ORDINANCE NO. 559

AN ORDINANCE OF THE PEOPLE OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, AMENDING TITLE 3 "REVENUE AND FINANCE" OF THE DESERT HOT SPRINGS MUNICIPAL CODE TO ADD CHAPTER 3.33 "MARIJUANA CULTIVATION TAX" AND CHAPTER 3.35 "MEDICAL MARIJUANA CULTIVATION TAX" TO IMPLEMENT AN ANNUAL TAX OF TWENTY-FIVE DOLLARS ($25.00) PER SQUARE FOOT FOR THE FIRST 3,000 SQUARE FEET AND THEN TEN DOLLARS ($10.00) PER SQUARE FOOT FOR THE REMAINING SPACE UTILIZED IN CONNECTION WITH THE CULTIVATION OF MARIJUANA FOR MEDICAL OR CASUAL/RECREATIONAL USE FOR THE PURPOSE OF RAISING REVENUE TO FUND GENERAL MUNICIPAL SERVICES

THE PEOPLE OF THE CITY OF DESERT HOT SPRINGS ORDAIN AS FOLLOWS:

Section 1. Marijuana Cultivation Tax

That Title 3 "Revenue and Finance" of the Desert Hot Springs Municipal Code is hereby amended as follows:

Chapter 3.33

MARIJUANA CULTIVATION TAX

3.33.005 Imposition of Tax.

In the event the cultivation of marijuana for casual/recreational use is legalized or decriminalized in California, any person or entity cultivating marijuana for casual/recreational use in the City shall pay an annual tax of twenty-five dollars ($25.00) per square foot for the first 3,000 square feet and then ten dollars ($10.00) per square foot for the remaining space utilized in connection with the cultivation of marijuana for casual/recreational use.

3.33.010 Purpose of Tax.

The purpose of this tax is to raise revenue to fund general municipal services.

3.33.020 Customers.

This tax shall not be specifically charged or assessed to any customer or consumer. Payment and remittance of the tax to the City shall solely be the responsibility of the person or entity authorized to legally cultivate marijuana within the City.

3.33.030 Space.

"Space utilized in connection with the cultivation of marijuana shall mean any space or ground, floor or other surface area (whether horizontal or vertical) which is used during the marijuana germination, seedling, vegetative, pre-flowering, flowering and harvesting phases, including without limitation any space used for activities such as growing, planting, seeding, germinating, lighting, warming, cooling, aerating, fertilizing, watering, irrigating, topping, pinching, cropping,

curing or drying marijuana or any such space used for storing any products, supplies or equipment related to any such activities, no matter where such storage may take place or such storage space may be located.

3.33.040 Annual Adjustment.

The taxes imposed by this chapter shall be adjusted annually beginning on July 1, 2015, and July 1 of each succeeding year based on the Consumer Price Index ("CPI) for all urban consumers in the Los Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics; however, no adjustment shall decrease any tax imposed by this chapter, unless approved by the City Council.

3.33.050 Remittance.

The taxes imposed by this chapter shall be remitted to the City biennially, on or before December 31 and June 30 every year.

3.33.060 Modification, Repeal or Amendment.

The City Council may repeal this chapter, or amend it in a manner which does not result in an increase in the amount of the tax or broaden the scope of the tax imposed herein, without further voter approval. If the City Council repeals any provision of this chapter, it may subsequently reenact it without voter approval, as long as the reenacted provision does not result in an increase in the amount of the tax or broaden the scope of the tax imposed herein.

3.33.070 Administration.

The City Manager, or designee, and/or the City Council by ordinance, may promulgate regulations to implement and administer the provisions of this chapter.

3.33.080 Penalties.

Any entity that fails to pay the taxes required by this chapter within thirty (30) days after the due date shall pay in addition to the taxes a penalty for nonpayment in a sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty five percent (25%) penalty if the tax remains unpaid -- up to a maximum of one hundred percent (100%) of the tax payable on the due date. Receipt of the tax payment by the City shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

3.33.090 Additional Penalties.

Any violation of this chapter shall constitute a public nuisance and infraction pursuant to the provisions of Chapters 4.16 and 4.28 of this Municipal Code.

3.33.100 Records Inspection.

Whenever it is necessary to examine any books or records, including tax returns, of any entity subject to the provisions of this chapter, to ascertain the amount of any tax due pursuant to this chapter, the City shall have the power and authority to examine such necessary books and

records at any reasonable time including, but not limited to, during normal business hours. Records must be maintained for at least seven (7) years.

3.33.110 Application of Provisions.

No payment of any tax required under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter implies or authorizes that any activity connected with the cultivation, possession or provision of marijuana is legal unless otherwise authorized and allowed by the State of California and permitted by the City.

3.33.120 Operative Date.

This tax shall become operative commencing upon the effective date of an ordinance permitting persons and entities to cultivate and sell, distribute, exchange, deliver or provide marijuana within the jurisdictional boundaries of the City of Desert Hot Springs.

Section 2. Medical Marijuana Cultivation Tax

That Title 3 "Revenue and Finance" of the Desert Hot Springs Municipal Code is hereby amended as follows:

Chapter 3.35

MEDICAL MARIJUANA CULTIVATION TAX

3.35.005 Imposition of Tax.

Every medical marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity legally cultivating medical marijuana in the City, consistent with the provisions of the Medical Marijuana Program Act (California Health & Safety Code § 11362.5 *et seq.*), shall pay an annual tax of twenty-five dollars ($25.00) per square foot for the first 3,000 square feet and then ten dollars ($10.00) per square foot for the remaining space utilized in connection with the cultivation of marijuana for medical use.

3.35.010 Purpose of Tax.

The purpose of this tax is to raise revenue to fund general municipal services.

3.35.020 Qualified Patients and Caregivers.

This tax shall not be specifically charged or assessed to any qualified patient or primary caregiver. Payment and remittance of the tax to the City shall solely be the responsibility of the medical marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity, that is authorized to legally cultivate medical marijuana, within the City, consistent with the provisions of the Medical Marijuana Program Act (California Health & Safety Code § 11362.5 *et seq.*).

3.35.030 Medical Marijuana Program Act.

Unless otherwise specifically provided in this chapter, the words, terms and phrases used in this chapter shall have the same meanings set forth in the Medical Marijuana Program Act (California Health & Safety Code § 11362.5 *et seq.*)

3.35.040 Space.

"Space utilized in connection with the cultivation of medical marijuana shall mean any space or ground, floor or other surface area (whether horizontal or vertical) which is used during the marijuana germination, seedling, vegetative, pre-flowering, flowering and harvesting phases, including without limitation any space used for activities such as growing, planting, seeding, germinating, lighting, warming, cooling, aerating, fertilizing, watering, irrigating, topping, pinching, cropping, curing or drying marijuana or any such space used for storing any products, supplies or equipment related to any such activities, no matter where such storage may take place or such storage space may be located.

3.35.050 Annual Adjustment.

The taxes imposed by this chapter shall be adjusted annually beginning on July 1, 2015, and July 1 of each succeeding year based on the Consumer Price Index ("CPI) for all urban consumers in the Los Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics; however, no adjustment shall decrease any tax imposed by this chapter, unless approved by the City Council.

3.35.060 Remittance.

The taxes imposed by this chapter shall be remitted to the City biennially, on or before December 31 and June 30 every year.

3.35.070 Modification, Repeal or Amendment.

The City Council may repeal this chapter, or amend it in a manner which does not result in an increase in the amount of the tax or broaden the scope of the tax imposed herein, without further voter approval. If the City Council repeals any provision of this chapter, it may subsequently reenact it without voter approval, as long as the reenacted provision does not result in an increase in the amount of the tax or broaden the scope of the tax imposed herein.

3.35.080 Administration.

The City Manager, or designee, and/or the City Council by ordinance, may promulgate regulations to implement and administer the provisions of this chapter.

3.35.090 Penalties.

Any entity that fails to pay the taxes required by this chapter within thirty (30) days after the due date shall pay in addition to the taxes a penalty for nonpayment in a sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty five percent (25%) penalty if the tax remains unpaid -- up to a maximum of one hundred percent (100%) of the tax payable on the due date. Receipt of the

tax payment in the office shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

3.35.100 Additional Penalties.

Any violation of this chapter shall constitute a public nuisance and infraction pursuant to the provisions of Chapters 4.16 and 4.28 of this Municipal Code.

3.35.110 Records Inspection.

Whenever it is necessary to examine any books or records, including tax returns, of any entity subject to the provisions of this chapter, to ascertain the amount of any tax due pursuant to this chapter, the City shall have the power and authority to examine such necessary books and records at any reasonable time including, but not limited to, during normal business hours. Records must be maintained for at least seven (7) years.

3.35.120 Application of Provisions.

No payment of any tax required under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter implies or authorizes that any activity connected with the cultivation, possession or provision of marijuana is legal unless otherwise authorized and allowed by the State of California for medical purposes and permitted by the City.

3.35.130 Operative Date.

This tax shall become operative commencing upon the effective date of an ordinance permitting marijuana collectives, cooperatives, dispensaries, operators, establishments, providers or other type of entities to sell, distribute, exchange, deliver, provide or dispense medical marijuana within the jurisdictional boundaries of the City of Desert Hot Springs.

Section 3. APPROPRIATIONS LIMIT

That pursuant to Article XIIIB of the California Constitution, the appropriation limit for the City of Desert Hot Springs is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

Section 4. SEVERABILITY

That should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 5. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

Section 6. **AMENDING OF BAIL SCHEDULE**

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 7. **CERTIFICATION**

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

Section 8. **EFFECTIVE DATE**

That this ordinance shall take effect ten (10) days following the City Council's certification of the results of the November 4, 2014 election.

PASSED AND ADOPTED by the People of the City of Desert Hot Springs at a special election held on November 4, 2014.

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ATTEST

Jeryl Soriano, City Clerk

APPROVED

Adam Sanchez, Sr., Mayor

APPROVED AS TO FORM:

Steven B. Quintanilla, City Attorney