



CITY OF HEMET
Hemet, California

RESOLUTION NO. 4827

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEMET, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A CITY-SPONSORED MEASURE SEEKING TO ESTABLISH A TAX ON CANNABIS BUSINESSES AND A VOTER-APPROVED PROHIBITION ON CANNABIS BUSINESSES THROUGH DECEMBER 31, 2020 AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018

WHEREAS, a citizen-proposed initiative named by the proponents as “An Act to Improve the City of Hemet by Locally Regulating and Taxing State-Licensed Commercial Cannabis Activity Other Than Retail Sales” (“Citizen Measure”) was submitted to the City and certified by the City Clerk as having the requisite number of petition signatures on March 22, 2018; and

WHEREAS, in accordance with the requirements of the laws of the State of California relating to general law cities, the City Council of the City of Hemet has declined to adopt the Citizen Measure without a vote of the people, and has instead determined to place the Citizen Measure before the qualified voters of the City of Hemet; and

WHEREAS, in response to concerns with the Citizen Measure, including that the Citizen Measure would allow cannabis businesses to operate without any discretionary approval from the City, contains minimal operational regulations for cannabis businesses, includes “priority” provisions that appear to give certain cannabis business operators an advantage over others, and includes a low tax rate that may not generate revenues sufficient to cover the increased costs the Citizen Measure would place on the City, the City has prepared an alternative measure that would establish a tax on

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cannabis businesses while maintaining the City's existing prohibition on cannabis businesses until at least December 31, 2020 and thereafter the prohibition may remain in place or the City Council may take legislative action to allow cannabis businesses in the City ("City Measure"); and

WHEREAS, the Elections Code of the State of California authorizes the City Council of the City of Hemet to order the special municipal election for the City Measure to be consolidated with the general election to be held on Tuesday, November 6, 2018.

NOW, THEREFORE, the City Council of the City of Hemet does hereby resolve, declare, determine and orders as follows:

1. That there shall be, and is hereby called and ordered to be held in the City of Hemet, California a special election for the purpose of submitting to the qualified electors of said City, the following City Measure:

Shall the City-sponsored measure be adopted establishing a tax on cannabis businesses at the maximum rates of 25% of gross revenues or \$30 / square foot of cultivation space, which will apply to illegally operating businesses and, if action is taken after December 31, 2020 to permit cannabis businesses, will apply to legally-established cannabis businesses, estimated to generate at least \$3,500,000 annually in perpetuity if cannabis businesses are permitted; and prohibiting cannabis businesses through December 31, 2020?	<input type="checkbox"/> Yes
	<input type="checkbox"/> No

2. That the proposed City Measure to be submitted to the qualified voters is attached hereto as Exhibit "A."
3. That the special election for the City Measure shall be, and is hereby ordered, consolidated with the general election to be held on Tuesday, November 6, 2018.
4. That the City Measure shall be designated on the ballot by a letter printed on the left margin of the square containing a description of the Measure, as provided by Section 13116 of the Elections Code.
5. That the City Measure and the Citizen Measure are competing measures and conflict with each other. Pursuant to Elections Code section 9221, in the event both measures receives a greater number of YES votes than NO votes, the

1 measure with the greater number of YES votes shall take effect and the measure
2 with the lesser number of YES votes shall be null and void.

3 6. That the ballots to be used at said election shall be in form and content as
4 required by law.

5 7. That the polls for said consolidated election shall be open at seven o'clock a.m.
6 on the day of the election, and shall remain open continuously from said time
7 until eight o'clock p.m. of the same day when said polls shall be closed, except
8 as provided in Section 14401 of the Elections Code of the State of California.

9 8. That in all particulars not recited in this resolution, said consolidated election
10 shall be held, conducted and canvassed as provided by law for holding municipal
11 elections in said city.

12 9. That the City Clerk of the City of Hemet is hereby authorized, instructed, and
13 directed to procure and furnish, through the Registrar of Voters for the County of
14 Riverside, any and all official ballots, notices, printed material and all supplies,
15 equipment and paraphernalia that may be necessary in order to properly and
16 lawfully conduct said election.

17 10. That the City shall reimburse the County Registrar of Voters for services
18 performed when the work is completed and upon presentation to the City of a
19 properly approved bill.

20 11. That the City Clerk is authorized, instructed and directed to give notice of the
21 election on the Measures pursuant to Elections Code section 12111, and any
22 other notices of the election in the manner required by law.

23 12. The City Clerk is hereby directed to submit to the City Attorney a certified copy of
24 the City Measure. The City Attorney is hereby authorized and directed to prepare
25 an impartial analysis of the City Measure showing the effect of the measure on
26 the existing law and operation of the measure, said analysis to be submitted by
27 the City Attorney to the Registrar of Voters or other appropriate office of the
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County of Riverside, for printing by the date set by City Clerk for the filing of arguments for and against the measure. The analysis shall not exceed 500 words in length and shall otherwise comply in all respects with the applicable provisions of the Elections Code of the State of California.

13. The City Clerk shall fix and determine a date for submission of arguments for or against the City Measure, and said date shall be posted in the Office of the City Clerk. Arguments for and against the City Measure may be filed in accordance with applicable provisions of law. The Council authorizes the Mayor to select two Council Members to draft and file a written argument for the City Measure and any rebuttal argument for the City Measure.

14. That the City Clerk is directed to forward without delay to the County Registrar of Voters, a certified copy of this resolution.


15. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 7th day of August, 2018


Michael Perciful, Mayor

ATTEST:

APPROVED AS TO FORM:


Sarah McComas, City Clerk


Eric S. Vail, City Attorney

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State of California)
County of Riverside)
City of Hemet)

I, Sarah McComas, City Clerk of the City of Hemet, do hereby certify that the foregoing Resolution is the actual Resolution adopted by the City Council of the City of Hemet and was passed at a regular meeting of the City Council on the 7th day of August 2018 by the following vote:

- AYES: Council Members Brown, Krupa, Wright and Mayor Perciful
- NOES:
- ABSTAIN:
- ABSENT: Mayor Pro Tem Meyer


Sarah McComas, City Clerk

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EXHIBIT A

CITY MEASURE



NOT OPERATIVE UNTIL ENACTED BY VOTERS

**CITY OF HEMET
Hemet, California
ORDINANCE NO. ____**

**AN ORDINANCE OF THE CITY OF HEMET,
CALIFORNIA, ESTABLISHING THE CITY OF
HEMET CANNABIS BUSINESS TAX TO
ENHANCE REVENUE STREAMS TO THE CITY
TO FUND CITY SERVICES TO THE
COMMUNITY AND PROHIBITING CANNABIS
BUSINESSES IN THE CITY THROUGH
DECEMBER 31, 2020**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5 and following, and entitled the Compassionate Use Act of 1996, which intended to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under limited, specified circumstances; and

WHEREAS, in 2004, the California legislature enacted Senate Bill 420, the Medicinal Marijuana Program (the "MMP"), which, as codified in California Health and Safety Code Section 11362.7 *et seq.*, was intended to clarify the CUA's scope and immunize from criminal prosecution, under specified state laws, certain activities and conduct related to the provision of medicinal marijuana to qualified patients; and

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, entitled the "Control, Regulate and Tax Adult Use of Marijuana Act," which legalizes and regulates recreational marijuana in California; and,

WHEREAS, the State has established an integrated licensing and regulatory system for both medicinal and recreational marijuana businesses consistent with Propositions 215 and 64 entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), codified in Business and Professions Code section 26000 *et seq.*; and,

WHEREAS, Business and Professions Code section 26200 expressly recognizes the ability of cities to completely prohibit all medicinal and recreational cannabis businesses or to regulate such businesses; and,

1 **WHEREAS**, despite the City's existing prohibition against all types of
2 marijuana facilities and commercial cannabis activity, codified in section 90-79 of
3 the Hemet Municipal Code, numerous illegal marijuana facilities have opened in the
4 City; and,

4 **WHEREAS**, the City has incurred significant costs and expenses associated
5 with shutting down illegal marijuana facilities and commercial cannabis activity; and,

5 **WHEREAS**, despite the City's aggressive enforcement of its existing
6 prohibition on marijuana facilities and commercial cannabis activity, individuals
7 continue to open new illegal businesses in the City; and,

7 **WHEREAS**, illegal marijuana facilities pose significant risks to the public
8 health and safety because such businesses are operated without regulatory
9 oversight to ensure that dangerous conditions, such as mold, electrical overload,
10 improper hazardous materials storage, and improper ventilation and odor control,
11 do not exist; and

10 **WHEREAS**, enacting, implementing, and maintaining a new regulatory
11 program allowing commercial cannabis activities, including enforcement of such a
12 regulations, has significant cost implications for the City's general fund which
13 cannot be matched by revenue from the City's existing general business tax
14 ordinance; and

13 **WHEREAS**, allowing commercial cannabis activity in the City, subject to
14 regulation and taxation, may lessen the financial burdens and public health and
15 safety risks caused by current illegally operated marijuana facilities; and,

15 **WHEREAS**, the City desires to establish a general tax on cannabis
16 businesses while keeping the existing prohibition on cannabis businesses in place
17 for a period of time sufficient to allow the City to conduct public meetings and
18 engagement to consider whether and to what extent cannabis businesses should
19 be permitted in the City and develop a proposed regulatory program for such
20 businesses for possible adoption by the City Council.

19 **THE PEOPLE AND THE CITY COUNCIL OF THE CITY OF HEMET DO
20 ORDAIN AS FOLLOWS:**

20 **SECTION 1: CANNABIS BUSINESSES PROHIBITED.**

21 The City of Hemet Ordinance No. 1925, codified in Section 90-79 of the
22 Hemet Municipal Code, prohibiting all medical marijuana facilities, non-medical
23 marijuana facilities, marijuana cultivation, and marijuana deliveries, shall remain in
24 full force and effect and shall not be amended, repealed, superseded, modified or
25 otherwise substantively changed through December 31, 2020 at 11:59 p.m. On
January 1, 2021 at 12:00 a.m. the prohibition on amending, modifying, repealing,
superseding or otherwise substantively changing Ordinance No. 1925 is lifted, and

1 the City Council may thereafter take legislative action to permit cannabis
2 businesses to operate in the City, subject to the tax contained in Section 2 of this
3 Ordinance, and/or continue to prohibit some or all cannabis businesses from
operating within the City.

4 **SECTION 2: TAXATION.**

5 A. Imposition of tax. Every cannabis business operating in the city shall
6 pay a cannabis business license tax established pursuant to Government Code
section 37101 solely to raise revenue for the general governmental purposes of the
city, in the following amounts:

7 1. Fifteen cents for each one dollar of gross receipts or fractional
8 part thereof received by a dispensary or any other type of cannabis business not
specifically listed below.

9 2. Twenty-five cents for each one dollar of gross receipts or
10 fractional part thereof received by a manufacturing business.

11 3. Thirty dollars per square foot of each cultivation business, not
12 including square footage that is not directly used in cannabis cultivation such as
offices, employee lunch/break rooms, restrooms, and storage areas for materials
13 not used in cultivation activities. The maximum rate for this cultivation tax shall
increase annually based on the Consumer Price Index for all urban consumers for
the Los Angeles-Riverside-Orange County metropolitan area.

14 The city council may impose the tax authorized by this paragraph A at a lower rate
15 and may establish exemptions, incentives, or other reductions, and penalties and
interest charges or assessments for failure to pay the tax in a timely manner. No
16 action by the city council to impose the tax at a lower rate shall prevent it from later
increasing the tax or removing any exemption, incentive, or reduction, and restoring
17 the maximum tax specified in this paragraph A.

18 C. Administration and Enforcement. The City Council may adopt an
19 ordinance or resolution establishing implementation and enforcement procedures
for the cannabis business tax established by this section 2. Any cannabis business
20 that operates illegally within the City shall pay to the City a penalty in an amount
equal to the amount of cannabis tax that the business should have paid, in addition
to any other penalties authorized under the law.

21 D. Definitions. For purposes of this section 2 the following terms have
22 the following definitions:

23 1. "Cannabis business" means any person engaged in
24 commercial cannabis activity as defined by MAUCRSA, as it may be amended from
time to time.

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2 2. "Gross receipts" shall have the same meaning as that term is
3 defined in Section 18-44 of the Hemet Municipal Code, as that section may be
4 amended from time to time.

5 3. "Person" means an individual, firm, partnership, joint venture,
6 association, corporation, limited liability company, estate, trust, business trust,
7 receiver, syndicate, or any other group or combination acting as a unit and includes
8 the plural as well as the singular number.

9 E. Taxation Does Not Authorize Activity. This Ordinance does not
10 authorize the conduct of any business or activity in the city, but provides for the
11 taxation of such businesses or activities as they occur. Nothing in this Ordinance
12 shall be interpreted to authorize or permit any business activity that would not
13 otherwise be legal or permissible under laws applicable to the activity at the time
14 the activity is undertaken. The tax established by this Ordinance is payable
15 regardless of whether the business has been issued a permit to operate lawfully in
16 the city or is operating unlawfully. The city's acceptance of a cannabis tax payment
17 from a cannabis business operating illegally will not constitute the City's approval or
18 consent to such illegal operations.

19 **SECTION 3: CONFLICTING INITIATIVE ORDINANCE**

20 This Ordinance conflicts with any other initiative Ordinance that appears on
21 the same election ballot for the City of Hemet proposing to permit cannabis
22 businesses to operate in the City subject to taxation and regulation. In the event
23 that this Ordinance receives a greater number of affirmative votes than the
24 conflicting initiative Ordinance, the provisions of this Ordinance shall prevail in their
25 entirety and the conflicting initiative Ordinance shall be null and void.

26 **SECTION 4: CEQA**

27 This Ordinance is not a project subject to CEQA review. CEQA Guideline
28 15378(b) provides "the creation of government funding mechanisms or other
29 government fiscal activities, which do not involve any commitment to any specific
30 project which may result in a potentially significant physical impact on the
31 environment" are not projects subject to CEQA review.

32 **SECTION 5: SEVERABILITY; AMENDMENT**

33 A. If any part or provision of this ordinance, or the application of this
34 ordinance to any person or circumstance, is held invalid, the remainder of this
35 ordinance, including the application of such part or provisions to other persons or
36 circumstances, shall not be affected by such a holding and shall continue in full
37 force and effect. To this end, the provisions of this ordinance are severable.

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B. Notwithstanding any other provision of this Ordinance, the City Council is authorized to adopt ordinances and regulations that conflict with and supersede provisions of this Ordinance to the extent necessary for the City's ordinances and regulations applicable to cannabis businesses to be consistent with MAUCRSA, as it may be amended from time to time and interpreted by courts of competent jurisdiction, and any other laws of the State of California applicable to cannabis businesses.

SECTION 6: ELECTION REQUIRED; EFFECTIVE DATE.

This ordinance shall be submitted to the voters at the regular municipal election to be held on November 6, 2018. This ordinance shall not become operative unless and until a majority of the electors voting on the measure vote to approve this ordinance, in which case this ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF HEMET AT THE REGULAR MUNICIPAL ELECTION HELD ON THE 6TH DAY OF NOVEMBER, 2018.

Michael Perciful, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah McComas, City Clerk

Eric S. Vail, City Attorney