



Item No. 1.

MEETING DATE: 04/05/2021

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JIM SADRO, CITY MANAGER
By: Mel Shannon, Director of Finance

**SUBJECT: DULY NOTICED PUBLIC MEETING TO CONSIDER THE FIRST READING OF AN ORDINANCE
ADDING CHAPTER 5.58 ("CANNABIS BUSINESS TAX") TO TITLE 5 OF THE LA HABRA
MUNICIPAL CODE**

RECOMMENDATION:

That the City Council APPROVE THE FIRST READING OF **ORDINANCE NO. _____** ENTITLED: 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.

DISCUSSION:

History

On August 3, 2020, the City Council considered a ballot measure to authorize the City Council to impose a gross receipts tax on cannabis businesses and authorizing the City Council to permit up to four licenses for cannabis non-storefront (delivery-only) retail facilities. After receiving testimony from the public and staff responding to Council questions, it was the consensus of the City Council to allow the public to decide the issue of cannabis use within the community. The City Council, by a 4-1 vote, placed the proposed City of La Habra Cannabis Business Tax and Regulation Ordinance of 2020 on the November 3, 2020 General Municipal Election ballot as Measure W (Attachment 1). At the election, Measure W received 67.46% (17,726) votes in favor of the measure while 32.54% (8,550) voted in opposition to the measure. Therefore, Measure W was approved by the La Habra voters.

Section 3 of Measure W provided that:

"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."

Ordinance

The ordinance before the Council tonight would adopt the cannabis business tax rate for the three types of cannabis business operations currently permitted to operate in La Habra. City staff recently surveyed communities in California that allow for cannabis distribution (warehouse) facilities, testing laboratories, and non-storefront (delivery only) retail operations (Attachment 6). Communities that have an established fixed percentage tax rate are identified in the survey, noting the rate for the specific type of commercial cannabis business activity. In addition, staff identified communities that have been issued State licenses for each type of cannabis operation that is currently permitted in La Habra so as to understand areas of competition for these types of businesses. Based on information provided by the Bureau of Cannabis Control as of January 13, 2021 within Southern California (Los Angeles, Imperial, Orange, Riverside, San Bernardino, San Diego, and Ventura counties), there are a total of 583 cannabis distribution (warehouse) licenses, 19 cannabis laboratory testing licenses, and 63 cannabis non-storefront (delivery only) retail licenses that have been issued by the State (Attachment 2). The City's cannabis tax would be administered in the same manner as its current business license tax; however, would be collected quarterly. Each type of cannabis business operation and how the specific proposed tax rate was determined is discussed in more detail below.

Cannabis Distribution (warehouse) Facilities

The Cannabis Business Tax survey determined communities are assessing a tax of between 2% to 15%. The three cities with the largest number of warehouse distribution facilities is the City of Los Angeles with 256 licenses (Los Angeles and the neighborhood communities that make up the City of Los Angeles) with a tax rate of 2%, the City of Long Beach with 59 licenses with a tax rate of 6% and the City of Adelanto with 35 licenses and a tax rate of 5%.

A total of up to four cannabis distribution facility licenses are currently authorized by the City of La Habra municipal code. A total of three licenses have already been issued by the City (River Distribution, Canna America, and Pinnacle Wellness Group). Each cannabis distribution facility operates under a Development Agreement that requires the business to make contractual payments to the City until such time as the City adopts a cannabis business tax. The largest and longest operating distribution facility in the City is River Distribution. In the first five quarters of operation, River has made contractual payments totaling \$594,863 to the City.

River Distribution's contractual payment obligations call for the first \$12.5 million increment of gross receipts to be assessed at 2.5%. For the next \$12.5 million increment of gross receipts, the contractual payment will be 2.0%. For the next \$12.5 million increment of gross receipts the contractual payment will be 1.5%. For the next \$12.5 million increment of gross receipts, the contractual payment will be 1.0%. For the next \$50,000,000 increment of gross receipts, the contractual payment will be 0.5%. Upon reaching a cumulative total of \$100,000,000 of gross receipts, the percentages and increments shall reset to the beginning of this paragraph. The blending of these percentages into a set tax rate results in a 1.125% fixed rate. Under either approach, \$100 million in gross revenue would yield \$1.125 million in tax payments or contractual payments. The sliding scale approach in the Development Agreement was established to encourage River Distribution to utilize their La Habra facility at a higher rate versus their other locations. A fixed gross receipts tax rate set at 1.125% keeps that incentive in place and is supported by River Distribution (Attachment 3).

The other two approved distribution operators have yet to begin business operations and may operate on a much smaller market scale. It was anticipated Canna America would pay the City \$15,000 the first year, \$50,000 the second year, \$75,000 the third year and \$100,000 during the fourth and fifth years, after which, the contractual payment obligations structure could then be renegotiated. Canna America opposes the proposed tax rate of 1.125%. Canna America argues that if they buy product at \$2,000 and mark it up by 5% to \$2,100 as they sell it to retailers, their gross profit is \$100. In this example, since the tax is based on gross sales, a cannabis tax of approximately \$24 would be due to the City at the 1.125% tax rate, which Canna America argues is almost a quarter of their gross profit in this example (Attachment 4). Canna America believes they should be permitted to operate under the conditions of the current development agreement for the first five-years and then later be subject to the cannabis business tax. They argue this would allow the start-up business to establish itself before being subject to the new tax. Furthermore, should a tax rate be set, they believe it should be at 0.25% or no more than 0.50%. It should be noted that the purchase price of product and its sale price to retailers is a business decision of the operator and outside the control of the City. Any modification in the sale and/or resale price of product will affect the overall gross profit to the operator i.e., if product is purchased at a lesser price and sold at a higher price, then the tax effect on gross profit becomes less than the figure presented by Canna America. Based on the owner's projected gross revenues over the first five years of operation (submitted during Development Agreement negotiations), the proposed Cannabis Business Tax rate of 1.125% would result in 6.52% of Canna America's gross profits paid to the City. Under the existing terms of the Development Agreement, Canna America is currently

obligated to pay the City 4.41% of their gross profits. If the staff recommended 1.125% fixed rate tax is approved by Council, and based on Canna America's projected gross revenues, they will be taxed \$502,933 in their first five years of operations, compared to the fixed amount of \$340,000 during that same time period as currently contemplated in the Development Agreement. This represents an estimated increase in tax revenue of \$162,933 to the City.

The Pinnacle Wellness Group is the final licensee and has also not yet begun operations. In their Development Agreement with the City Pinnacle agreed to a contractual payment amount of 3.75% of gross receipts to the City for their first five years of operation. The projected amount to the City based on the contractual rate is \$467,315. A tax rate of 1.125% will generate revenues to the City of approximately \$140,193, which will be approximately \$327,122 less than what the Development Agreement contemplated for the same time period. Pinnacle Wellness Group is in support of the proposed Cannabis Business Tax rate and believes it will assist in combating illegal cannabis operations (Attachment 5).

Laboratory Testing Facilities

The Cannabis Business Tax survey determined communities are assessing a tax of between 1% to 15%. The three cities with the largest number of cannabis testing laboratories are the cities of Los Angeles with 7 licenses (Los Angeles and the neighborhood communities that make up the City of Los Angeles) with a tax rate of 1%, San Diego with 3 licenses and a tax rate of 8%, and Irvine with 3 licenses with a tax rate of 0%.

A total of four cannabis laboratory testing facility licenses are available in La Habra. Based on the survey of Southern California cities that have established tax rates for cannabis laboratory testing facilities, staff recommends a tax rate of 1% be set in order to be competitive with these communities (Attachment 6). To date, no operators have approached the City with interest to secure a cannabis testing facility license.

Non-storefront (deliver only) retail facilities

The Cannabis Business Tax survey determined communities are assessing a tax of between 2% to 15%. The cities with the largest number of cannabis non-storefront (delivery only) retail facilities include the cities of Hesperia with 19 licenses with a tax rate of 4%, Commerce with 9 licenses with a tax rate of 5%, and Montebello with 8 licenses with a tax rate of 2%. Staff is recommending that a gross receipts tax rate of 3% be established which places the City in a competitive position with surrounding communities (Attachment 6). The City has four non-storefront (delivery only) retail cannabis licenses available to be issued and, although the guidelines for this business type have not yet been finalized, staff is aware of a large number of operators may be interested in locating in La Habra and will likely be applying for licenses.

Summary

The proposed ordinance does not itself authorize or permit any cannabis businesses to operate in the City. Such businesses and permits for such businesses, are governed by Chapter 18.22 of the Municipal Code, and are subject to City Council approval. The subject ordinance established the business tax rate for each type of operation permitted within the City. HdL, the City's sales tax consultant that provides sales tax services to 345 California cities, has recommended a cannabis business gross receipts tax rate for warehouse/distribution facilities of not more than 2%, testing laboratories of not more than 1.5%, and for non-storefront retail facilities between 4% to 6%. The tax rates recommended by staff are generally in line with HdL's recommendation with the exception of non-storefront retail facilities. Given the tax rates in other jurisdictions in the local region, a 3% gross receipts rate strategically places the City in a position to compete with other jurisdictions which also allow these types of businesses to operate. It is recommended that the City Council approve an Ordinance adding Chapter 5.58 (Cannabis Business Tax) to Title 5 of the La Habra Municipal Code with a cannabis gross receipts business tax rate of 1.125% for warehouse distribution facilities, 1% for testing laboratories, 3% for non-storefront retail facilities, and 6% for all other types of authorized and permitted cannabis businesses (Attachment 7).

NPDES:

The proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP), Section 7.2. Since the Cannabis Business Tax does not disturb any soil, it is exempt by the Water Quality Ordinance from the preparation of a WQMP.

CEQA:

The proposed action is exempt from the California Environmental Quality Act by the California Environmental Quality Guidelines Section 15378, (b), (4), "The creation of governmental funding mechanisms or other governmental fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment." No land use improvements result from the proposed ordinance and therefore the proposed ordinance is exempt from CEQA.

Public Notice:

Government Code 54954.6 requires special noticing for the consideration of this tax ordinance. Specifically, subsection (b)(1) requires the tax to be considered at a public meeting and then again, a public hearing after publication is made in the newspaper. The public meeting must be at least 10 days after the first publication and the public hearing must be at least 7 days after the public meeting and at least 45 days after the first publication.

FISCAL IMPACT/SOURCE OF FUNDING:

The voters of the City of La Habra approved Measure W to establish a Cannabis Business Tax. Measure W indicated the tax would 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. The proposed tax rates allow the City to be competitive in attracting cannabis distribution, laboratory testing and non-storefront retail operators in Southern California thereby generating tax revenues to assist in providing needed services to the community. At this time, it is unknown how much these recommended cannabis tax rates will generate in revenue for the City's General Fund, however, if all licenses are issued and full operations are reached, the amount would likely be in excess of \$1 million per year.

GENERAL PLAN RELEVANCE:

Action on the Commercial Cannabis Ordinance implements the following General Plan Policies:

- ED 9.1 Balanced Fiscal Practices
- ED 9.2 Long-Term Infrastructure Viability
- ED 9.3 Reciprocal Fiscal Benefit

Attachments

- City Council Minutes 8-3-21 Att1
- Cannabis Licenses Issued By The State 2019 to 2021 Att2
- E-mail from Sabrina Noah dated 2-1-21 Att3
- E-mail from Dana Cisneros dated 1-26-21 Att4
- E-mail from Jacob Poozhikala dated 2-1-21 Att5
- So CA Cannabis Business Tax Survey as of 2-10-21 Att6
- Cannabis Business Tax Ord - Att7
- Legal Notice Att 8

CONSIDERATION ITEMS:

1. STORM DRAIN MASTER PLAN REPORT

Director of Public Works Saykali presented the staff report and PowerPoint presentation.

City Council discussion included: clarification on the potential for a flood, collapse, and capacity to handle a "10-year storm;" confirmation of the difficulty finding any federal or state funding for storm drain work/repair; and verification that the only way to obtain funding was through a bond or Mello-Roos which would take a vote of the people.

Mayor Beamish invited the public to testify at 6:50 p.m. There was no public testimony.

Moved by Mayor Pro Tem Espinoza, seconded by Mayor Beamish, and CARRIED UNANIMOUSLY (5-0) TO RECEIVE AND FILE THE STORM DRAIN MASTER PLAN REPORT.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Beamish, Mayor Pro Tem Espinoza,
Councilmember Gomez, Councilmember Medrano, Councilmember Shaw
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

2. **CONSIDERATION OF A CITY BALLOT MEASURE TO AUTHORIZE THE CITY COUNCIL TO ADOPT AN ORDINANCE AUTHORIZING UP TO SIX PERCENT GROSS RECEIPTS TAX ON COMMERCIAL CANNABIS ACTIVITY AND AUTHORIZE UP TO FOUR LICENSES FOR NON-STOREFRONT (DELIVERY ONLY) RETAIL CANNABIS BUSINESSES WITHIN THE CITY**


Mayor Beamish explained how this item came to be placed on the agenda for consideration.

Director of Community & Economic Development Ho presented the staff report. He noted that Assistant City Attorney Keith Collins was on the Zoom call and also available for questions.

City Council discussion included: impacts and modifications to current Development Agreements; business models for home-delivered cannabis products in comparison to what percentages and profit margins other cities charge; clarification that tax amounts could be split for different uses; confirmation that cannabis businesses would pay the proposed tax on gross sales, in addition to state sales tax and city transaction use tax; potential that higher tax rates may cause businesses to leave the city; verification that the proposed tax would not be paid by residents; and determination of the proposed tax rate.

City Clerk Swindell stated that two emails in support of this item and one email asking to honor contractual support were received and distributed to City Council prior to this meeting.

Mayor Beamish invited the public to testify at 7:06 p.m.



Canna America Attorney Dana Cisneros submitted a public comment via email and called in to express opposition to the proposed up to six percent tax when Canna America had already entered into a Development Agreement with the city that had different terms and fees; including a community benefit fee and contribution of volunteer hours on community projects. She noted that Canna America would not have entered into the Development Agreement if they would have known of this proposed tax of six percent. She stated that there is already a cultivation tax charged in the supply chain which was recently increased. She requested removal of distribution from the proposed tax measure.

Canna America Owner Anthony DeSimone called in and spoke in opposition of this item. He explained the detrimental effect of the proposed tax measure to his business.

Ad Hoc Fiscal Review Committee Member Martha Leonard called in and spoke in support of this item.

Orange County NORML Executive Director Kandice Hawes submitted a public comment via email in support of this item.

Mayor Beamish closed public testimony at 7:16 p.m.

City Council questions included: feasibility to modify existing Development Agreements to include a cannabis business tax; potential to split the tax between distribution and lab businesses, and all others, and rate determination should the tax be approved by the voters; clarification that the proposed tax is specific to distribution, laboratories, and home delivery potential to grandfather-in Development Agreements; and if the tax would be negotiable.

Assistant City Attorney Collins indicated that the Development Agreements would not change, as existing language agreed to by the developers stipulated that if there was a tax approved by the voters, contractual payments would be replaced by the subsequent tax. He stated that it was not permissible for the City to selectively impose a tax on certain businesses and exempt others. He clarified that Development Agreements were defensible and legally enforceable documents. He stated that a properly worded tax that is voted in by the people is legally bullet proof.

Director of Community & Economic Development Ho stated that, based upon tax rates of surrounding cities, staff recommendation would be a tax rate of not more than 2.5%, and that staff would develop a methodology based upon City Council direction.

Councilmember Medrano emphasized that he was not advocating cannabis, but was in support of this matter being decided on by the voters. Mayor Beamish concurred with Councilmember Medrano's comments.

City Manager Sadro stated the maximum tax rate of six percent would apply to any cannabis activity approved by City Council today and in the future. He recommended a tax system for all current and future cannabis activity. He further stated that a lower tax cap would be a valid way for businesses that do not have as high of a profit margin. He indicated that staff would contact businessowners and take into consideration their concerns prior to making a recommendation to the City Council.

Mayor Pro Tem Espinoza stated that she supports local businesses and working closely with them on the potential tax. She stated that she did not support cannabis, but was in support of this matter being decided on by the voters.

Moved by Mayor Beamish, seconded by Mayor Pro Tem Espinoza, and CARRIED (4-1) TO APPROVE AND ADOPT **RESOLUTION NO. 5968** ENTITLED: A 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 WITH A REVISION TO THE BALLOT QUESTION OF A ZERO TO 2.5 PERCENT TAX FOR CANNABIS DISTRIBUTION AND CANNABIS LABORATORIES, A ZERO TO 6 PERCENT TAX FOR ALL OTHER CANNABIS BUSINESSES, MAKING CORRESPONDING CHANGES TO THE ORDINANCE, AND TAKING CERTAIN RELATED ACTIONS.

Assistant City Attorney Collins clarified that City Council action must include making corresponding changes to the Ordinance.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Beamish, Mayor Pro Tem Espinoza,
Councilmember Medrano, Councilmember Shaw
NOES: Councilmember Gomez
ABSENT: NONE
ABSTAIN: NONE

3. DESIGNATION OF VOTING DELEGATE AND ALTERNATES TO THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

Assistant to the City Manager Ferrier presented the staff report.

Mayor Beamish invited the public to testify at 7:40 p.m. There was no public testimony.

Councilmember Gomez nominated Mayor Pro Tem Espinoza as voting delegate, and Mayor Beamish and Councilmember Medrano as Alternate Voting Delegates to attend the League of California Cities (LOCC) Annual Conference to occur virtually from October 7-9, 2020. There were no other nominations

Moved by Councilmember Gomez, seconded by Councilmember Medrano, and CARRIED UNANIMOUSLY (5-0) TO APPROVE TO DESIGNATE COUNCILMEMBER ESPINOZA AS VOTING DELEGATE, MAYOR BEAMISH AS FIRST ALTERNATE VOTING DELEGATE AND COUNCILMEMBER MEDRANO AS SECOND ALTERNATE VOTING DELEGATE TO ATTEND THE LEAGUE OF CALIFORNIA CITIES (LOCC) ANNUAL CONFERENCE, WHICH DUE TO THE COVID-19 PANDEMIC, WILL BE A VIRTUAL ON-LINE ONLY EVENT THIS YEAR, OCCURRING ON OCTOBER 7 THROUGH OCTOBER 9, 2020.

CANNABIS LICENSES ISSUED BY THE STATE 2019-2021*

County	City	Distribution	Testing	Non-storefront
Los Angeles	Baldwin Park	1		
	Bellflower	3		
	Canoga Park**	6		
	Chatsworth**	18	1	
	Commerce	10		9
	Cudahy	4		3
	Culver City	9		5
	El Monte	4		
	Gardena	3		
	Harbor City**	1		
	Huntington Park	1		
	Lancaster	4		
	Long Beach	59	2	
	Los Angeles	127	2	
	Lynwood	10		7
	Maywood	4		2
	Mission Hills**	1		
	Monrovia**		1	
	Montebello	6		8
	North Hills**	1		
	North Hollywood**	18	1	
	Northridge**	6	1	
	Pacoima**	10		
	Panorama City**	5		
	Pasadena		1	
	Reseda**	2		
	San Fernando	2		
	Sherman Oaks**	1		
	Studio City**	2		
	Sun Valley**	21		
	Sylmar**	7	1	
	Tarzana**	1		
	Torrance	2		
	Tujanga**	1		
Van Nuys**	26			
Venice**	1			
Vernon	2			
West Hollywood	1			
Wilmington**	1			
	Total	381	10	34
Imperial	Brawley	2		1
	Calexico	5		3
		Total	7	
Orange	Costa Mesa	16		
	Irvine		3	

CANNABIS LICENSES ISSUED BY THE STATE 2019-2021*

County	City	Distribution	Testing	Non-storefront
Orange	La Habra	3		
	Santa Ana	23	1	
	Total	42	4	
Riverside	Blythe	1		
	Cathedral City	19	1	
	Coachella	11	1	
	Desert Hot Springs	30		1
	Jurupa Valley	1		
	Moreno Valley	1		
	Palm Desert	3		1
	Palm Springs	13		1
	Perris	3		
	San Jacinto	1		
	Total	83	2	3
San Bernardino	Adelanto	35		
	Hesperia			19
	Needles	7		
	San Bernardino	1		
	Total	43		19
San Diego	La Mesa	1		
	Oceanside	1		1
	San Diego	24	3	
	Total	26	3	1
Ventura	Ojai	1		
	Point Hueneme			2
	Total	1		2
Grand Total		583	19	63

*Bureau of Cannabis Control 1-13-21

** Neighborhoods located in the City of Los Angeles

Mel Shannon

From: Sabrina Noah <sabrina.noah@crescolabs.com>
Sent: Monday, February 1, 2021 12:26 PM
To: Carlos Jaramillo
Subject: Re: River: Follow U

Good Morning Carlos,

Absolutely we are in support!

We are grateful to be a part of La Habra business community,

Sabrina Noah | Senior Vice President, Public Affairs
Office: (805) 324 - 7848
Mobile: (714) 553-4722
www.crescolabs.com

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From: Carlos Jaramillo <CJaramillo@lahabrac.gov>
Date: Monday, February 1, 2021 at 12:05 PM
To: Sabrina Noah <sabrina.noah@crescolabs.com>
Subject: RE: River: Follow U

Hi Sabrina,

Andrew and I will be recommending to the City Council a Cannabis Business Tax of 1.125% for Distribution Facilities per our conversations. Please confirm that you are in support of this % rate.

Thanks you,

Carlos

From: Sabrina Noah <sabrina.noah@crescolabs.com>
Sent: Monday, January 11, 2021 8:29 AM
To: Carlos Jaramillo <CJaramillo@lahabrac.gov>; Andrew Ho <andrewh@lahabrac.gov>

Cc: Henry Pilger <hpilger@trustcontinuum.com>; Adrian Lambie <Adrian.Lambie@crescolabs.com>

Subject: River: Follow U

Good Morning Carlos and Andrew,

Thank you so much for a productive and positive call last week!

As promised please find the attached document for your review.

We look forward to our next discussion.

Warm regards,

Sabrina Noah | Senior Vice President, Public Affairs

Office: (805) 324 - 7848

Mobile: (714) 553-4722

www.crescolabs.com

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Mel Shannon

From: Dana Cisneros <dana@cisnerosfirm.com>
Sent: Tuesday, January 26, 2021 1:33 PM
To: Andrew Ho; Carlos Jaramillo; Tony DeSimone
Subject: Tax Example

Purchase Price	2000
Sale from Distro to Retail	2100
Net Revenue	100
1.125% tax	\$24
Net Revenue to Distro	\$76
Effective tax	0.23625

****please note our new address below effective January 8, 2021****

Sincerely,

Dana Leigh Cisneros, Esq.
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Mel Shannon

From: Jacob Poozhikala <Jacob@jp23.com>
Sent: Monday, February 1, 2021 12:16 PM
To: Carlos Jaramillo
Subject: Re: Cannabis Business Tax-Distribution facilities

absolutely. Ty

On Mon, Feb 1, 2021, 12:12 PM Carlos Jaramillo <CJaramillo@lahabraca.gov> wrote:

Hi Jacob,

I assume you are in support of the proposed 1.125% Cannabis Tax Rate for Distribution facilities? Please confirm that is your position.

Thank you,

Carlos

From: Jacob Poozhikala <Jacob@jp23.com>
Sent: Thursday, January 21, 2021 2:13 PM
To: Carlos Jaramillo <CJaramillo@lahabraca.gov>; Andrew Ho <andrewh@lahabraca.gov>
Subject: Re: Cannabis Business Tax-Distribution facilities

To add to my feedback. The proposed rate also helps combat the un-licensed cannabis distributors by keeping costs down and competitive.

Sincerely,

Jacob Poozhikala

On Wed, Jan 20, 2021, 2:54 PM Carlos Jaramillo <CJaramillo@lahabraca.gov> wrote:

Hi Jacob,

As you know the voters in La Habra approved Measure W that will establish a set cannabis business tax rate on facilities permitted in La Habra. Andrew and I would like to speak with you tomorrow regarding the proposed rate we will very likely recommend to the City Council for distribution facilities. Are you available tomorrow to discuss? We have available 10:30 am, 11:00 am, 11:30 am, 1:30 pm, 2:00 pm, or 2:30 pm. Please let me know what time works best for you and a number we can call you at.

Thanks,

Carlos

Southern California Cannabis Business Tax Survey 2-10-21

County	City	Distribution	Testing	Non-storefront
San Diego	Chula Vista		7%	7% n/a
	Encinitas		15%	n/a 15%
	La Mesa		2%	1% 4%
	Lemon Grove		4%	4% 8%
	Oceanside		2%	n/a n/a
	San Diego		8%	8% 8%
	Vista		7%	7% 7%
Imperial	Calxico		15%	15% 15%
	Imperial City	n/a	n/a	n/a
	Imperial Co.		8%	8% 8%
Riverside	Banning		2%	1% n/a
	Blythe		2%	2% 2%
	Cathedral City		10%	10% 10%
	Coachella		2%	n/a 2%
	Desert Hot Springs		10%	10% 10%
	Jurupa Valley		2%	1% 6%
	Lake Elsinore			
	Moreno Valley		8%	8% 8%
	Palm Desert		15%	15% 15%
	Palm Springs		15%	15% 15%
	Perris		10%	n/a n/a
	Rancho Mirage	n/a	n/a	n/a
	Riverside			
	San Jacinto	SF	SF	15%
Orange	Costa Mesa		6%	6% 4%-7%
	Irvine	n/a	n/a	n/a
	Laguna Woods	n/a	n/a	n/a
	Santa Ana		6%	1% 8%
San Bernardino	Adelanto		5%	5% 5%
	Colton		10%	10% 10%
	Hesperia			4%
	Needles		10%	10% 10%
	San Bernardino		3%	2.50% 4%

Southern California Cannabis Business Tax Survey 2-10-21

County	City	Distribution	Testing	Non-storefront
Los Angeles	Artisia	15%	15%	15%
	Baldwin Park	n/a	n/a	n/a
	Bell City	n/a	n/a	n/a
	Bellflower	7.50%	7.50%	7.50%
	Calabasas	n/a	n/a	n/a
	Carson	18%	18%	18%
	Commerce	3%	1.50%	5%
	Cudahy	n/a	n/a	n/a
	Culver City	6%	1.50%	8%
	El Dorado	10%	5%	10%
	El Monte	5%	5%	9%
	Gardena	n/a	n/a	n/a
Los Angeles	Hawthorne	5%	5%	5%
	Huntington Park	SF	SF	SF
	Lakewood	n/a	n/a	n/a
	Lancaster	n/a	n/a	n/a
	La Puente	n/a	n/a	n/a
	Long Beach	6%	6%	8%
	Los Angeles	2%	1%	10%
	Lynwood	1.50%	2%	2.50%
	Malibu	2.50%	2.50%	2.50%
	Maywood	10%	10%	10%
	Montebello	n/a	n/a	2%
	Pasadena	1%	2%	2.50%
	Pomona	6%	6%	6%
	San Fernando	n/a	n/a	n/a
	San Gabriel	n/a	n/a	n/a
	Santa Monica	n/a	n/a	n/a
	Torrance	n/a	n/a	n/a
	Vernon			
West Hollywood	7.50%	7.50%	7.50%	
Ventura	Ojai	3%	3%	3%
	Oxnard	4%	4%	4%

Southern California Cannabis Business Tax Survey 2-10-21

County	City	Distribution	Testing	Non-storefront
Ventura	Port Hueneme		2% n/a	5%
	Santa Paula	n/a		10% n/a
	Thousand Oaks	n/a		6% 4%
	Ventura		2%	1% 4%
	Ventura Co.	n/a	n/a	n/a

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.

Rose Espinoza
Mayor

Attest:

Laurie Swindell, CMC
City Clerk

APPROVED AS TO FORM:

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

LEGAL NOTICE

Notice is hereby given that the City Council of the City of La Habra will hold a duly noticed public meeting on **Monday, April 5, 2021, at 6:30 p.m.** and a duly noticed public hearing on **Monday, May 17, 2021 at 6:30 p.m.** in the City Council Chamber, 100 East La Habra Boulevard, La Habra, California to consider the following item:

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

The proposed tax on cannabis businesses would be collected quarterly at rates at the following amounts based on the type of business:

- (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.

Estimated revenue generated by the tax would be \$1,000,000-\$2,000,000 annually.

All interested persons are invited to attend the above public hearing and be heard at the time and place specified above. Please call 562-383-4030 for information.

LA HABRA CITY COUNCIL
Laurie Swindell, CMC, City Clerk

Publish: March 26, April 16, and May 7, 2021
OC Register