

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

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 3.37 "MEDICAL MARIJUANA TAX" IMPLEMENTING A MONTHLY \_\_\_\_\_ PERCENT (\_\_\_%) TAX ON THE PROCEEDS FROM THE SALE/PROVISION OF MEDICAL MARIJUANA FOR THE PURPOSE OF FUNDING GENERAL MUNICIPAL SERVICES

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

**Section 1.**                      **Medical Marijuana Tax**

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

**Chapter 3.37**

**MEDICAL MARIJUANA TAX**

**3.37.005              Imposition of Tax.**

Every medical marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity legally selling or providing medical marijuana within the City, consistent with the provisions of the Medical Marijuana Program Act (California Health & Safety Code § 11362.5 *et seq.*) shall pay to the City a monthly tax of \_\_\_\_\_ percent (\_\_\_%) of its proceeds from such sales or provision.

**3.37.010              Purpose.**

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

**3.37.020              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 sell or provide medical marijuana in the City, consistent with the provisions of the Medical Marijuana Program Act (California Health & Safety Code § 11362.5 *et seq.*).

**3.37.037              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.*)

#### **3.37.040      Legally Selling or Providing.**

“Legally selling or providing” shall mean any marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity authorized by City ordinance to sell, distribute, exchange, deliver, provide or dispense medical marijuana within the jurisdictional boundaries of the City of Desert Hot Springs.

#### **3.37.050      Proceeds.**

“Proceeds” shall mean gross receipts of any kind, including without limitation, membership dues; the value of in-kind contributions, exchanges, bartered goods or services; the value of volunteer work; reimbursements provided by members regardless of form; cash payments; and anything else of value obtained by any medical marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity for legally selling or providing medical marijuana in the City, consistent with the provisions of the Medical marijuana Program Act (California Health & Safety Code § 11362.5 *et seq.*).

#### **3.37.060      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.

#### **3.37.070      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.

#### **3.37.080      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.

#### **3.37.090      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.

#### **3.37.100      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 at least seven (7) years.

### **3.37.110      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 for medical purposes and permitted by the City.

### **3.37.120      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 2.                      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 3.                      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 4.                      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 5.                      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 6.                      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 7.                      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.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk

\_\_\_\_\_  
Adam Sanchez, Sr., Mayor

**APPROVED AS TO FORM:**

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Steven B. Quintanilla, City Attorney