

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, ADDING CHAPTER 5.58 (“CANNABIS BUSINESS TAX”) TO TITLE 5 OF THE LA HABRA MUNICIPAL CODE

**WHEREAS**, at the November 3, 2020 election, the voters of La Habra approved the City of La Habra Cannabis Business Tax and Regulation Ordinance of 2020 (“Measure W”); and

**WHEREAS**, Measure W authorizes the City Council to impose, by ordinance, a cannabis business tax; and

**WHEREAS**, the City Council desires to impose the tax that the voters authorized by their approval of Measure W; and

WHEREAS, the City Council conducted a public hearing on March 1, 2021 on a proposed ordinance to add Chapter 5.58 (Cannabis Business Tax) to Title 5 of the La Habra Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and incorporated herein

SECTION 2. Chapter 5.58 is added to Title 5 of the La Habra Municipal Code to read as follows:

**CHAPTER 5.58 – CANNABIS BUSINESS TAX**

**Section 5.58.010 Purpose**

The purpose of this chapter is to impose, for revenue purposes, a tax upon cannabis businesses.

**Section 5.58.020 Definitions**

Each definition set forth in Section 5.04.010 of this code shall also apply to this chapter. Furthermore, for purposes of this chapter:

- A. “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.

- B. "cannabis business tax" means the tax imposed by Section 5.58.030 of this chapter.
- C. "distribution", "testing" and "non-storefront retailer" shall have the meanings set forth in Section 18.22.020 of this code.
- D. "gross receipts" shall have the meaning set forth in Section 5.04.010(C) of this code.

**Section 5.58.030 Tax Imposed**

A cannabis business tax is hereby imposed upon each person engaged in a cannabis business in the city.

**Section 5.58.040 Tax Rate**

The rate of the cannabis business tax shall be:

- (a) 1.125% of gross receipts derived from distribution;
- (b) 1% of gross receipts derived from testing,
- (c) 3% of gross receipts derived from non-storefront retailers; and
- (d) 6.0% of all other gross receipts.

**Section 5.58.060 Administration**

- A. The cannabis business tax is in addition to any other tax imposed by the city, including the generally applicable business license tax.
- B. The cannabis business tax shall be collected quarterly and, except as explicitly provided in this chapter, shall be administered pursuant to Chapter 5.04 of this code.
- C. The Director of Finance, or his or her designee, may issue such regulations or interpretations of this chapter as are necessary or useful to the fair and effective administration of the cannabis business tax.

**Section 5.58.060 Proceeds**

- A. Proceeds of the cannabis business tax shall be deposited in the city's general fund and available for any lawful municipal purpose.
- B. 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 that report.

**Section 5.58.070 No Business Authorized**

This chapter does not authorize any person to conduct any business in the city. Cannabis businesses are regulated by Chapter 18.22 of this code and other provisions of this code.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion 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 City Council of the City of La Habra hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 4. For reference, Section 3 of Measure W provides:

“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 be up to, but not exceed 2.5% of the gross receipts of all cannabis distribution businesses, up to, but not exceed 2.5% of the gross receipts of all cannabis testing businesses, and up to, but not exceed 6% of the gross receipts of all other cannabis businesses.”

The City Council may amend this Ordinance to (i) set the tax at any rate that does not exceed the rates authorized by Measure W for any taxpayer, (ii) increase or decrease the rate of the tax so long as no rate exceeds the rates authorized by Measure W, (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) add any provisions for the administration and collection of the cannabis business tax. Any increase of the rate of the tax above what was approved by the voters in Measure W must be submitted to the voters.

SECTION 5. This Ordinance shall be effective thirty days after its final adoption

SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Rose Espinoza  
Mayor

Attest:

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Laurie Swindell, CMC  
City Clerk

APPROVED AS TO FORM:

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Richard D. Jones  
City Attorney

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS.  
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. \_\_\_\_\_ introduced at a regular meeting of the City Council of the City of La Habra held on the 5th day of April, 2021, and duly adopted at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

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

Witness my hand and the official seal of the City of La Habra on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Laurie Swindell, CMC  
City Clerk