAPTER 2, "TAXATION" OF TITLE 8, "FINANCE, REVENUE AND TAXATION"

WHEREAS, in 1996 the California voters approved Proposition 215, "The Compassionate Use Act," which provides that qualified patients may obtain and use marijuana for medical purposes with a physician's recommendation and will not be subject to certain criminal penalties under state law; and

WHEREAS, in 2003, the state Legislature enacted Senate Bill 420, the "Medical Marijuana Program Act," as a supplement to The Compassionate Use Act, which allows cities to adopt and enforce rules consistent with the Medical Marijuana Program Act; and

WHEREAS, in 2015, the state Legislature enacted the Medical Marijuana Regulation and Safety Act, which creates a regulatory, permitting, and oversight structure for the medical marijuana industry at the state level but does not impede on land use and police powers of local governments; and

WHEREAS, the City Council of the City of Modesto desires to impose a tax on all cannabis businesses that may operate within Modesto if future land use regulations allow for such businesses; and

WHEREAS, California Constitution Article XIIC, Section 2(b), provides that no local government may impose a general tax unless and until that tax is submitted to the electorate and approved by a majority votes; 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' voters at the November 7, 2017 municipal election.

NOW, THEREFORE, the City Council of the City of Modesto does ordain as follows:

SECTION 1. Voter Approval. This Ordinance shall impose a general tax, as defined by Article XIIC, Section 1(a) of the California Constitution and Government Code section 53723, on cannabis businesses, and therefore must be approved by a majority of voters voting on the tax. Approval of this Ordinance is therefore subject to and conditioned upon the approval by the voters of the imposition of the general tax imposed by this Ordinance. This Ordinance shall not take effect if a majority of the voters voting in the election on this Ordinance do not vote in favor of it.

SECTION 2. Amendment of Code. Article 11, "CANNABIS BUSINESS TAX," of Chapter 2, "Taxation" of Title 8, "Finance, Revenue and Taxation" of the Modesto Municipal Code is added to read as follows:

Article 11

CANNABIS BUSINESS TAX

Sections:

- 8-2.1101 Purpose of article.**
- 8-2.1102 Tax imposed.**
- 8-2.1103 Definitions.**
- 8-2.1104 Other licenses, permits, taxes, fees or charges.**
- 8-2.1105 Payment of tax does not authorize unlawful business.**
- 8-2.1106 Registration with tax administrator.**
- 8-2.1107 Payment – Location.**
- 8-2.1108 Amount of business tax owed.**
- 8-2.1109 Payment – Time limits.**
- 8-2.1110 Payments and communications made by mail – Proof of timely submittal.**
- 8-2.1111 Payment – When taxes deemed delinquent.**
- 8-2.1112 Notice not required by City.**
- 8-2.1113 Payment – Penalty for delinquency.**
- 8-2.1114 Waiver of penalties.**
- 8-2.1115 Refunds – Credits.**
- 8-2.1116 Refunds and procedures.**
- 8-2.1117 Exemptions – Application – Issuance conditions.**

- 8-2.1118 Exemptions – General.**
- 8-2.1119 Enforcement – Duties of tax administrator and police chief.**
- 8-2.1120 Rules and regulations.**
- 8-2.1121 Apportionment.**
- 8-2.1122 Audit and examination of records and equipment.**
- 8-2.1123 Tax deemed debt to City.**
- 8-2.1124 Lien – Recordation.**
- 8-2.1125 Warrant for collection of tax.**
- 8-2.1126 Seizure and sale.**
- 8-2.1127 Successor's and assignee's responsibility.**

8-2.1128 Deficiency determinations.

8-2.1129 Tax assessment – authorized when – nonpayment – fraud.

8-2.1130 Tax assessment – notice requirements.

8-2.1131 Tax assessment – hearing – application and determination.

8-2.1132 Tax assessment – appeal.

8-2.1133 Conviction for article violation – taxes not waived.

8-2.1134 Violation deemed misdemeanor – penalty.

8-2.1135 Effect of state and federal reference/authorization.

8-2.1136 Remedies cumulative.

8-2.1137 Amendment or repeal.

8-2.1101 Purpose of article.

This article shall be known as the “cannabis business tax” and is enacted solely to raise revenue for the general governmental purposes of the City. All of the proceeds from the tax imposed by this article shall be placed in the City’s general fund and used for the usual current expenses of the City. The cannabis business tax under the provisions of this article is not a sales or use tax and shall not be calculated or assessed as such. The cannabis business tax shall not be separately identified or otherwise specifically assessed or charged to any member, customer, patient, or caretaker.

8-2.1102 Tax imposed.

There is established and imposed a cannabis business tax on every such business operating in the City at the rate set forth in this article.

8-2.1103 Definitions.

The definitions set forth in this section shall govern the application and interpretation of this Article 11.

(A) “Business” shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

(B) "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, or commission .

(C) "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

- (1) Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
- (2) Such person or person's employee owns or leases real property within the City for business purposes;
- (3) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
- (4) Such person or person's employee regularly conducts solicitation of business within the City;
- (5) Such person or person's employee performs work or renders services in the City on a regular and continuous basis;
- (6) Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(D) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, represent that such person is engaged in cannabis business in the City, then these facts may be used as evidence that such person is engaged in business in the City.

(E) "Fraud" means any intentional deception, misrepresentation and/or intentional non-payment of taxes to the City.

(F) "Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales from the cannabis business, including membership dues and fees; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, memberships, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

(6) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

(7) Cash value of sales, trades or transactions between departments or units of the same business;

(8) Transactions between a partnership and its partners;

(9) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

(a) The voting and nonvoting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or

(b) Which owns at least eighty percent of the voting and nonvoting stock of such other corporation; or

(c) At least eighty percent of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

(10) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in subsection (E)(9);

(11) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business, shall not be excluded when in excess of one dollar;

(12) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

“Gross receipts” subject to the cannabis business tax shall be that portion of gross receipts relating to business conducted within the City.

(G) “Cannabis” means all parts of the plant *Cannabis sativa* L., *Cannabis indica*, and *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant, whether crude or purified; and every compound, manufacture, oil, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including food products containing cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code and Section 19300.5 of the California Business and Professions Code.

(H) “Cannabis business” means any business activity which entails the distribution, delivery, dispensing, exchanging, bartering or sale of either medical or non-medical cannabis, including but not limited to, cultivating, planting, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, labeling, storing, packaging, wholesale, testing, and/or retail sales of cannabis, products including cannabis, and any ancillary products in the City, whether or not carried on for gain or profit and specifically excludes legal personal cultivation activities allowed under State law and City ordinances.

(I) “Cannabis business tax,” “business tax,” or “cannabis tax” means the tax due for engaging in cannabis business in the City pursuant to this article.

(J) “Medical Cannabis” means cannabis authorized in strict compliance with Health & Safety Code Sections 11362.5, 11362.7 et seq., as such sections may be amended from time to time.

(K) “Non-medical cannabis” means cannabis authorized in strict compliance with any state law pertaining to cannabis that is not medical cannabis.

(L) “Person” means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(M) "Operator" shall mean any person conducting, operating, or maintaining in whole or in part as principal, agent, officer, employee or independent contractor, any cannabis business or medical marijuana business as defined in this chapter, taxable under this article.

(N) "Sale" means and includes any sale, exchange, or barter.

(O) "Tax administrator" or "administrator" means the Director of Finance or such other administrator designated by the City manager to administer this article.

8-2.1104 Other licenses, permits, taxes, fees or charges.

Nothing contained in this article shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the City or under any applicable state or federal law, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the City.

8-2.1105 Payment of tax does not authorize unlawful business.

(A) The payment of a business tax required by this article, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such cannabis business is in violation of any law.

(B) No taxes paid under the provisions of this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the City.

8-2.1106 Registration with tax administrator.

(A) Each operator of any cannabis business operating in the City shall register the business with the tax administrator and obtain from him or her a cannabis business tax license prior to the commencement of any business operations, which shall be at all times posted in a conspicuous place on the premises.

(B) The license shall, among other things, state the following:

1. The name of the business;
2. The address of the business;
3. The date upon which the license shall expire.

8-2.1107 Payment – location.

The tax imposed under this article shall be paid to the administrator in lawful money of the United States at the offices of the Director of Finance in Modesto, California.

“Lawful money” shall mean any coin, currency or negotiable instrument, exchangeable for said coin or currency, which the United States Congress or State of California has declared to be a national legal tender. The City may impose a fee for processing the negotiable instrument.

8-2.1108 Amount of business tax owed.

(A) Every person engaged in cannabis business in the City shall pay, for the privilege of operating a cannabis business in the City, a business tax at a rate of up to ten percent (10%) of gross receipts. The tax under this article shall not be imposed on cannabis businesses unless and until the City Council, by resolution, takes action to set a tax rate not to exceed ten percent (10%) of gross receipts.

(B) Notwithstanding the maximum tax rate of ten percent (10%) of gross receipts established under subsection (A), the City Council may, in its discretion, at any time by resolution, implement a lower tax rate for all cannabis businesses or establish differing tax rates for different categories of cannabis businesses, as defined in such resolution, subject to the maximum rate of ten (10%) percent of gross receipts. The City Council

may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent (10%) of gross receipts established under subsection (A).

(C) In establishing different tax rates for different categories of cannabis businesses pursuant to subsection (B), the City Council may enact a rate using a basis other than gross receipts. By way of example only and without imposing any limitation on the basis of the tax rate for a category of cannabis business, the rate may be based upon the square footage of the building used by or number of employees of a cannabis business. If the City Council establishes a tax rate for a cannabis business on a basis other than gross receipts, in no event shall that tax paid by a cannabis business in that category exceed ten percent (10%) of the business's gross receipts.

8-2.1109 Payment – time limits.

The business tax imposed by this article shall be due and payable as follows:

(A) Each person owing a tax under this article shall, on or before the fifteenth (15th) day of the close of the calendar month in which the tax is due, or at the close of any reporting period which may be established by the tax administrator, prepare a tax statement to the administrator of the total gross receipts and the amount of tax owed for the preceding calendar month. At the time the tax statement is filed, the full amount of the tax owed for the preceding calendar month shall be remitted to the administrator. A tax statement is due following each calendar month, even if there are no taxes due.

(B) All tax statements shall be completed on forms provided by the administrator.

(C) Tax statements and payments for all outstanding taxes owed to the City are immediately due to the administrator upon cessation of business for any reason.

(D) The administrator may establish longer reporting periods for any licensee if the administrator deems it necessary in order to insure collection of the tax and the administrator may require further information in the tax statement.

8-2.1110 Payments and communications made by mail – proof of timely submittal.

Whenever any payment, statement, report, request or other communication received by the administrator is received after the time prescribed by this chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this article for the receipt thereof, or whenever the administrator is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the administrator may regard such payment, statement, report, request or other communication as having been timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City Hall building at 1010 10th Street, Modesto, CA 95353 is open. Any payment or correspondence sent via electronic communication will be deemed received upon receipt by the City.

8-2.1111 Payment – when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this article, the taxes required to be paid pursuant to this article shall be deemed delinquent if not paid on or before the due date specified in Section 8-2.1109.

8-2.1112 Notice not required by City.

The administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this article, and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this article.

8-2.1113 Payment – penalty for delinquency.

(A) Any person who fails or refuses to pay any business tax required to be paid pursuant to this article on or before the due date shall pay penalties and interest as follows:

- (1) A penalty equal to twenty-five percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax; and

(2) An additional penalty equal to twenty-five percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties.

(3) In addition to the penalties imposed, any person who fails to remit any tax imposed by this article shall pay interest at the rate of one and one-half percent (1.5%) per month or fraction thereof on the amount of tax, exclusive of penalties, from the last day of the month following the monthly period for which the amount or any portion thereof should have been paid until the date of payment.

(4) Full payment of the tax owed is to be made to the City, except in cases where an alternate payment agreement is reached with the administrator.

(5) The penalties stated herein are cumulative and may be imposed singularly and/or in addition to other legal remedies for nonpayment available to the City.

(B) Whenever a check is submitted in payment of a business tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(C) The cannabis business tax due shall be that amount due and payable from the first date on which the person was engaged in cannabis business in the City, together with applicable penalties and interest calculated in accordance with subsection (A).

(D) Any person whose cannabis business tax is delinquent by at least sixty calendar days may be subject to revocation of a City use permit or other City permit associated with the subject cannabis business.

8-2.1114 Waiver of penalties.

The administrator may waive the first and second penalties imposed upon any person if:

(A) The person provides evidence satisfactory to the administrator that failure to pay timely was due to circumstances beyond the control of the person and occurred,

notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the City prior to applying to the administrator for a waiver.

(B) The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

(C) A request for relief from the first and second penalties must be filed in writing within thirty days of the date the remittance was due to the City, but no later than ten (10) days of the City's notice to the operator of the delinquent remittance.

8-2.1115 Refunds – credits.

(A) No refund shall be made of any tax collected pursuant to this article, except as provided in Section 8-2.1116.

(B) No refund of any tax collected pursuant to this article shall be made because of the discontinuation, dissolution or other termination of a business.

(C) Any person entitled to a refund of taxes paid pursuant to this article may elect in writing to have such refund applied as a credit against such person's business taxes for the next calendar month.

8-2.1116 Refunds and procedures.

(A) Whenever the amount of any business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this article, it may be refunded to the claimant who paid the tax; provided, that a written claim for refund is filed with the administrator within one year of the date the tax was originally due and payable.

(B) The administrator or the administrator's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall

be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the administrator to do so.

(C) In the event that the business tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain an amount from the refund reasonably calculated to cover expenses in verifying the error.

8-2.1117 Exemptions – application – issuance conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this article shall make application upon forms prescribed by the administrator and shall furnish such information and make such affidavits as may be required by the administrator.

8-2.1118 Exemptions – general.

Except as may be otherwise specifically provided in this article, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the state of California or preemptive federal or state law.

8-2.1119 Enforcement – duties of tax administrator and police chief.

It shall be the duty of the administrator to enforce each and all of the provisions of this article, and the police chief shall render such assistance in the enforcement of this article as may from time to time be required by the administrator.

8-2.1120 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this article generally, the administrator, with the concurrence of the City attorney, may from time to time promulgate administrative rules and regulations.

8-2.1121 Apportionment.

- (A) None of the tax provided for by this article shall be applied so as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States or the state of California.
- (B) If any case where a business tax is believed by a taxpayer to place an undue burden upon interstate commerce or be violative of such constitutional clauses, the taxpayer may apply to the administrator for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.
- (C) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this article.
- (D) Should the administrator determine that the gross receipt measure of tax to be the proper basis, the administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the administrator.

8-2.1122 Audit and examination of records and equipment.

- (A) The administrator shall have the power to audit and examine all books and records of persons engaged in cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person engaged in cannabis business in the City for the purpose of ascertaining the amount of

business tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this article. If such person, after written demand by the administrator, refuses to make available for audit, examination or verification such books, records or equipment as the administrator requests, the administrator may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an assessment in the manner provided in Sections 8-2.1126 through 8-2.1128 of any taxes estimated to be due.

(B) It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this article to keep and preserve, for a period of at least four years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the administrator shall have the right to inspect at all reasonable times.

(C) The City may recoup the costs, expenses, and fees associated with any audit, including, but not limited to, investigation costs, audit expenses, internal staff costs, administrative overhead, third-party contractor costs and fees, and attorneys' fees.

8-2.1123 Tax deemed debt to City.

The amount of any tax, penalties and interest imposed by the provisions of this article shall be deemed a debt to the City and any person carrying on any cannabis business without first having paid such tax shall be jointly and severally liable to the City in an action in the name of the City in any court of competent jurisdiction for the amount of the applicable tax, penalties and interest imposed on such business and for attorneys' fees in the enforcement of this article. The City may collect amounts owed through any legal means, such as special assessments, real property liens, personal property liens, attachments, charging orders, garnishments, Franchise Tax Board Intercepts, and seizures of business property.

8-2.1124 Lien – recordation.

If any amount required to be paid to the City under the ordinance codified in this article is not paid when due, the administrator, upon expiration of the second delinquency period referenced in Section 8-2.1113(A)(2), may, within four years after the amount is due, record in the office(s) of the county recorder(s) of any county in the state of California a certificate specifying the amount of tax, penalties and interest due, the name and address of the operator liable for the same and the fact that the administrator has complied with all provisions of this article in the determination of the amount required to be paid. From the time of the recording, the amount required to be paid together with penalties and interest shall constitute a lien upon any and all real property in any county owned by the operator or thereafter acquired by the operator. The lien shall have the force, effect and priority of a judgment lien and shall continue for ten (10) years from the time of filing of the certificate unless sooner released or otherwise discharged.

8-2.1125 Warrant for collection of tax.

At any time within four years after any operator is delinquent in the payment of any amount herein required to be paid off after the last recording of a certificate of lien under Section 8-2.1124, the administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this article. The warrant shall be directed to any sheriff, qualified law enforcement officer, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The administrator may pay or advance to the sheriff, law enforcement officer, marshal or constable the same fees, commissions and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution.

8-2.1126 Seizure and sale.

At any time within four years after any operator is delinquent in the payment of any amount, the administrator may forthwith collect the amount in the following manner: The administrator shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with

any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall be only of property of the operator not exempt from execution under the provisions of the California Code of Civil Procedure.

8-2.1127 Successor's and assignee's responsibility.

If any operator, while liable for any amount under this article, sells, assigns or otherwise transfers the business, whether voluntarily or involuntarily, the operator's subsequent successor, assign or other transferee, or other person or entity obtaining ownership or control of the business, shall satisfy any tax liability owed to the City associated with the business. Failure to do so for the benefit of the City will result in the successor being personally liable to the City for the full amount of the tax liability, which includes interest and penalties.

The successor operator, assign, purchaser, transferee, or other person or entity seeking to obtain ownership or control of the business shall notify the administrator of the date of transfer at least thirty days prior to the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business was made less than thirty days prior to the date of transfer, notice shall be provided immediately.

The successor operator, assign, purchaser, transferee, or other person or entity who obtains ownership or control of the business shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if that person or entity ~~complies with the requirements of California Revenue and Taxation Code Section 7283.5~~ by withholding from the purchase price an amount sufficient to cover the tax liability, or by otherwise paying the tax liability until the administrator provides a "Tax Clearance Certificate" showing that it has been paid and stating that no amount is due through the date of transfer.

The administrator, within ninety days of receiving a written request from a successor operator, assign, purchaser, transferee, or other person or entity who obtains or attempts to obtain ownership or control of the business, may issue a "Tax Clearance Certificate" stating either the amount of tax liability due and owing for the business, or stating that there is no tax liability due and owing for the business. The administrator may also

request financial records from the current or former owner or operator to conduct an audit of the tax that may be due and owing. After completing the audit within ninety days after the date that the records were made available, the administrator may issue a tax clearance certificate within thirty days of completing the audit, stating the amount of the tax liability owed, if any. If the City determines that the records provided for an audit are insufficient, the administrator may rely on the facts and information available to estimate any tax liability associated with the property. The administrator may issue a tax clearance certificate stating the amount of the tax liability, if any, based on such facts and information available. A written application for a hearing on the amount assessed on the tax clearance certificate must be made within ten (10) days after the serving or mailing of the certificate. The hearing provision of Section 8-2.1131 shall apply. If an application for a hearing is not made within the time prescribed, the tax clearance certificate shall serve as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.

8-2.1128 Deficiency determinations.

If the administrator is not satisfied that any statement filed as required under the provisions of this article is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 8-2.1129 through 8-2.1131.

8-2.1129 Tax assessment – authorized when – nonpayment – fraud.

(A) Under any of the following circumstances, the administrator may make and give notice of an assessment of the amount of tax owed by a person under this article at any time:

- (1) If the person has not filed any statement required under the provisions of this article;
- (2) If the person has not paid any tax due under the provisions of this article;
- (3) If the person has not, after demand by the administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this article; or
- (4) If the administrator determines that the nonpayment of any business tax due under this article is due to fraud, a penalty of forty percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this article.

(B) The notice of assessment shall separately set forth the amount of any tax known by the administrator to be due or estimated by the administrator, after consideration of all information within the administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this article, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

8-2.1130 Tax assessment – notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the administrator for the purpose of receiving notices provided under this article; or, should the person have no address registered with the administrator for such purpose, then to such person's last known

address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

8-2.1131 Tax assessment – hearing – application and determination.

Within ten (10) days after the date of service, the person may apply in writing to the administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the administrator shall cause the matter to be set for hearing before him or her not later than thirty-five days after the receipt of the application, unless a later date is agreed to by the administrator and the person requesting the hearing. Notice of such hearing shall be given by the administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the administrator should not be confirmed and fixed as the tax due. After such hearing the administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 8-2.1130 for giving notice of assessment. The amount determined to be due shall be payable after fifteen days unless appealed.

8-2.1132 Tax assessment – appeal.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, penalties, or any amount determined to be owed, may appeal the decision in accordance with the procedure established by Chapter 4 of Title 1 of this Code.

8-2.1133 Conviction for article violation – taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this article or of any state law requiring the payment of all taxes.

8-2.1134 Violation deemed misdemeanor – penalty.

Any person violating any of the provisions of this article, or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

8-2.1135 Effect of state and federal reference/authorization.

(A) Unless specifically provided otherwise, any reference to a state or federal statute in this article shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law, with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute, or interpretation thereof, shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute, or new interpretation thereof, shall be applicable to the maximum possible extent.

(B) To the extent that the City's authorization to collect or impose any tax imposed under this article is expanded as a result of changes in state or federal law, no amendment or modification of this article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this article.

8-2.1136 Remedies cumulative.

All remedies and penalties prescribed by this article or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or

more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article.

8-2.1137 Amendment or repeal.

This article of the Modesto Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Chapter XIIIIC of the California Constitution and Government Code section 53750(h), voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this article beyond the maximum amount of ten percent (10%) of a cannabis business's gross receipts or revise the methodology by which the tax is calculated, if the revision would result in an increased tax being levied on any cannabis business. The people of the City of Modesto affirm that the following actions shall not constitute an increase of the rate of a tax:

- (A) The restoration of the rate of the tax to a rate that is no higher than the maximum ten percent (10%) tax rate set by this article, if the City Council has previously acted to reduce the rate of the tax;
- (B) The City Council's adoption of an resolution, as authorized by Section 8-2.1108(A), to raise the tax rate provided the tax rate is not raised to a rate higher than ten percent (10%) of a cannabis business's gross receipts;
- (C) An action that interprets or clarifies the methodology of calculating the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this article;
- (D) The establishment of a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this article); or
- (E) The collection of the tax imposed by this article, even if the City had, for some period of time, failed to collect the tax.

SECTION 3. CEQA.

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”). The Cannabis Business Tax to be submitted to the voters is 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 tax 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 section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article. The City Council hereby declares that it would have passed the ordinance codified in this Article, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this Article would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date.

The City Clerk shall certify the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. If this Ordinance is approved by a majority of the voters as set forth in Section 1 of this Ordinance, it shall take effect immediately upon certification of the election results by the City Council.

APPROVED by the following vote of the People of the City of Modesto at the November 8, 2016 election: _____ % voting in favor; and

ADOPTED this ____ day of _____ 2017 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Ted Brandvold, Mayor

Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

Adam U. Lindgren, City Attorney

350.1007 2810837.9

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the ? day of ?, 2017, Councilmember ? moved its final adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED: _____
TED BRANDVOLD, Mayor

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

Effective Date: _____, 2017

**MODESTO CITY COUNCIL
RESOLUTION NO. 2017-251**

**RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF
THE BALLOT MEASURE ENTITLED "CANNABIS BUSINESS TAX" TO THE
CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL
ANALYSIS OF SAID MEASURE**

WHEREAS, the Modesto City Council had directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 7, 2017, a ballot measure requesting the enactment of an ordinance allowing the City Council to implement a cannabis business tax of up to 10% on gross receipts of cannabis businesses entitled "Cannabis Business Tax."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

RECEIVED BY THE
CITY CLERK
DATE

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal,
Mayor Brandvold

NOES: Councilmembers: Ridenour, Zoslocki

ABSENT: Councilmembers: None

ATTEST: *Stephanie Lopez*
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: *Adam U. Lindgren*
ADAM U. LINDGREN, City Attorney

THIS IS TO CERTIFY THAT THIS
IS A TRUE COPY OF THE DOCUMENT ON
FILE WITH THIS OFFICE.

DATE July 5, 2017

Stephanie Lopez

SIGNATURE

CITY CLERK

CITY OF MODESTO, CA

**MODESTO CITY COUNCIL
RESOLUTION NO. 2017-252**

RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNATED MEMBER OF THE CITY COUNCIL, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE BALLOT MEASURE ENTITLED "CANNABIS BUSINESS TAX"

WHEREAS, the Modesto City Council had directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 7, 2017, a ballot measure requesting the approval of an ordinance allowing the City to implement an excise tax of up to 10% on gross receipts of cannabis businesses within the City, which is entitled "Cannabis Business Tax."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9282 and 9827, [the Mayor or his designated City Council Member] is hereby authorized to prepare and file written arguments in favor of the proposed measure, not to exceed 300 words each, on behalf of the City Council. At the Mayor's discretion, the argument may be signed by up to five representatives of bona fide associations or individual voters who are eligible to vote. In the event that an argument is filed against the measure, [the Mayor or his designated City Council Member] is also authorized to prepare and file a rebuttal argument on behalf of the City Council, which may be signed up to five representatives of bona fide associations or individual voters who are eligible to vote.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal,
Mayor Brandvold

NOES: Councilmembers: Ridenour, Zoslocki

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

THIS IS TO CERTIFY THAT THIS
IS A TRUE COPY OF THE DOCUMENT ON
FILE WITH THIS OFFICE.

DATE July 5, 2017



SIGNATURE

CITY CLERK

CITY OF MODESTO, CA