

ORDINANCE NUMBER 1359

AN ORDINANCE OF THE PEOPLE OF THE CITY OF PERRIS, CALIFORNIA APPROVING AND IMPLEMENTING A MARIJUANA TAX OF UP TO 10 CENTS PER \$1.00 OF PROCEEDS OF COMMERCIAL MARIJUANA DISTRIBUTION AND MANUFACTURING OPERATIONS WITHIN THE CITY, BY AMENDING CHAPTER 3.40 (MARIJUANA TAX) TO TITLE 3 (REVENUE AND FINANCE) OF THE PERRIS MUNICIPAL CODE

WHEREAS, in 1996 the California voters approved Proposition 215, the Compassionate Use Act (“CUA”), codified as Health and Safety Code Section 11362.5, to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420, the Medical Marijuana Program Act (“MMPA”), codified as Health and Safety Code Section 11362.7, *et seq.*, and as later amended, to clarify the scope of the Compassionate Use Act of 1996 relating to the possession and cultivation of marijuana for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller’s permits for sales consisting only of medical marijuana; and

WHEREAS, in October 2015, the State of California adopted AB 266, AB 243, and SB 643, collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), which established a comprehensive regulatory and licensing scheme for commercial medical marijuana operations; and

WHEREAS, at the November 8, 2016, general election, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was approved by California voters as Proposition 64, which established a comprehensive regulatory and licensing scheme for commercial recreational (adult use) marijuana operations, and which also legalized limited personal recreational marijuana use, possession, and cultivation; and

WHEREAS, on the November 8, 2016, the voters of the City of Perris approved a tax upon medical marijuana dispensaries and marijuana cultivation; and

WHEREAS, on June 27, 2017 Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, MAUCRSA provides that the State of California will begin issuing licenses in 2018 for both medical and recreational marijuana businesses in 20 different categories, which

are found in Section 26050 of the Business & Professions Code, and which categories include marijuana cultivation, manufacturer, testing, retailer, distributor, and microbusiness; and

WHEREAS, on November 14, 2017, the City Council adopted Chapter 5.58 (Commercial Marijuana Operations Regulatory Program) of Title 5 (Business Tax Certificates and Regulations) of the Perris Municipal Code, which provided for a regulatory program for certain commercial marijuana operations within the City of Perris; and

WHEREAS, while the City Council does not condone or support the use of marijuana, the City Council at the same time does not seek to forego a potential revenue source for the City from commercial marijuana operations; and

WHEREAS, pursuant to subdivision (b) of Section 2 of Article XIIC of the California Constitution and Section 53720 et. seq. of the Government Code the City Council is authorized to impose a general tax upon submission of such general tax to the voters of the City and approval by a majority of the voters voting on the issue, at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, the administration, implementation, and enforcement of the tax contemplated by this Ordinance shall be carried out in accordance with Chapter 3.40 (Marijuana Tax) of Title 3 (Revenue and Finance) of the Perris Municipal Code;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF PERRIS, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. SECTION 3.40.010 (DEFINITIONS) OF CHAPTER 3.40 (MARIJUANA TAX) OF TITLE 3 (REVENUE AND FINANCE) OF THE PERRIS MUNICIPAL CODE IS HEREBY AMENDED AS FOLLOWS (~~STRIKETHROUGH~~ REPRESENTS DELETED LANGUAGE WHILE UNDERLINE REPRESENTS ADDED LANGUAGE):

“Section 3.40.010 - Definitions.

- A. “Commercial marijuana operation” shall have the same meaning as “commercial marijuana operation” as defined in Section 5.58.030 of Chapter 5.58 of Title 5 of the Perris Municipal Code.
- B. “Cultivation” has the same definition as provided for in Bus. & Prof. Code § 19300.5(l), and as may be amended, defined as “any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.”
- C. “Distribution” shall have the same meaning as “distribution” as defined in Section 5.58.030 of Chapter 5.58 of Title 5 of the Perris Municipal Code.
- D. “Distributor” shall have the same meaning as “distributor” as defined in Section 5.58.030 of Chapter 5.58 of Title 5 of the Perris Municipal Code.

- E.B. “Finance Director” shall mean the Finance Director of the City of Perris and his/her designee(s).
- F. “Manufacture” or “manufacturing” shall have the same meaning as “manufacture” and “manufacturing” as defined in Section 5.58.030 of Chapter 5.58 of Title 5 of the Perris Municipal Code.
- G. “Manufacturer” shall have the same meaning as “manufacturer” as defined in Section 5.58.030 of Chapter 5.58 of Title 5 of the Perris Municipal Code.
- H.C. “Marijuana” has the same definition as provided for in Bus. & Prof. Code § 19300.5(f) for the term “cannabis,” and as may be amended, defined as “all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ also means the separated resin, whether crude or purified, obtained from marijuana. ‘Cannabis’ also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. ‘Cannabis’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, ‘cannabis’ does not mean ‘industrial hemp’ as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.”
- I.D. “Medical marijuana” means marijuana used for medical purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 et seq.), and the Medical Marijuana Regulation and Safety Act of 2015.
- J.E. “Medical marijuana dispensary” includes any facility or location where marijuana is made available, sold, transmitted, distributed, given or otherwise provided by or to one or more of the following: a primary caregiver, a qualified patient or a person with an identification card (and includes the term “dispensary” as provided for in Bus. & Prof. Code § 19300.5(n), and as may be amended, defined as “a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.”).
- K.F. “Person” means any natural person, firm, corporation, partnership, club, or any association or combination of natural persons, whether acting by themselves or through any servant, agent or employee.

L.G. “Proceeds” means total revenue and/or money received through the sale of goods and/or services before any deductions or allowances (e.g., rent, cost of goods sold, taxes).

M.H. “Space utilized as cultivation area” shall mean any space or ground, floor or other surface area (whether horizontal or vertical) which is used during the marijuana germination, seedling, vegetative, pre-flowering, flowering and harvesting phases, including without limitation any space used for activities such as growing, planting, seeding, germinating, lighting, warming, cooling, aerating, fertilizing, watering, irrigating, topping, pinching, cropping, curing or drying marijuana or any such space used for storing any products, supplies or equipment related to any such activities, no matter where such storage may take place or such storage space may be located.

N.F. “Term” means a calendar month in regards to the monthly taxation of proceeds from medical marijuana dispensaries, and means the fiscal year in regards to the annual taxation of the space utilized as cultivation area for medical marijuana cultivation.”

SECTION 2. SECTION 3.40.020(C) (COMMERCIAL MARIJUANA DISTRIBUTION AND MANUFACTURING OPERATIONS TAX) IS HEREBY ADDED TO CHAPTER 3.40 (MARIJUANA TAX) OF TITLE 3 (REVENUE AND FINANCE) OF THE PERRIS MUNICIPAL CODE AS FOLLOWS:

“Marijuana Distribution and Commercial Manufacturing Operations Tax. All distributors and commercial manufacturers operating within the City of Perris, either pursuant to this Code or otherwise, and regardless of whether such operation has a valid commercial marijuana operation permit pursuant to this Code, shall pay a maximum marijuana tax of 10 cents for each \$1.00 of proceeds or fractional part thereof, the rate to be set by resolution of the City Council.”

SECTION 3. ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT

The tax contemplated by this Ordinance shall be administered, implemented, and enforced in accordance with Chapter 3.40 (Marijuana Tax) of Title 3 (Revenue and Finance) of the Perris Municipal Code, as it may be amended from time to time.

SECTION 4. EFFECTIVE DATE.

If a majority of the voters of the City of Perris voting at the General Municipal Election of November 6, 2018 vote in favor of this Ordinance, then this Ordinance shall become a valid and binding ordinance of the City of Perris, and shall be considered as adopted upon the date that the

vote is declared by the City Council of the City of Perris, and this Ordinance shall go into effect ten (10) days after that date, pursuant to Election Code section 9217.

SECTION 5. CITY COUNCIL AUTHORITY TO AMEND AND/OR REPEAL

This is a City Council sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City of Perris. However, pursuant to Section 9217 of the California Elections Code, the City Council expressly reserves the right and authority to amend or repeal the Ordinance in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

SECTION 6. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 7. CEQA.

This measure to be submitted to the voters adopts a general tax to fund any lawful purpose of the City. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. Therefore, under CEQA Guidelines section 15060, review under CEQA is not required.

SECTION 8. EXECUTION.

The Mayor of the City of Perris is hereby authorized and ordered to attest to the adoption of the Ordinance by the voters of the City of Perris by signing where indicated below.

I hereby certify that the foregoing Ordinance was ***PASSED, APPROVED and ADOPTED*** by the People of the City of Perris, California voting on the 6th day of November, 2018.

Michael M. Vargas, Mayor

ATTEST:

Nancy Salazar, City Clerk