

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA,
CALIFORNIA, SUBMITTING TO THE VOTERS AT THE NOVEMBER 3, 2020
GENERAL MUNICIPAL ELECTION A CANNABIS BUSINESS TAX AND
REGULATION MEASURE AND TAKING CERTAIN RELATED ACTIONS**

WHEREAS, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business & Professions Code Section 26000 *et seq.*) (the “Act”), as adopted by the voters in 2016 as Proposition 64 and subsequently amended by the legislature, authorized the State to license certain business activities related to cannabis and cannabis products; and

WHEREAS, Section 26200 of the Business & Professions Code provides that the Act does not supersede or limit the authority of local jurisdictions to regulate such cannabis businesses and specifically provides that local jurisdictions may prohibit the establishment or operation of such businesses; and

WHEREAS, the City of La Habra currently prohibits all commercial cannabis business activities in the City aside from a maximum of four cannabis distribution businesses and four cannabis testing businesses; and

WHEREAS, the retail purchase of marijuana is legal in California and present in La Habra, but the City does not derive all available revenue from the commercial cannabis activity already present in the City, and

WHEREAS, aside from generally applicable business taxes, the City currently does not impose a cannabis business tax; and

WHEREAS, imposing a tax and authorizing up to four new licenses for non-storefront (delivery only) retail cannabis businesses would ensure that the City captures as much available revenue from these types of cannabis businesses, in addition to other cannabis business types already licensed to operate in the City, and that these businesses pay their fair share for use of vital city services; and

WHEREAS, the proposed cannabis business tax is not a direct tax on the residents of La Habra or their property, but would be paid by commercial cannabis businesses licensed to operate in La Habra; and

WHEREAS, the proposed measure does not authorize storefront retail cannabis businesses in the City; and

WHEREAS, a cannabis business tax requires voter approval to become effective; and

WHEREAS, by prior resolution, the City Council called a general municipal election (the “Election”) for November 3, 2020, to be consolidated with the statewide general election to be held on that same date; and

WHEREAS, the City Council desires to have the matter of a cannabis business gross receipts tax presented to the voters on the November 3, 2020 ballot.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are a substantial part of this resolution.

SECTION 2. Election. Pursuant to Government Code Section 53724 and Election Code Section 9222, the City Council directs that the ordinance attached hereto as Exhibit "A" and incorporated herein by reference (the "Ordinance") be submitted to the qualified voters of the City of La Habra at the Election and calls the election for that purpose.

SECTION 3: Ballot Language. The question submitted shall appear on the ballot as follows:

City of La Habra Cannabis Business Tax/Regulation Ordinance To fund municipal services including fire protection, 911/emergency medical response, public safety/senior programs/preserve open space/address homelessness/retain small businesses/other general services shall an ordinance authorizing La Habra to impose a gross receipts tax up to 6% on commercial cannabis businesses until ended by voters, authorizing up to four cannabis delivery licenses; raising approximately \$1,000,000 - \$2,000,000 annually; with financial audits, all funds local, be adopted?	YES
	NO

SECTION 4: This measure must be approved by a majority of the votes cast in order to be adopted.

SECTION 5. Impartial Analysis. The City Clerk is instructed to transmit the Ordinance to the City Attorney along with a request that an impartial analysis be prepared pursuant to Elections Code Section 9280.

SECTION 6. Standard Procedures. In all particulars not recited in this Resolution, the Election shall be held and conducted as provided by law for holding municipal elections.

SECTION 7. Notice of Election. Notice of the time and place of holding of the Election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in the time, form, and manner as required by law.

SECTION 8. Consolidation. Pursuant to Section 10400 *et seq.* of the Elections Code, the Board of Supervisors of Orange County is requested to consolidate the election on this ballot measure with other elections held on the same day in the County.

SECTION 9. Canvass. The Board of Supervisors is authorized to canvass the returns of the Election pursuant to Section 10411 of the Elections Code.

SECTION 10. Rebuttal Arguments. Rebuttal arguments will be accepted for this measure, and the City Council reiterates its adoption of the provisions of Section 9285 of the Elections Code regarding rebuttals.

SECTION 11. County Services. Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County elections office to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the City agrees to reimburse the County, in accordance with current County pro-rations and allocation procedures.

SECTION 12. Certified Copy. The City Clerk shall file a certified copy of this Resolution with the Board of Supervisors and the County elections office.

SECTION 13. Certification. The City Clerk shall certify to the passage and adoption hereof.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF August 2020.

Tom Beamish, Mayor

ATTEST:

Laurie Swindell, CMC
City Clerk

APPROVED AS TO FORM:

Richard Jones, City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS.
CITY OF LA HABRA }

I, Laurie Swindell, CMC, City Clerk for the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. ____ introduced and adopted at a Regular Meeting of the City Council of the City of La Habra held on the 3rd day of August, 2020 by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Witness my hand and the official seal of the City of La Habra this 3rd day of August, 2020.

Laurie Swindell, CMC,
City Clerk

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LA HABRA, CALIFORNIA AUTHORIZING A CANNABIS GROSS RECEIPTS BUSINESS TAX AND AUTHORIZING THE CITY COUNCIL TO ADOPT AN ORDINANCE ALLOWING UP TO FOUR DELIVERY-ONLY (NON-STOREFRONT) RETAIL CANNABIS LICENSES

THE PEOPLE OF CITY OF LA HABRA ORDAIN AS FOLLOWS:

SECTION 1. Short Title.

This Ordinance may be referred to as the “City of La Habra Cannabis Business Tax and Regulation Ordinance of 2020.”

SECTION 2. Purpose.

The purpose of this Ordinance is to authorize the City Council to (i) impose a business tax on cannabis businesses in the City of La Habra and (ii) permit and regulate up to four retail cannabis businesses.

SECTION 3. Authorization.

The City Council is authorized to impose, by ordinance, a cannabis business tax. Such tax shall be imposed upon and payable by persons engaged in Cannabis Businesses in the City. The rate of such tax shall not exceed 6% of the gross receipts of the Cannabis Business.

SECTION 4. Definitions.

For purposes of this Ordinance, “Cannabis Business” means any business that (i) is licensed by the state pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business & Professions Code Section 26000 et seq.) and/or (ii) involves the retailing, wholesaling, manufacturing, distributing, cultivation or testing of cannabis or cannabis products or the operation of a cannabis nursery. Each definition set forth in Section 5.04.010 of the Municipal Code shall also apply to this Ordinance.

SECTION 5. Use of Funds and Accountability.

The purpose of this Ordinance is to authorize a tax for revenue purposes. Proceeds of any tax imposed under this authorization shall be deposited in the City’s General Fund and available for any lawful municipal purpose. Proceeds of the tax shall be audited by an independent accountant as part of the City’s annual financial audit and shall be annually reported to the public and presented to the City Council at a public meeting as part of the City’s Comprehensive Annual Financial Report or separately from the City’s Comprehensive Annual Financial Report.

SECTION 6. Administration.

Any tax imposed pursuant to this Ordinance shall be administered pursuant to Chapter 5.04 of Title 5 of the La Habra Municipal Code. For purposes of this Ordinance, "Gross Receipts" shall have the meaning set forth in Section 5.04.010(C) of the La Habra Municipal Code. Any tax imposed pursuant to this Ordinance is in addition to any other tax imposed by the City, including the generally applicable business license tax.

SECTION 7. Delivery-Only (Non-Storefront) Retail Businesses

The City Council is authorized to adopt an ordinance that provides for the regulation of and authorizes permits for the operation of up to four delivery-only retail cannabis businesses that do not have a retail storefront in the City at which customers may purchase cannabis in person.

SECTION 8. Interpretive Guideline.

This Ordinance does not itself (i) provide authorization to any person to conduct any business or activity in the City or (ii) alter the provisions of Chapter 18.22 of Title 18 of the La Habra Municipal Code. The adoption of this Ordinance is not meant to restrict the ability of the City Council to adopt any ordinance, resolution, or other enactment (including, but not limited to, ordinances permitting or restricting commercial cannabis businesses and land uses) that the City Council would have the ability to enact if this Ordinance were not in effect. Section 7 of this Ordinance shall neither be interpreted to: (i) impose on the City Council an obligation to authorize delivery-only cannabis businesses or (ii) imply that the City Council, absent this ordinance, could not adopt an ordinance of the type authorized by Section 7.

SECTION 9. Amendment.

The City Council, may, without a vote of the People, adopt ordinances that amend or supersede this ordinance in any respect. However, the City Council shall not, without a vote of the People, amend this Ordinance to (i) authorize a cannabis business tax in excess of 6% of gross receipts or (ii) alter or reduce the authority of the City Council to set or reset the rate of any tax authorized by this Ordinance.

The City Council may not raise the rate of the tax authorized by this Ordinance above the 6% maximum rate unless such increase is approved by the voters.

In any ordinance adopted pursuant to the authority of this Ordinance, the City Council may (i) set the tax at any rate that does not exceed 6% of gross receipts for any taxpayer, (ii) increase or decrease the rate of the tax so long as no rate exceeds 6% of gross receipts, (iii) create different rates for different classes of taxpayers, (iv) create exemptions to the tax, (v) create special procedures for the collection of the tax (including, but not limited to, requiring that the tax be paid in advance or that the tax be payable as often as monthly), and (vi) adopt, notwithstanding Section 6 of this Ordinance, any provisions for the administration and collection of the cannabis business tax that the City Council finds will contribute to the efficient and fair administration of the cannabis business tax.

SECTION 10. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such

decision shall not affect the validity of the remaining portions of this ordinance. The People of the City of La Habra hereby declare that they would have adopted this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 11. Effective Date.

If approved by the voters, this ordinance will take effect on the tenth day following the certification by the City Council of the results of the election at which it is approved.

Approved by the People of the City of La Habra at the General Municipal Election Held on November 3, 2020.

Tom Beamish, Mayor

ATTEST:

Laurie Swindell, CMC
City Clerk

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF LA HABRA }

I, Laurie Swindell, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. _____ adopted by the voters at the general municipal election of November 3, 2020

Laurie Swindell, CMC
City Clerk