

**CITY OF HERMOSA BEACH
RESOLUTION NO. 22-**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, CALLING FOR THE PLACEMENT OF A MEASURE ON THE BALLOT FOR THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF AN ORDINANCE ADDING CHAPTER 3.44 TO TITLE 3 (REVENUE AND FINANCE) OF THE HERMOSA BEACH MUNICIPAL CODE, ESTABLISHING A LOCAL BUSINESS TAX ON CANNABIS BUSINESSES OPERATING WITHIN THE CITY OF HERMOSA BEACH AND REQUESTING THE BOARD OF SUPERVISORS RENDER THE ELECTION CONSOLIDATION SERVICES ADOPTED IN RESOLUTION NO. 22-7317 FOR THIS MEASURE

WHEREAS, pursuant to California Government Code sections 37100.5 and 37101, the City of Hermosa Beach has the authority to establish a local business tax upon cannabis businesses that engage in business in the City; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has authority to place propositions on the ballot to be considered at a Municipal Election; and

WHEREAS, the City Council desires to submit to the voters an ordinance establishing both (i) a maximum 15% local general tax on the gross receipts received by any cannabis business through its operations and/or manufacturing; and (ii) a maximum \$20.00 per square foot local general tax on the space utilized at such a business for cannabis cultivation; and

WHEREAS, the proposed cannabis business tax is a general tax the proceeds of which would be deposited into the City's general fund and which would pay for important City services such as law enforcement, street operations and maintenance, library services, parks and recreation services and general municipal services to the public; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIII C), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, the next regularly scheduled general election at which City Council members are to be elected is November 8, 2022; and

WHEREAS, pursuant to Government Code section 53724 ("Proposition 62"), a two-thirds (2/3) vote of all members of the City Council is required to place the Measure on the November 8, 2022 ballot; and

WHEREAS, the specific terms relating to the cannabis business tax are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit "B" (the "Ordinance" or "Measure") and by this reference made an operative part hereof, and in accordance with all applicable laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are hereby incorporated and made an operative part of this Resolution.

SECTION 2. Submission of Ballot Measure. The City Council, pursuant to its right and authority as contained in California Propositions 62 and 218 and Elections Code section 9222, by a two-thirds vote of all members, hereby orders the Ordinance attached hereto as Exhibit "A" to be submitted to the qualified voters of the City at the General Municipal Election to be held on **Tuesday, November 8, 2022**. The proposed Ordinance shall be in the form attached hereto as Exhibit "B" to this Resolution and is incorporated by this reference as if fully set forth herein.

SECTION 3. Ballot Measure. The City Council, pursuant to its right and authority, does hereby order that the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the Regular Municipal Election to be held on Tuesday, November 8, 2022, in addition to any other matters required by law, there shall be printed substantially the following:

Shall an ordinance be adopted enacting a local business tax on cannabis/hemp businesses up to \$20.00 per square foot for cultivation and up to 15% of gross receipts for all other cannabis/hemp businesses, estimated to generate \$1,050,000 - \$2,250,000 annually (assuming two retail stores operating and taxed at maximum rate), until ended by voters, for general governmental use, subject to independent audits, to be effective only if cannabis business operations are allowed in the City?	Yes
	No

SECTION 4. Conduct of Election. The City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5. Notice of the Election. Notice of the election is hereby given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 6. Placement on the Ballot. The full text of the Measure shall not be printed in the Sample Ballot Booklet, and a statement shall be printed on the ballot pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of this Ordinance/Measure at no cost, upon request made to the City Clerk.

SECTION 7. Consolidation with Los Angeles County. The City of Hermosa Beach respectfully requests that the election consolidation services, outlined in Resolution No. 22-7317, attached hereto as "Exhibit A," include this measure.

SECTION 8. Filing with County. The City Clerk shall, not later than the 88th day prior to the General Municipal Election to be held on Tuesday, November 8, 2022, file with the Los Angeles Registrar-Recorder/County Clerk a certified copy of this Resolution and enter it into the book of original resolutions, including the Ordinance/Measure attached hereto as Exhibit "B."

SECTION 9. Public Examination. Pursuant to California Elections Code section 9295, this Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

SECTION 10. CEQA. The City Council hereby finds and determines that the ballot measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 11. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution

which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 12. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

SECTION 13. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Hermosa Beach, California, at a regular meeting held on this 26th day of July, 2022.

Michael Detoy

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, CA

ATTEST:

APPROVED AS TO FORM:

Myra Maravilla
City Clerk

Michael Jenkins
City Attorney

Exhibit “A”

Resolution No. 7317 - Requesting Consolidation Services From
Los Angeles County

[attached behind this page]

**CITY OF HERMOSA BEACH
RESOLUTION 22-7317**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD IN THE COUNTY OF LOS ANGELES THE SAME DAY; TO AUTHORIZE THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CANVASS THE RETURNS OF SAID GENERAL MUNICIPAL ELECTION; AND TO REQUEST THAT THE REGISTRAR-RECORDER/COUNTY CLERK OF SAID COUNTY BE PERMITTED TO RENDER FULL SERVICES TO THE CITY OF HERMOSA BEACH RELATING TO THE CONDUCT OF SAID GENERAL MUNICIPAL ELECTION PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10403

WHEREAS, a General Municipal Election has been called by the City of Hermosa Beach to be held in the City of Hermosa Beach on November 8, 2022; and,

WHEREAS, a Statewide General Election to be held in the County of Los Angeles has been or will be called to be held on November 8, 2022; and,

WHEREAS, it is desired, pursuant to the authority found in California Elections Code section 10403, to consolidate said General Municipal Election with said Statewide General Election to be held in the County of Los Angeles;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermosa Beach as follows:

SECTION 1: The Board of Supervisors of the County of Los Angeles is hereby respectfully requested to order the consolidation of said General Municipal Election to be held on November 8, 2022, with the Statewide General Election to be held in the County of Los Angeles on November 8, 2022.

SECTION 2: The Board of Supervisors of the County of Los Angeles is hereby further respectfully requested to place upon the same ballot as that provided

for said Statewide General Election to be held in the County of Los Angeles on November 8, 2022, the names of the candidates for the offices of

Councilmember, Full Term
Councilmember, Full Term
Councilmember, Full Term

to be submitted to the electors of the City of Hermosa Beach at said General Municipal Election.

SECTION 3: The City of Hermosa Beach acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418 of the California Elections Code.

SECTION 4: The Registrar-Recorder/County Clerk of the County of Los Angeles acknowledges that an estimate was given to the City of Hermosa Beach on the costs of the consolidated election. Should the costs exceed twenty percent of the estimation, the Registrar-Recorder/County Clerk of the County of Los Angeles will notify the City of Hermosa Beach in writing.

SECTION 5: The Board of Supervisors of the County of Los Angeles is hereby authorized and respectfully requested to canvass the returns of said General Municipal Election.

SECTION 6: The Board of Supervisors of the County of Los Angeles is hereby authorized and respectfully requested to authorize and permit the Registrar-Recorder/County Clerk of the County of Los Angeles to:

- a) Print and supply ballots for said City of Hermosa Beach General Municipal Election;
- b) Mail the City's sample ballots and candidate statements of qualifications to the electors of the City of Hermosa Beach as part of the same material that will be mailed to the voters of the Statewide General Election to be held in the County of Los Angeles;
- c) Perform such other services as may be required for the consolidation and conduct of said City of Hermosa Beach General Municipal Election with said Statewide General Election to be held in the County of Los Angeles.

SECTION 7: The vote centers for the election shall be open as required during the identified voting period pursuant to California Elections Code sections 4007 and 14401.

SECTION 8: The City shall reimburse the County of Los Angeles in full for the services performed on behalf of the City upon the presentation of a bill by the County.

SECTION 9: The City Clerk is hereby directed to deliver a certified copy of this resolution to the Board of Supervisors of the County of Los Angeles and to transmit an electronic copy to the Board of Supervisors and the Registrar-Recorder/County Clerk of the County of Los Angeles.

PASSED, APPROVED and ADOPTED this 14th day of June 2022.



PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, CA

ATTEST:

APPROVED AS TO FORM:



Myra Maravilla
City Clerk



Michael Jenkins
City Attorney

State of California)
County of Los Angeles) ss
City of Hermosa Beach)

June 16, 2022

Certification of Council Action

RESOLUTION NO. 22-7317

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD IN THE COUNTY OF LOS ANGELES THE SAME DAY; TO AUTHORIZE THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CANVASS THE RETURNS OF SAID GENERAL MUNICIPAL ELECTION; AND TO REQUEST THAT THE REGISTRAR-RECORDER/COUNTY CLERK OF SAID COUNTY BE PERMITTED TO RENDER FULL SERVICES TO THE CITY OF HERMOSA BEACH RELATING TO THE CONDUCT OF SAID GENERAL MUNICIPAL ELECTION PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10403

I, Myra Maravilla, City Clerk of the City of Hermosa Beach do hereby certify that the above and foregoing **Resolution 22-7317** was duly approved and adopted by the City Council of said City at its regular meeting thereof held on the **14th day of June, 2022** and passed by the following vote:

**AYES: MAYOR DETOY, MAYOR PRO TEMPORE JACKSON, COUNCILMEMBERS
 ARMATO, CAMPBELL, MASSEY**

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



Myra Maravilla
City Clerk

EXHIBIT "A"

Cannabis Tax Ordinance

[attached behind this page]

**CITY OF HERMOSA BEACH
ORDINANCE NO. 22-**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, ADDING CHAPTER 3.44 (CANNABIS BUSINESS TAX) TO
TITLE 3 (REVENUE AND FINANCE) OF THE HERMOSA BEACH MUNICIPAL
CODE ESTABLISHING A TAX ON CANNABIS BUSINESSES OPERATING
WITHIN THE CITY OF HERMOSA BEACH**

**NOW THEREFORE, THE PEOPLE OF THE CITY OF HERMOSA BEACH DO ORDAIN
AS FOLLOWS:**

SECTION 1. Subject to the approval of a majority of the voters of the City of Hermosa Beach at the Regular Municipal Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Chapter 3.44 (Cannabis Business Tax) is hereby added to Title 3 (Revenue and Finance) of the Hermosa Beach Municipal Code to read as follows:

"Chapter 3.44 CANNABIS BUSINESS TAX

- 3.44.010 Title.
- 3.44.020 Authority and purpose.
- 3.44.030 Intent.
- 3.44.040 Definitions.
- 3.44.050 Tax imposed.
- 3.44.060 Registration, reporting, and remittance of tax.
- 3.44.070 Payments and communications — timely remittance.
- 3.44.080 Payment — when taxes deemed delinquent.
- 3.44.090 Notice not required by City.
- 3.44.100 Penalties and interest.
- 3.44.110 Refunds and credits.
- 3.44.120 Refunds and procedures.
- 3.44.130 Personal cultivation not taxed.
- 3.44.140 Administration of the tax.
- 3.44.150 Appeal procedure.
- 3.44.160 Enforcement — action to collect.
- 3.44.170 Apportionment.
- 3.44.180 Constitutionality and legality.
- 3.44.190 Audit and examination of premises and records.
- 3.44.200 Other licenses, permits, taxes or charges.
- 3.44.210 Payment of tax does not authorize unlawful business.
- 3.44.220 Deficiency determinations.
- 3.44.230 Failure to report — nonpayment, fraud.
- 3.44.240 Tax assessment — notice requirements.
- 3.44.250 Tax assessment — hearing, application, and determination.

- 3.44.260 Conviction for violation — taxes not waived.
- 3.44.270 Violation deemed misdemeanor.
- 3.44.280 Severability.
- 3.44.290 Remedies cumulative.
- 3.44.300 Amendment or repeal.

3.44.010 Title.

This ordinance shall be known as the Cannabis Business Tax Ordinance.

3.44.020 Authority and Purpose.

The purpose of this Ordinance is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon cannabis businesses that engage in business in the City. The Cannabis Business Tax is levied based upon business gross receipts except for commercial cannabis or industrial hemp cultivation which shall be taxed on square footage. It is not a sales and use tax, a tax upon income, or a tax upon real property. The Cannabis Business Tax is a general tax enacted solely for unrestricted general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and be available for any lawful municipal purpose. The tax established under this Chapter shall not be separately identified or otherwise specifically assessed or charged to any customer or client of a cannabis business.

3.44.030 Intent.

The intent of this Ordinance is to levy a tax on all cannabis or industrial hemp businesses that operate in the City, regardless of whether such business would have been legal at the time this chapter was adopted. Nothing in this chapter shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

3.44.040 Definitions.

The following words and phrases shall have the meanings set forth below when used in this chapter:

A. "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

B. "Calendar year" means January 1 through December 31, of the same year.

C. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" shall not include "industrial hemp," unless otherwise specified.

D. "Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means cannabis products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medicinal cannabis products.

E. "Canopy" means all areas occupied by any portion of a cannabis or industrial hemp plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area.

F. "Cannabis business" means any business involving cannabis or industrial hemp, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, cannabis products, industrial hemp, industrial hemp products or of ancillary products and accessories, whether or not carried on for gain or profit.

G. "Cannabis business tax" or "business tax," means the tax due pursuant to this chapter for engaging in a cannabis business in the City.

H. "Commercial cannabis cultivation" means cultivation of cannabis or industrial hemp undertaken in the course of conducting a cannabis business.

I. "Commercial cannabis permit" means a permit issued by the City to a person to authorize that person to operate or engage in a cannabis business within the City.

J. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis or industrial hemp and includes, but is not limited to, the operation of a nursery.

K. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

L. "Engaged in a cannabis business" means the commencing, conducting, operating, managing or carrying on of a cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

1. Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the City for business purposes;
3. Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
4. Such person or person's employee regularly conducts solicitation of business within the City; or
5. Such person or person's employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

M. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the City.

N. "Gross Receipts," except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, slotting fee, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act

or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts where allowed and taken on sales;
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
5. Cash value of sales, trades or transactions between departments or units of the same business located in the City of Hermosa Beach or if authorized by the Tax Administrator in writing in accordance with section 3.44.140(B);
6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the period they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;
8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Tax Administrator with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees;

9. Retail sales of t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, cannabis accessories such as pipes, pipe screens, vape pen batteries (without cannabis or industrial hemp) or other personal tangible property which the Tax Administrator has excluded in writing by issuing an administrative ruling per Section 3.44.140 shall not be subject to the cannabis business tax under this chapter. However, any business activities not subject to this chapter as a result of an administrative ruling shall be subject to the appropriate business tax provisions of Title 3 or any other Title or Chapter of this code as determined by the Tax Administrator.

O. "Industrial hemp" means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

P. "Industrial hemp products" "Industrial hemp products" means any raw hemp that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Hemp product" also means hemp products as defined by Section 11018.5 of the California Health and Safety Code.

Q. "Nursery" means a facility or part of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis or industrial hemp industrial hemp.

R. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

S. "Processing" means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis, industrial hemp and non-manufactured cannabis products.

T. "Retail Sale," "Sale," "Sell" and "to sell" means and includes any retail sale, exchange, or barter. It shall also mean any transaction whereby, for any consideration, title to cannabis, cannabis products, industrial hemp and/or industrial hemp products are transferred from one person to another and includes the delivery of cannabis, cannabis products, industrial hemp and/or industrial

hemp products pursuant to an order placed for the purchase of the same, but does not include the return of cannabis, cannabis products, industrial hemp and/or industrial hemp products to the licensee from whom the cannabis, cannabis product, industrial hemp and/or industrial hemp product was purchased.

U. "State" means the State of California.

V. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Section 26050, and all other applicable state laws, required for operating a cannabis business.

W. "Tax Administrator" means the Director of Finance of the City of Hermosa Beach or his or her designee.

X. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of cannabis, cannabis products, industrial hemp and/or industrial hemp products (ii) offers no service other than such tests, (iii) sells no products, excepting only testing supplies and materials, (iv) is accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state and (v) is registered with the Bureau of Cannabis Control or other state agency.

3.44.050 Tax Imposed.

A. Beginning January 1, 2023, there is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax. Such tax is payable regardless of whether the business has been issued a business license or commercial cannabis permit to operate lawfully in the City or is operating unlawfully. The City's acceptance of a cannabis business tax payment from a cannabis business operating illegally shall not constitute the City's approval or consent to such illegal operations.

B. The maximum rate of the cannabis business tax shall be calculated as follows:

1. For every person engaged in commercial cannabis cultivation, including cultivation of industrial hemp, in the City, the maximum rate shall be Twenty dollars (\$20.00) per square foot of canopy space used for cultivation or nursery.

a. On January 1, 2024 and on each January 1 thereafter, the maximum tax rate specified above shall increase by the percentage increase in the Consumer Price Index ("CPI") for all urban

consumers in the Los Angeles-Long Beach-Anaheim area as published by the United States Government Bureau of Labor Statistics or three percent (3%) whichever is greater.

2. For every person engaged in the operation of a testing laboratory, retail sales, distribution, manufacturing and/or processing for cannabis, cannabis products, industrial hemp and/or industrial hemp products, or any other type of cannabis business not described in this section 3.44.050 said person shall be subject to the maximum tax rate not to exceed fifteen percent (15%) of gross receipts generated by that cannabis business activity.

C. Persons subject to the cannabis business tax shall register with the City and pay the registration fee pursuant to Section 3.44.060. They shall also be required to obtain a business license pursuant to Title 5 of this code; provided, however, that cannabis business activities subject to the cannabis business tax shall be excluded from determining the amount of any business license tax payable under Title 5.

D. The rates set forth above may be adjusted by the City Council from time to time as more particularly described in Section 3.44.300, by ordinance or resolution, subject to the maximum rates set forth in subparagraph (B) above.

3.44.060 Registration, reporting and remittance of tax.

A. Registration of Cannabis Business. All cannabis businesses shall be required to annually register as follows:

1. All persons engaging in business as a cannabis business, whether an existing, newly established or acquired business shall register with the Tax Administrator upon receipt of any other required entitlements from the City and prior to commencing operation and shall annually renew such registration on or prior to the annual anniversary of the registration each year thereafter. In registering, such persons shall furnish to the Tax Administrator a sworn statement, upon a form provided by the Tax Administrator, setting forth the following information:

- a. The name of the business;
- b. The names and addresses of each owner;
- c. The exact nature or kind of business;
- d. The place where such business is to be carried on; and

e. Any additional information which the Tax Administrator may require.

B. An annual registration fee in an amount determined by resolution of the City Council shall be presented with the sworn statement submitted under this section. This fee shall not be considered a tax and shall be in such amount as to only recover the City's actual cost of processing registration and enforcement.

C. The cannabis business tax imposed by this chapter shall be paid, in arrears, on a monthly basis. Each person owing a cannabis business tax each calendar month shall, no later than the fifteenth day following the close of the calendar month, file with the Tax Administrator a statement ("tax statement") of the tax owed for that calendar month and the basis for calculating that tax. The Tax Administrator may require that the tax statement be submitted on a form prescribed by the Tax Administrator. The tax for each calendar month shall be due and payable on that same date that the tax statement for the calendar month is due.

D. Upon cessation of a cannabis business, tax statements and payments shall be immediately due for all calendar months up to the calendar month during which cessation occurred.

E. The Tax Administrator may, at his or her discretion, establish alternative reporting and payment periods for any taxpayer as the Tax Administrator deems necessary to ensure effective collection of the cannabis business tax. The Tax Administrator may also require that a deposit, to be applied against the taxes for a calendar month, be made by a taxpayer at the beginning of that calendar month. In no event shall the deposit required by the Tax Administrator exceed the tax amount he or she projects will be owed by the taxpayer for the calendar month. The Tax Administrator may require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.

3.44.070 Payments and communications - timely remittance.

Whenever any payment, statement, report, request or other communication is due, it must be received by the Tax Administrator or postmarked on or before the final due date. If the due date would fall on a Friday, Saturday, Sunday, or a holiday observed by the City, the due date shall be the next regular business day on which the City is open to the public.

3.44.080 Payment - when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in Sections 3.44.060 and 3.44.070.

3.44.090 Notice not required by the City.

The City may as a courtesy send a tax notice to the cannabis business which owes the City a cannabis business tax. However, the Tax Administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

3.44.100 Penalties and interest.

A. Any person who fails or refuses to pay any cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one percent (1.0%) per month.
2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties
3. Interest shall be applied at the rate of one percent (1.0%) per month on the first day of the month for the full month and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this chapter, and any other amount allowed under state law.

3.44.110 Refunds and credits.

A. No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 3.44.120.

B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

3.44.120 Refunds and procedures.

A. Whenever the amount of any cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Tax Administrator within one (1) year of the date the tax was originally due or paid, whichever came first.

B. The Tax Administrator, his or her designee or any other City officer charged with the administration of this chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Tax Administrator to do so.

C. In the event that the cannabis business tax was erroneously paid in an amount in excess of the tax due, and the error is attributable to the City, the City shall refund the amount of tax erroneously paid; provided that (i) a claim for refund has been timely filed with the Tax Administrator; and (ii) the refund cannot exceed, under any circumstance, the amount of tax overpaid during the twelve months preceding the last month for which the claim states the tax was overpaid.

3.44.130 Personal Cultivation Not Taxed.

The provisions of this chapter shall not apply to personal cannabis cultivation or personal use of cannabis, to the extent those activities are authorized in the "Medicinal and Adult Use Cannabis Regulation and Safety Act," as may be amended. This chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

3.44.140 Administration of the tax.

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this chapter.

B. For purposes of administration and enforcement of this chapter generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Tax Administrator may take such administrative actions as needed to administer the cannabis business tax, including but not limited to:

1. Provide to all cannabis business taxpayers forms for the reporting of the tax;
2. Provide information to any taxpayer concerning the provisions of this chapter;
3. Receive and record all taxes remitted to the City as provided in this chapter;
4. Maintain records of taxpayer reports and taxes collected pursuant to this chapter;
5. Assess penalties and interest to taxpayers pursuant to this chapter;
6. Determine amounts owed under and enforce collection pursuant to this chapter.

3.44.150 Appeal procedure.

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this chapter may appeal to the City Manager by filing a notice of appeal with the City Clerk within thirty (30) calendar days of the serving or mailing of the Tax Administrator's determination of the amount due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such operator at the last known place of address. The finding of the City Manager shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this section 3.44.150 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

3.44.160 Enforcement - action to collect.

Any taxes, penalties and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the City. Any person owing money to the City under the provisions of this chapter shall be liable in an action brought in the name of the City for the recovery of such debt. The provisions of this section shall not be deemed a limitation upon the right of the City to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this chapter or the failure to comply with any of the provisions of this chapter.

3.44.170 Apportionment.

If a business subject to the tax is operating both within and outside the City, it is the intent of the City to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the City. To the extent federal or state law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on his or her tax return. The Tax Administrator may promulgate administrative procedures for apportionment as he or she finds useful or necessary.

3.44.180 Constitutionality and legality.

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law. If a person believes that the tax, as applied to him or her, is impermissible under applicable law, he or she may request that the Tax Administrator release him or her from the obligation to pay the impermissible portion of the tax.

3.44.190 Audit and examination of premises and records.

A. For the purpose of ascertaining the amount of cannabis business tax owed or verifying any representations made by any taxpayer to the City in support of his or her tax calculation, the Tax Administrator shall have the power to inspect any location where commercial cannabis cultivation occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, state and federal income tax returns, and other records relating to the gross receipts of the business) of persons engaged in cannabis businesses. In conducting such investigation, the Tax Administrator shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.

B. It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

3.44.200 Other licenses, permits, taxes, fees or charges.

A. Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any commercial cannabis permit or City license required by, under or by virtue of any provision of any other Title or Chapter of this code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required under any other Title or Chapter of this code or any other ordinance or resolution of the City. Any references made or contained in any other Title or Chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Titles or Chapters of this code.

B. The Tax Administrator may revoke or refuse to renew the license required by Section 5.04.020 of this code for any business that is delinquent in the payment of any tax due pursuant to this section or that fails to make a deposit required by the Tax Administrator pursuant to Section 3.44.060. A commercial cannabis permit issued under the Hermosa Beach Municipal Code may be revoked, suspended or not renewed in the event that the business holding that permit has failed to (i) make a deposit required by the Tax Administrator pursuant to Section 3.44.060(E) or (ii) timely pay all taxes, interest and penalties owed by that business under this chapter.

3.44.210 Payment of tax does not authorize unlawful business.

A. The payment of a cannabis business tax required by this chapter, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable state laws.

B. No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

3.44.220**Deficiency determinations.**

If the Tax Administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person ceases engaging in a cannabis business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such cannabis business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 3.44.240.

3.44.230**Failure to report—nonpayment, fraud.**

A. Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

1. If the person has not filed a complete statement required under the provisions of this chapter;
2. If the person has not paid the tax due under the provisions of this chapter;
3. If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter; or
4. If the Tax Administrator determines that the nonpayment of any cannabis business tax due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise payable under this chapter and any other penalties allowed by law.

B. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's

knowledge concerning the business and activities of the person assessed, to be due under each applicable provision of this chapter and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

3.44.240 Tax assessment - notice requirements.

The notice of assessment shall be served upon the person either by personal delivery, by overnight delivery by a nationally-recognized courier service, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purpose of Section 3.44.240, a service by overnight delivery shall be deemed to have occurred one (1) calendar day following deposit with a courier and service by mail shall be deemed to have occurred three (3) days following deposit in the United States mail.

3.44.250 Tax assessment - hearing, application and determination.

Within thirty (30) calendar days after the date of service of the notice of assessment the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive. Within thirty (30) calendar days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) calendar days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than five (5) calendar days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall determine and reassess (if necessary) the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 3.44.240 for giving notice of assessment.

3.44.260 Conviction for violation - taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a

criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

3.44.270 Violation deemed misdemeanor.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

3.44.280 Severability.

If any provision of this chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

3.44.290 Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of this code and any other provision of law or equity are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

3.44.300 Amendment or modification.

Except as set forth in this section 3.44.300, this chapter, or any section of this chapter, may be amended, modified or temporarily suspended, but not repealed by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would expand, extend, or increase the rate or methodology of any tax levied pursuant to this chapter. The people of the City of Hermosa Beach affirm that the following actions shall not constitute an increase of the rate or methodology of a tax:

A. The restoration or adjustment of the rate of the tax to a rate that is no higher than that allowed by this chapter, in those circumstances where, among others, the City Council has previously acted to reduce the rate of the tax or is incrementally implementing an increase authorized by this chapter;

B. An action that interprets or clarifies (i) the methodology of applying or calculating the tax or (ii) any definition applicable to the tax, so long as the interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the provisions of this chapter; or

C. The collection of the tax imposed by this chapter even if the City had, for some period of time, suspended or failed to collect the tax."

SECTION 2. Pursuant to Article XIII B of the California Constitution, the appropriation limit for the City of Hermosa Beach is increased to the maximum extent over the maximum period of time allowed under law consistent with the revenues generated by the tax established by this Ordinance.

SECTION 3. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Ordinance, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 4. Pursuant to California Constitution Article XIII C §(2)(b) and California Elections Code §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Hermosa Beach voting at the Regular Municipal Election to be held on November 8, 2022, and shall take effect ten (10) days after the City Council has certified the results of the Regular Municipal Election by resolution.

SECTION 5. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 8, 2022, by signing where indicated below.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED AND ADOPTED** by the people of the City of Hermosa Beach on the 8th day of November 2022.

CITY OF HERMOSA BEACH

MICHAEL DETOY, MAYOR

ATTEST:

MYRA MARAVILLA
CITY CLERK