

RESOLUTION NO. 2015- 050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, CREATING AN EMERGENCY RESERVE FUND POLICY

WHEREAS, in November 2014, the Desert Hot Springs voters approved a Medical Marijuana Dispensary Tax (Measure HH) and a Medical Marijuana Cultivation Tax (Measure II) and

WHEREAS, Measure HH requires every medical marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity legally selling or providing medical marijuana within the City of Desert Hot Springs, in accordance with permits issued pursuant to Ordinance No. 552 and Ordinance No. 553, to pay to the City a monthly tax of 10% of its proceeds from such sales or provision of medical marijuana; and

WHEREAS, the Measure HH 10% tax is due on or before the last day of each calendar month for the total 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; and

WHEREAS, in addition to the Measure HH 10% tax, Measure II requires every medical marijuana collective, cooperative, dispensary, operator, establishment, provider or other type of entity legally cultivating medical marijuana in the City of Desert Hot Springs, in accordance with permits issued pursuant to Ordinance No. 552 and Ordinance No. 553, to pay to the City for the space utilized in connection with the cultivation of marijuana for medical use an annual tax of \$25 per square foot for the first 3,000 square feet, and then \$10 per square foot for the remaining space utilized in connection with the cultivation of marijuana for medical use; and

WHEREAS, "space utilized in connection with the cultivation of medical marijuana" as set forth in Measure II cultivation tax means 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; and

WHEREAS, the Measure II cultivation tax filings must be remitted to the City biennially, on or before December 31st and June 30th every year; and

WHEREAS, in the event casual or recreational use of marijuana is legalized, its sales/provision and cultivation shall be subject to taxation under Measure HH and Measure II, respectively; and

WHEREAS, the City Council wants to use a portion of the proceeds of the tax revenue collected pursuant to Measure HH and Measure II to create and maintain a separate emergency reserve fund account, commonly known as a "rainy day fund" for the purpose of sustaining General Fund operations in the case of an emergency; and

WHEREAS, the Government Finance Officers Association & Government Accounting Standards Board recommend a formal written policy for reserves.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Desert Hot Springs as follows:

Section 1. Recitals

That the recitals set forth hereinabove are true and correct.

Section 2. Creation and Purpose

That an Emergency Reserve Fund is hereby created for the purpose of sustaining General Fund operations in the case of an emergency.

Section 3. Source of Funding

That at least 25 percent of the proceeds of the tax revenue collected by the City pursuant to Measure HH and Measure II shall be deposited in the Emergency Reserve Fund.

Section 4. Policies and Procedures

That the Emergency Reserve Fund shall be maintained and administered pursuant to the policies and procedures set forth below:

**EMERGENCY RESERVE FUND
POLICIES AND PROCEDURES**

Restricted Fund

The Emergency Reserve Fund may be expended by a four-fifths (4/5th) vote of the entire City Council for the purpose of sustaining the City's General Fund operations in the case of a fiscal/financial emergency.

Source of Funding

At least 25 percent of the proceeds of the tax revenue collected by the City pursuant to Measure HH and Measure II shall be deposited in the Emergency Reserve.

Deposits/Transfers

Deposits and transfers of the requisite percentage of Measure HH and Measure II tax revenue proceeds into the Emergency Reserve Fund shall occur after the annual audit of the City's financial transactions and records has been finalized and received and filed by the City Council.

Fiscal/Financial Emergency

A fiscal/financial emergency means that the financial state of the City is in such a condition that the City is or will be unable to pay its general obligations within the next 60 days and that such condition jeopardizes the health, safety, or well-being of the residents of the City.

Periodic Reporting

The cash balance of the Emergency Reserve Fund shall be reported/reflected in the City's annual audit of the City's financial transactions and records, the City's annual budget and in any midyear and other periodic adjustments or reviews of the City's budget.

Section 5. Severability

That should any provision, section, paragraph, sentence or word of this Resolution 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 Resolution as hereby adopted shall remain in full force and effect.

Section 6. Repeal of Conflicting Resolutions

That all the provisions of any existing resolution as heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 7. Effective Date

That this Resolution shall take effect upon its adoption.

Section 8. Passage and Adoption

That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original resolutions of the City of Desert Hot Springs; and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of City of Desert Hot Springs, in the minutes of the meeting at which the same is passed and adopted.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the 20th day of October, 2015 by the following vote:

AYES: 4 – Betts; Matas; Pye; and Mayor Sanchez.

NAYS: None.

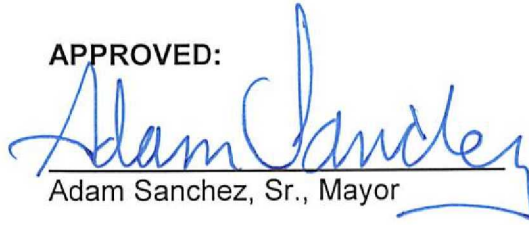
ABSENT: 1 – McKee.

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:


Jerryl Soriano, CMC, City Clerk

APPROVED:


Adam Sanchez, Sr., Mayor

APPROVED AS TO FORM:


Steven B. Quintanilla, City Attorney