

RESOLUTION NUMBER 5746

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ADJUSTING CANNABIS CULTIVATION AND DISTRIBUTION TAX RATES AND ESTABLISHING EXEMPTIONS RELATING TO THE CALCULATION OF CANNABIS CULTIVATION AND DISTRIBUTION TAXES PURSUANT TO SECTIONS 3.40.020(B), 3.40.020(C), AND 3.40.030 OF CHAPTER 3.40 OF TITLE 3 OF THE PERRIS MUNICIPAL CODE

WHEREAS, Chapter 3.40 of Title 3 of the Perris Municipal Code imposes a maximum 10% gross receipts tax upon cannabis distributors (“Distribution Tax”) and imposes a maximum tax upon cannabis cultivation of \$25 per square foot (“Cultivation Tax”);

WHEREAS, Section 3.40.020 of the Perris Municipal Code permits the City Council to increase or decrease the Cultivation Tax rate and Distribution Tax rate by resolution at any time, in its sole discretion, provided that the tax rates set do not exceed the maximum tax rates approved by the City of Perris voters;

WHEREAS, Section 3.40.030 of the Perris Municipal Code permits the City Council to establish exemptions, incentives, or other reductions for calculating taxes collected pursuant to Chapter 3.40 of Title 3 of the Perris Municipal Code, but does not prevent the City Council from later increasing the tax or removing any exemption, incentive, or reduction, and restoring the maximum tax specified in Chapter 3.40 of Title 3 of the Perris Municipal Code;

WHEREAS, on December 8, 2020, the City Council reviewed a city-initiated proposal to adjust the tax rates for Commercial Cannabis Cultivation and Distribution taxes and establish exemptions for the calculations for Commercial Cannabis Cultivation and Distribution taxes as authorized by Chapter 3.40 of Title 3 of the Perris Municipal Code and requested additional information on cannabis operations and taxation in other communities;

WHEREAS, on December 22, 2020, the City Council received additional information on cannabis operations and taxation in other communities and considered a city-initiated proposal to adjust the tax rates Commercial Cannabis Cultivation and Distribution and establish exemptions for the calculations for Commercial Cannabis Cultivation and Distribution taxes as authorized by Chapter 3.40 of Title 3 of the Perris Municipal Code; and

WHEREAS, based upon the forgoing, the City Council now desires to adjust the Cultivation Tax and Distribution Tax rate and establish exemptions relating to the calculation of the Cultivation Tax and the Distribution Tax.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Definitions. The definitions provided in Chapter 3.40 of Title 3 of the Perris Municipal Code shall apply to this Resolution except as follows:

A. “**Affiliated**” means to be any of the following:

(i) a subsidiary of or entity owned (wholly or partially) by the subject commercial cannabis operation; or

(ii) a parent company or owner (wholly or partially) of the subject commercial cannabis operation; or

(iii) a subsidiary of or entity owned (wholly or partially) by the same third party entity as the subject commercial cannabis operation.

B. “**Cannabis**” shall have the same meaning as “marijuana” as defined in Chapter 3.40 of Title 3 of the Perris Municipal Code.

C. “**Canopy area**” shall mean the designated area(s) of the premises of a commercial cannabis operation utilized to carry out cultivation that contains or will contain mature cannabis plants at any point in time, calculated as follows:

(i) The canopy area shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature cannabis plants at any point in time, including all of the space(s) within the boundaries.

(ii) If mature cannabis plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy area calculation.

D. “**Chapter 5.58**” shall mean Chapter 5.58 of Title 5 of the Perris Municipal Code.

E. “**City**” shall mean the City of Perris.

F. “**Commercial cannabis operation**” shall have the same meaning as “commercial marijuana operation” as defined in Chapter 3.40 of Title 3 of the Perris Municipal Code.

G. “**Cultivator**” shall mean a commercial cannabis operation that engages in cultivation.

H. “**Cultivation Tax**” shall mean the tax imposed pursuant to Section 3.40.020(b) of the Perris Municipal Code.

I. “**Distribution Tax**” shall mean the tax imposed upon distributors pursuant to Section 3.40.020(c) of the Perris Municipal Code.

J. “**Retailer**” shall have the same meaning as “retailer” as provided in Section 5.58.030 of the Perris Municipal Code.

Section 3. Cultivation Tax: Rate Adjustment and Non-Canopy Area Square Footage Exemption.

A. **Cultivation Tax Rate.** Pursuant to Sections 3.40.020(b) and 3.40.030 of the Perris Municipal Code, the Cultivation Tax rate in the City shall be set at \$13.50 per square foot.

B. **Non-Canopy Area Square Footage Exemption.** Pursuant to Section 3.40.030 of the Perris Municipal Code, a “Non-Canopy Area Square Footage Exemption” is established as provided herein. When calculating the amount of Cultivation Tax owed by a commercial cannabis operation, only the square footage of the canopy area shall be used.

Section 4. Distribution Tax: Rate Adjustment and Exemption. A distributor engaged in distribution and permitted to distribute within the City pursuant to Chapter 5.58 shall pay a Distribution Tax of \$0.02 for each \$1.00 of proceeds (*i.e.*, 2% of proceeds) attributable to such distribution, except as follows:

A. A distributor shall pay a Distribution Tax of \$0.01 for each \$1.00 of proceeds (*i.e.*, 1% of proceeds) derived from distribution to other commercial cannabis operations located outside the City in the following circumstances:

(i) The distributor (a) engages in cultivation within the City and (b) maintains a permit to distribute and cultivate pursuant to Chapter 5.58; OR

(ii) The distributor (a) is affiliated with a cultivator within the City that maintains a cultivation permit pursuant to Chapter 5.58 and (b) maintains a distributor permit pursuant to Chapter 5.58.

B. A distributor shall pay a Distribution Tax of \$0.005 for each \$1.00 of proceeds (*i.e.*, 0.5% of proceeds) derived from distribution to other commercial cannabis operations located inside the City in the following circumstances:

(i) The distributor (a) engages in cultivation within the City and (b) maintains a permit to distribute and cultivate pursuant to Chapter 5.58; OR

(ii) The distributor (a) is affiliated with a cultivator within the City that maintains a cultivation permit pursuant to Chapter 5.58 and (b) maintains a distributor permit pursuant to Chapter 5.58.

C. A distributor shall be exempted from paying any Distribution Tax on proceeds attributable to distribution in the following circumstances:

(i) The distributor (a) engages in cultivation within the City and maintains a cultivation permit pursuant to Chapter 5.58; (b) is a retailer located within the City and maintains a retailer permit pursuant to Chapter 5.58; (c) maintains a distributor permit pursuant to Chapter 5.58; and (d) distributes to its own commercial cannabis operations located within the City that are permitted pursuant to Chapter 5.58; OR

(ii) The distributor (a) is affiliated with a cultivator located within the City that maintains a cultivation permit pursuant to Chapter 5.58; (b) is affiliated with a retailer located within the City that maintains a retailer permit pursuant to Chapter 5.58; (c) maintains a distributor permit pursuant to Chapter 5.58; and (d) distributes to affiliated

commercial cannabis operations located within the City that are permitted pursuant to Chapter 5.58.

D. A commercial cannabis operation claiming any of these tax rate adjustments or exemptions shall provide the following to the satisfaction of the City of Perris Director of Development Services, or his or her designee:

1. If applicable, documentation showing the licensing, ownership, or affiliation of the commercial cannabis operations with any affiliated cannabis dispensary; and

2. The annual proceeds relating to distribution as part of its annual Cannabis Permit Renewal application submitted pursuant to Chapter 5.58 of the Perris Municipal Code.

E. Nothing in this Resolution shall exempt any commercial cannabis operation from paying any other tax required by applicable law, including, but not limited to, taxes imposed upon the proceeds generated from manufacturing, cultivation, and/or dispensaries pursuant to Chapter 3.40 of Title 3 of the Perris Municipal Code. Further, nothing in this Resolution shall affect the calculation of tax owed pursuant to any other tax required by applicable law, including, but not limited to, taxes imposed upon the proceeds generated from manufacturing, cultivation, and/or dispensaries pursuant to Chapter 3.40 of Title 3 of the Perris Municipal Code.

Section 5. Nothing in this Resolution shall prevent the City Council from later removing any exemption, incentive, or reduction, and restoring the maximum tax permitted under Chapter 3.40 of Title 3 of the Perris Municipal Code.

Section 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately.

PASSED, APPROVED AND ADOPTED on this 22nd day of December, 2020.

Michael M. Vargas, Mayor

ATTEST:

Nancy Salazar, City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 5746 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 22nd day of December, 2020, and that it was so adopted by the following called vote:

AYES: MAGAÑA, CORONA, RABB, VARGAS

NOES: ROGERS

ABSENT: NONE

ABSTAIN: NONE

City Clerk, Nancy Salazar