

Section 3. That a new Section 5-10 of the Albany Municipal Code is added and adopted to read as follows:

Section 5-10. Cannabis Businesses.

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Section 5-10.1 Cannabis Businesses-Defined.

A. Every Cannabis Business whether it is a Nonprofit Organization as defined in the Albany Municipal Code or a for profit business shall pay an annual business license tax as is set forth in Chapter V and the sections hereunder.

B. For purposes of this Section, "Cannabis Business" means any activity regulated or permitted by Chapter 20.20.110 Medical Marijuana Dispensaries that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing, any part of the plant Cannabis sativa L. or any of its derivatives, except for cultivation or harvesting that is solely incidental to residential use. "Cannabis Business" shall also include any of the foregoing activities that is not regulated or permitted by Chapter 20.20.110 but is authorized by state law. A Cannabis Business shall be deemed a "Business" requiring a business license under Sections 5-2.1 and 5-2.3 of the Albany Municipal Code as that term is used in this Chapter.

Section 5-10.2 License Tax Rates for Cannabis Businesses.

A. Every for profit cannabis business shall pay \$18.00 per thousand dollars of gross receipts as and for its business license tax.

B. Notwithstanding Section 5-2.13, there is imposed on every cannabis business or organization that is a Nonprofit Organization, including all of its ancillary locations, regardless of the number of square feet it occupies, a tax of \$10.00 per square foot on all business improvements occupied by that Cannabis Business. For purposes of this Section, all of the square feet of business improvements owned, rented, leased or otherwise occupied or used by a Cannabis Business within the City shall be cumulated.

Section 5-10.3. Definitions.

For purposes of this Section, the following terms shall have the following meanings:

"Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "building" includes the word structure."

"Business improvements" means square footage used, on a regular basis, for the operation of a nonprofit organization as defined in Article XIII Section 26 of the California Constitution, regardless of whether it is owned or leased.

"Cannabis Business" means a location where any activity that is taxable under Chapter V of the Albany Municipal Code takes place.

"Improvements" means all buildings or structures erected or affixed to the land.

"Nonprofit Organization" means any association, corporation or other entity that is exempt from taxation measured by income or gross receipts under Article XIII, Section 26 of the California Constitution.

"Square foot" and "square footage" means the horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.
2. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.
3. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

"Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Section 5-10.4. Modification, Repeal, or Amendment.

The City Council may repeal the ordinance codified in this section, or amend it in a manner which does not result in an increase in the charge imposed herein, without further voter approval. If the City Council repeals said ordinance, it may subsequently reenact it without voter approval, as long as the reenacted ordinance does not result in an increase in the charge imposed herein.

Section 5-10.5. **Administration of Section 5.**

The City Administrator, or designee, may promulgate regulations to implement and administer this Section.

Section 4. Appropriation Limit

Pursuant to California Constitution Article XIII B, the appropriation limit for the City is increased by the aggregate sum authorized to be levied by this ordinance for each of the four fiscal years from 2011-2012 through 2014-2015.

Section 5. Severability.

Section 6. Effective Date.

