

Introduced by: City Manager Nathan Mai-Lombardo

**AN ORDINANCE CALLING FOR AN ELECTION WITHIN THE CITY OF BERKELEY, MISSOURI, TO BE HELD ON APRIL 4, 2023, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF BERKELEY THE QUESTION OF WHETHER TO AUTHORIZE A LOCAL SALES TAX ON THE SALE OF RECREATIONAL MARIJUANA *(THE COUNCIL FIND THAT AN EMERGENCY EXISTS AND DECLARES THAT PASSAGE OF THIS ORDINANCE IS NECESSARY FOR THE PRESERVATION OF THE WELFARE OF THE CITIZENS OF THE CITY OF BERKELEY.)***

**WHEREAS,** the Charter of the City of Berkeley (the “City”) provides that the City shall have all powers the General Assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this State and are not limited or denied either by the Charter or by statute, and that the City shall, in addition to its home rule powers, have all powers conferred by law; and

**WHEREAS,** on November 8, 2022, Missouri voters approved an amendment to Article XIV of the Missouri Constitution by amending Section 1 of Article XIV, and enacting a new Section 2 of Article XIV, to remove state prohibitions on the purchase, possession, consumption, use, delivery, manufacture, and sale of marijuana for personal use for adults over the age of 21, and imposing a six percent (6%) sales tax on the retail purchase of recreational marijuana, effective December 8, 2022 (“Amendment 3”); and

**WHEREAS,** Section 2.6(5) of Article XIV, as enacted by Amendment 3, authorizes a city to impose an additional sales tax of up to three percent on the retail purchase of recreational marijuana, upon the approval of the majority of the qualified voters in such city; and

**WHEREAS,** City staff has determined that a three percent (3%) tax on the sale of recreational marijuana in the City would be appropriate and would provide much-needed funding to meet the City’s infrastructure needs, and for the City’s police department and fire department; and

**WHEREAS,** Article X, § 22 of the Constitution of the State of Missouri, requires that the qualified voters of a jurisdiction must approve any new or increased levy of taxes; and

**WHEREAS,** the City Council has determined that the proposed authorization of a local sales tax on recreational marijuana would be in the best interest of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:**

**Section 1.** A proposition shall be submitted to the qualified voters of the City, for their approval, at the election hereby called and to be held in the City on Tuesday, April 4, 2023. The ballot submission shall contain substantially the following language:

## Proposition M

Shall the City of Berkeley impose a sales tax of three percent (3.0%) on the sale of adult use marijuana within the City of Berkeley to provide funding for the City's police department, fire department, infrastructure, and other City needs?

☐ Yes ☐ No

- Section 2.** The City Clerk is hereby authorized and directed to notify the Board of Election Commissioners of St. Louis County, Missouri, of the adoption of this Ordinance by certifying the aforementioned ballot language no later than 5:00pm on January 24, 2023, and to take such other action as may be required so that this election may be lawfully conducted. Officials, agents and employees of the City are hereby authorized and directed to take any such further action, and execute and deliver such other documents and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.
- Section 3.** Upon the approval of the proposition set forth in Section 1 of this Ordinance by a majority of the qualified voters, the Municipal Code of the City of Berkeley, Missouri, pertaining to taxation, shall be enacted, to read as follows: There is hereby established a sales tax in the amount of three percent (3%) on the sale of adult use marijuana within the City of Berkeley which are subject to taxation under Article XIV of the Missouri Constitution, and the provisions of Section 144.010 to 144.525, RSMo.
- Section 4.** This Ordinance shall be in full force and effect from and after its passage by the City Council.
- Section 5.** The Council does hereby find and declare that an emergency exists, which requires the immediate passage of this ordinance for the preservation of the welfare of the citizens of the City of Berkeley.

1st Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2023

2nd Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2023

3rd Reading, PASSED and APPROVED, this \_\_\_\_\_ day of \_\_\_\_\_ 2023

\_\_\_\_\_  
Babatunde Deinbo, Mayor

ATTEST:

\_\_\_\_\_  
Deanna L. Jones, City Clerk

\_\_\_\_\_  
Approved as to Form:  
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye ____	Nay ____	Absent ____	Abstain ____
Councilwoman Williams	Aye ____	Nay ____	Absent ____	Abstain ____
Councilman Hoskins	Aye ____	Nay ____	Absent ____	Abstain ____
Councilwoman Anthony	Aye ____	Nay ____	Absent ____	Abstain ____
Councilman Hindeleh	Aye ____	Nay ____	Absent ____	Abstain ____
Councilwoman-at-Large Crawford-Graham	Aye ____	Nay ____	Absent ____	Abstain ____
Mayor Deinbo	Aye ____	Nay ____	Absent ____	Abstain ____