

ORDINANCE NO. 2018-16

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING CHAPTER 5.07
OF THE CITY OF SANTA CRUZ MUNICIPAL CODE TO AMEND CANNABIS BUSINESS
TAX RATES FOR SPECIFIC INDUSTRY SECTORS

BE IT ORDAINED by the City of Santa Cruz as follows:

Section 1. Section 5.07.030 (Definitions) of Chapter 5.07 of the Santa Cruz Municipal Code is hereby amended as follows:

5.07.030 DEFINITIONS.

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

Subsections (A) through (D) remain unchanged.

(E) “Gross receipts,” except as otherwise specifically provided, means the total amount actually received or receivable from all sales; 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, 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;

ORDINANCE NO. 2018-16

- (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.
- (13) Merchandise sold at retail that does not contain cannabis or cannabis derivatives.

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

Subsections (F) through (H) remain unchanged.

(I) “Cannabis Distribution Business” means any business that operates under only a Type 11 State license per Section 26050 of the Business and Professions Code, as may be amended.

(J) “Combined Cannabis Business Including Distribution” means any business that operates under a Type 11 State license per Section 26050 of the Business and Professions Code, as may be

amended, in addition to any other State cannabis license. This category also includes businesses that operate under a Type 12 (Microbusiness) State license.

(K) “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.

(L) “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 chapter.

(M) “Sale” means and includes any sale, exchange, or barter.

(N) “Tax administrator” or “administrator” means the finance director or such other administrator designated by the city manager to administer this chapter.

(O) “Testing Laboratory” means any business that operates under a Type 8 State license per Section 26050 of the Business and Professions Code, as may be amended.

Section 2. Section 5.07.070 (Amount of Business Tax Owed) of Chapter 5.07 of the Santa Cruz Municipal Code is hereby amended as follows:

5.07.070 AMOUNT OF BUSINESS TAX OWED.

(A) Every person engaged in cannabis business in the city shall pay a business tax at a rate of up to ten percent of gross receipts. The tax under this chapter shall not be imposed on cannabis businesses unless and until the city council, by ordinance, takes action to set a tax rate not to exceed ten percent of gross receipts.

(B) Notwithstanding the maximum tax rate of ten percent of gross receipts imposed under subsection (A), the city council may, in its discretion, at any time by ordinance, implement a lower tax rate for all cannabis businesses or establish differing tax rates for different categories of cannabis businesses, as defined in such ordinance, subject to the maximum rate of ten percent of gross receipts. The city council may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent of gross receipts established under subsection (A).

(C) Pursuant to subsection (A), the cannabis business tax is set at seven percent of gross receipts. Commencing on the operative date of this chapter, every person engaged in cannabis business in the city shall pay a cannabis business tax at the rate of seven percent of gross receipts.

(D) Pursuant to an ordinance adopted by the city council pursuant to subsection (B), and notwithstanding anything to the contrary in subsection (C), the cannabis business tax is set at eight percent of gross receipts. Commencing on the operative date of this subsection, every person

ORDINANCE NO. 2018-16

engaged in cannabis business in the city shall pay a cannabis business tax at the rate of eight percent of gross receipts.

(E) Pursuant to an ordinance adopted by the city council pursuant to subsection (B), and notwithstanding anything to the contrary in subsections (C) and (D), commencing on January 1, 2019, the cannabis business tax for testing laboratories is set at one (1) percent of gross receipts and the cannabis business tax for cannabis distribution businesses is set at two (2) percent of gross receipts. Combined cannabis businesses that include distribution with other cannabis business types shall pay a cannabis business tax of eight (8) percent except on those gross business receipts that are derived from the distribution of cannabis or cannabis products that are purchased from another business not owned by the same proprietor(s) and resold to a retail business or to a manufacturer in the same form as they were purchased, which shall be taxed at a rate of two (2) percent of gross receipts. Commencing on January 1, 2019, every person engaged in cannabis testing laboratory business in the city shall pay a cannabis business tax at the rate of one (1) percent of gross receipts and every person engaged in cannabis distribution shall pay a cannabis business tax at the rate of two (2) percent of gross receipts as described above. All other cannabis businesses shall pay a cannabis business tax at the rate of eight percent.

Section 3. This ordinance shall take effect and be in force thirty (30) days after final adoption.

PASSED FOR PUBLICATION this 23rd day of October, 2018, by the following vote:

AYES: Councilmembers Krohn, Mathews, Chase, Noroyan; Vice Mayor Watkins; Mayor Terrazas.

NOES: None.

ABSENT: Councilmember Brown.

DISQUALIFIED: None.

APPROVED: _____
David Terrazas, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

ORDINANCE NO. 2018-16

PASSED FOR FINAL ADOPTION this 13th day of November, 2018 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
David Terrazas, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2018-16 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

Bonnie Bush, City Clerk Administrator