



**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 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
13 offices, employee lunch/break rooms, restrooms, and storage areas for materials
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
16 interest charges or assessments for failure to pay the tax in a timely manner. No
17 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
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
20 for the cannabis business tax established by this section 2. Any cannabis business
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.

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

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

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

11 **SECTION 3: CONFLICTING INITIATIVE ORDINANCE**

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

16 **SECTION 4: CEQA**

17 This Ordinance is not a project subject to CEQA review. CEQA Guideline
18 15378(b) provides “the creation of government funding mechanisms or other
19 government fiscal activities, which do not involve any commitment to any specific
project which may result in a potentially significant physical impact on the
environment” are not projects subject to CEQA review.

20 **SECTION 5: SEVERABILITY; AMENDMENT**

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

24 B. Notwithstanding any other provision of this Ordinance, the City
Council is authorized to adopt ordinances and regulations that conflict with and
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1 supersede provisions of this Ordinance to the extent necessary for the City's
2 ordinances and regulations applicable to cannabis businesses to be consistent with
3 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.

4 **SECTION 6: ELECTION REQUIRED; EFFECTIVE DATE.**

5 This ordinance shall be submitted to the voters at the regular municipal
6 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
7 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.

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

11 _____
Michael Perciful, Mayor

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13 **ATTEST:**

APPROVED AS TO FORM:

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15 _____
Sarah McComas, City Clerk

16 _____
Eric S. Vail, City Attorney

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