

ORDINANCE NO. 2016-1773

AN ORDINANCE AMENDING ARTICLE XII OF CHAPTER 11 OF THE SOLANO COUNTY CODE TO ADD A
COUNTYWIDE GENERAL BUSINESS LICENSE TAX ON MARIJUANA BUSINESSES

The people of the County of Solano ordain as follows:

Section 1.

Article XII, Business License Tax, of Chapter 11 is amended to read:

Section 11-160 is amended to read:

Sec. 11-160 Tax imposed

Pursuant to the authority granted by Revenue and Taxation Code section 7284, as amended, there is established and imposed a business license tax on those activities and in those amounts specified below:

(a) Solid waste disposal at the base rate of five dollars (\$5.00) per ton of waste deposited at a licensed solid waste disposal facility, which rate shall be reduced to three dollars (\$3.00) per ton of waste deposited upon the occurrence of the three conditions set forth in paragraphs (1) and (2) below, and to remain at the three dollar base rate until December 31, 2013, except for annual adjustments based upon the Bay Area Economic Consumer Index (ECI), so long as the conditions set forth in subdivisions (1) and (2) below are in effect.

(1) The Potrero Hills Landfill operator shall have received all necessary approvals from the County, including a Conditional Land Use Permit and a Marsh Development Permit, to allow for the receipt of expanded tonnage and/or Potrero Hills and Hay Road landfills reach an agreement for disposal of waste tonnage in the County which are in excess of the current permitted limit at Potrero Hills; and

(2) That the present exemption set forth under Section 11-163 (f) 2) of this code for placement of asbestos materials in landfills, under the Solid Waste Mitigation Fee shall be eliminated.

(b) Well drilling mud disposal at the base rate of twenty cents (\$0.20) per ton of well drilling mud deposited at a licensed drilling mud disposal facility.

(c) Electrical energy produced by commercial wind turbine generators at the base rate of three one-thousandths of one cent (\$0.00003) per kilowatt hour of electrical energy generated.

(d) *A marijuana business, as defined in this Article, shall pay to the County 15% of each dollar of its gross receipts for the reporting period.*

(1) The Board of Supervisors, by resolution, may lower and raise this tax rate from time to time as it deems appropriate, so long as the tax does not exceed the maximum rate of 15% of each dollar of gross receipts.

(2) Payment of the marijuana 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 marijuana. This section is in addition to any other requirements set forth in the County's code and is not intended to exempt, substitute or replace any other requirements, permits, or licenses necessary for a marijuana business to operate legally in the County.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1.)

Section 11-163 is amended to read as follows:

Sec. 11-163 Definitions

(a) Commercial wind turbine generator means a wind-driven machine that converts wind energy into production of electrical power for the primary purpose of resale or off-site use.

(b) Drilling mud waste means all drilling mud derived from the development and production of oil and natural gas wells.

(c) *Gross receipts mean the total amount actually received or receivable from all sales; the total amount of 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 part of or in connection with the sale of materials, goods, wares or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends, or other emoluments, 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 property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;*
- (5) *Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;*
- (6) *Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the administrator with the names and 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 trustee; and*
- (7) *Cash value of sales, trades or transactions between departments or units of the same business.*

As to any person engaged in the business of manufacturing or processing any goods, wares, merchandise, article or commodity at a fixed place of business within the County which does not generate gross receipts as defined in this section within the County, gross receipts shall be deemed to include the total of all expenses incurred in the manufacturing or processing of such goods at the business location within the County for payroll, utilities, depreciation, and/or rent.

As to any person engaged in the business of operating an administrative headquarters at a fixed place of business within the County who does not have gross receipts as defined in this section within the County, gross receipts shall be deemed to include the total gross payroll of all persons employed at such administrative headquarters.

- (d) Kilowatt hours (kwh) mean a measurement of electrical energy produced by commercial wind turbine generators in kilowatts per hour.
- (e) Licensed drilling mud waste disposal facility means any facility or location where disposal of drilling mud occurs and is permitted by the local land use authority which has permit authority over the use, location or operation of the facility. Licensed solid waste disposal facility means any facility or location where disposal of solid waste occurs and is permitted by the local land use authority, local solid waste enforcement agency and any other agency which has permit authority over the use, location or operation of the facility.
- (f) *Marijuana has the same meaning as "Cannabis" as defined in Business and Professions Code section 19300.5 (f), as may be amended from time to time.*

(g) *Marijuana Business means a commercial marijuana activity, regardless of whether it is for profit or non-profit, including, but not limited to, planting, cultivation, harvesting, donating, transporting, manufacturing, compounding, testing, converting, processing, preparing, storing, packaging, distributing, making available, providing, or selling wholesale and/or retail sales of marijuana, whether fixed or mobile, temporary or permanent, regardless of whether for medical or non-medical purposes.*

(h) Solid waste:

(1) Means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, de treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

(2) Does not include hazardous waste or low-level radioactive waste regulated under the Health and Safety Code.

(3) Does not include medical waste regulated under the Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste disposal facility. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to this ordinance.

(4) Does not include drilling mud derived from the development and production of oil and gas wells.

(5) Does not include materials which are recycled as defined by Public Resources Code section 40180, as amended.

(i) Tonnage means the difference between the total weight of the solid waste or drilling mud received (measured in pounds) and the total weight diverted for recycling (measured in pounds) divided by two thousand (2,000).

(j) Wind Energy Generation Facility means an installation of one or more commercial wind turbine generators.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1.)

Section 11-164 is amended to read as follows:

11-164 Reporting, of tonnage or kilowatt hours or gross receipts

a) For purposes of determining the net tonnage deposited for computation of the tax, each licensed Solid Waste Facility or Drilling Mud Facility shall make monthly reports of net tonnage to the Solano County Department of Resource Management by the twenty-fifth day of the of the following month. The Department of Resource Management shall verify the reports and submit the data quarterly to the Solano County Auditor-Controller on the twenty-fifth day of the month following the end of the quarter.

(b) For purposes of determining the electrical energy produced for computation of the wind energy tax, each Wind Energy Generation Facility shall make monthly report of the kilowatt hours of energy produced by the facility to the Solano County Department of Resource Management by the twenty-fifth day of the following month. The Department of Resource Management shall verify the reports and submit the data quarterly to the Solano County Auditor-Controller.

(c) *A marijuana business shall report its gross receipts quarterly to the Solano County Auditor-Controller by the twenty-fifth day of the month following the end of the quarter.*

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1.)

Section 11-165 is amended to read as follows:

11-165 Payment of tax

The Solano County Auditor-Controller shall issue a quarterly tax bill to each *marijuana business*, licensed Solid Waste Facility, licensed Drilling Mud Disposal Facility, and Wind Energy Generation Facility, which shall be due and payable to the Solano County Auditor-Controller upon receipt and delinquent at the end of the month following the month issued.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1)

Section 11-166 is repealed.

Section 11-166 is added to read:

11-166 Penalty for delinquency

A ten percent (10%) penalty shall be assessed on any tax not paid by the delinquent date. A facility or business subject to this Article that is not current in its payment of any taxes pursuant to this Chapter at the time of the annual renewal of its Solano County Business license issued pursuant to Chapter 14 of the Solano County Code may be denied a license renewal until all taxes and penalties are paid.

(Ord. No. 1470, §1; Ord. No. 1496, §1.)

Section 2.

This ordinance imposes a general tax as defined by Government Code section 53723 and must therefore be approved by a majority of qualified voters in an election before it can become effective. Approval of this ordinance is therefore subject to and conditioned upon the voters approving the imposition of this general tax. If the majority of votes cast in the election are not in favor of the imposition of this tax, the ordinance shall not take effect.

Section 3.

If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

Section 4.

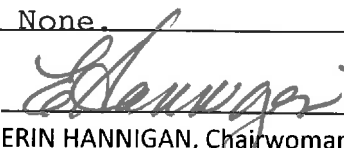
This ordinance shall be published once within fifteen (15) days after its passage, in the Fairfield Daily Republic, a newspaper of general circulation in Solano County.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on August 9, 2016, by the following vote:

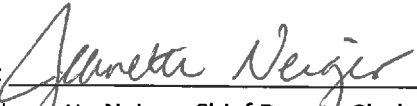
AYES: Supervisors Seifert, Spering, Thomson
Vasquez and Hannigan

NOES: Supervisors None.

EXCUSED: Supervisors None.


ERIN HANNIGAN, Chairwoman
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: 
Jeanette Neiger, Chief Deputy Clerk

[Additions or changes indicated by *italics*]

Introduced: **August 2, 2016**

Adopted: **August 9, 2016**

Effective: **November 8, 2016 [if voter approved]**

Operative: **January 1, 2018 [if voter approved]**