

ORDINANCE NO. 2999

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA ADOPTING A CANNABIS GROSS RECEIPTS SPECIAL TAX FOR EXCLUSIVE SPECIFIED PURPOSES PURSUANT CALIFORNIA ELECTIONS CODE SECTION 9222

WHEREAS, California Elections Code Section 9222 allows a city council to submit an initiative for voter approval without a petition; and

WHEREAS, the City proposed a special cannabis gross receipts tax measure to its qualified voters at a special City municipal election on Tuesday, March 3, 2020; an

WHEREAS, the question posed to El Monte voters at such election was as follows:

Cannabis Business Tax for Public Safety, Parks and Youth Programs To fund El Monte public safety, parks, recreation, and youth programs including: after-school programs; youth recreation; addiction prevention; community policing; and park improvements, shall a gross receipts tax be adopted for cannabis businesses up to 9% for retail, up to 6% for cultivation and manufacturing, and up to 5% for distribution and laboratory testing to raise approximately \$3,500,000 annually?	YES
	NO

WHEREAS, the City's qualified voters approved the special cannabis gross receipts tax Measure PC at the City's Tuesday, March 3, 2020 special City municipal election, with the City Council certifying the election results for such election at its meeting of December 3, 2019 pursuant to its Resolution No. 10067.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are true and correct and hereby approved, adopted, and incorporated into the body of this Ordinance by this reference.

SECTION 2. Chapter 3.30 (Cannabis Business Tax) is hereby added to Title 3 (Revenue and Finance) of the El Monte City Municipal Code to read as follows:

Chapter 3.30 - CANNABIS BUSINESS TAX

3.30.010 - Authority and Purpose.

- A. The purpose of this Chapter is to adopt a tax, for special 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. It is not a sales and use tax, a tax upon income, or a tax upon real property
- B. The Cannabis Business Tax is a special tax enacted solely for: (i) City public safety uses, services, and programs, including, but not limited to: the Transient Outreach Using Community Hands (TOUCH) homeless outreach program; the augmentation of special investigations related to violent and narcotic related criminal activity; the Teaching Obedience Respect Courage and Honor (TORCH) community-based program; the Volunteers Caring and Patrolling (VCAP) community-based program; public safety equipment (e.g. surveillance cameras); public safety staffing; youth diversion programs; drug abuse prevention and education; and (ii) parks, recreation, and youth uses, services, and programs, including, but not limited to: after-school programming; parks maintenance and improvement; new park development; youth, teen, and adult sports; senior services; summer teen program; and education and job training. All of the

proceeds from the tax imposed by this Chapter 3.30 shall be placed in a special City account to solely fund such uses, services, and programs. The Tax Administrator shall file a report with the City Council no later than July 1 of each year which shall contain both of the following: (i) the amount of funds collected and expended pursuant to this Chapter 3.30; and (ii) the status of any project required or authorized to be funded to carry out pursuant to this Section 3.30.010.

3.30.020 - Intent.

The intent of this Chapter 3.30 is to impose a special tax applicable to Cannabis Businesses to fund public safety and parks, recreation, and youth uses, services, and programs as set forth in Section 3.30.010.

3.30.030 - Definitions.

When used in this Chapter 3.30, the following words shall have the meanings ascribed to them as set forth herein. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code, or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any references to State law, including references to MAUCRSA, is deemed to include any successor or amended version of the referenced statute or regulations promulgated thereunder consistent with the terms of this Chapter 3.30.

"Adult-use cannabis" or "adult-use cannabis product" means cannabis or cannabis products for individuals twenty-one (21) years of age and over without the need for a physician's recommendation.

"Business" means 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 that employee's employer.

"Cannabis" means all parts of the 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" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter 3.30, cannabis does not mean industrial hemp as that term is defined by Section 81000 of the State Food & Agricultural Code or Section 11018.5 of the State Health & Safety Code.

"Cannabis business" or "commercial cannabis business" means any business or operation which engages in commercial cannabis activity whether or not carried on for gain or profit.

"Cannabis Business Tax" or "Tax" means the tax due pursuant to this Chapter 3.30 for engaging in commercial cannabis activity within in the City.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter 5.18. A cannabis concentrate is not considered food, as defined by Section 109935 of the State Health & Safety Code, or drug, as defined by Section 109925 of the State Health & Safety Code.

"Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to,

concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

"City" or "City of El Monte" means the City of El Monte, a California General Law City.

"City Council" shall mean the City Council of the City of El Monte.

"City Manager" shall mean the City Manager of the City of El Monte.

"Commercial cannabis activity" has the same meaning as that term is defined under MAUCRSA and includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as regulated under MAUCRSA.

"Code" means the City Municipal Code.

"Cultivation" means any commercial cannabis activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Customer" means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age that is a qualified patient or primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

"Dispensary" or "retailer" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products.

"Dispensing" or "retail sale" means any commercial cannabis activity involving the retail sale of cannabis or cannabis products.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between persons engaged in commercial cannabis activity.

"Employee" means each person who renders any service, with or without compensation, for an owner, manager, or agent of either an owner or manager of a cannabis business. For purposes of this Chapter 3.30, the term employee shall include part-time, full-time, temporary, or regular employees.

"Engaged(s) in business" means the commencing, conducting, operating, managing, or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as an 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 if any of the following apply:

- A. Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
- B. Such person or person's employee owns or leases real property within the City for business purposes;
- C. 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;
- D. Such person or person's employee regularly conducts solicitation of business within the City; or
- E. 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".

"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.

"Fiscal year" means July 1 through June 30 of the following calendar year.

"Gross Receipts" means, except as otherwise specifically provided, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits 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:

- A. Cash discounts where allowed and taken on sales;
- B. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- C. 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;
- D. 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;
- E. Cash value of sales, trades, or transactions between departments or units of the same business;
- F. 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 year 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; and
- G. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

"Manager" means any individual who will be participating in the direction, control, or management of a cannabis business, including any (i) manager or managing member or other officer of a limited liability company or (ii) chief executive officer, secretary, treasurer / chief financial officer or other officer of a for profit corporation.

"Manufacture(ing)" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

"Marijuana" means "cannabis", as that term is defined in this Chapter 3.30.

"MAUCRSA" means Division 10 (commencing with Section 26000) of the State Business and Professions Code and any regulations promulgated thereunder.

"Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product for use by a qualified patient.

"Owner" means any of the following:

- A. A person with an ownership interest in a cannabis business;
- B. The chief executive officer, secretary, or treasurer / chief financial officer of a nonprofit cannabis business; or
- C. A member of the board of directors of a nonprofit cannabis business.

"Patient" or "qualified patient" means a person who is entitled to the protections of Section 11362.5 of the State Health & Safety Code and includes a person issued an identification card issued pursuant to Article 2.5 of Chapter 6 of Division 10 of the State Health & Safety Code.

"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 and includes the plural as well as the singular number.

"Person with an identification card" shall have the meaning given to that term in Section 11362.7 of the State Health & Safety Code.

"Sale" means any sale, exchange, or barter or other transaction for any consideration.

"State" means the State of California.

"Tax Administrator" means the Director of Finance of the City, the Director of Finance's designee(s), or any other City officer charged with the administration of the provisions of this Chapter.

"Testing laboratory" means a laboratory, facility, or entity in the City that offers or performs tests of cannabis or cannabis products.

3.30.040 — Tax imposed.

- A. There is established and imposed upon each person who is engaged in business as a cannabis business an annual Cannabis Business Tax at the rates set forth in this Chapter 3.30. Such Tax is payable regardless of whether the business is operating lawfully in the City or 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. Medicinal Retailers. The Cannabis Business Tax upon every person who engages in business as a retailer of medicinal cannabis or medicinal cannabis products shall be at the following annual rate:

The tax rate upon the effective date of this Chapter 3.30 shall be five percent (5%) of the gross receipts derived from the retail sale of medicinal cannabis or medicinal cannabis products. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of nine percent (9%) without voter approval.

- C. Adult-use Retailers. The Cannabis Business Tax upon every person who engages in business as a retailer of adult-use cannabis or adult-use cannabis products shall be at the following annual rate:

The tax rate upon the effective date of this Chapter 3.30 shall be five percent (5%) of the gross receipts derived from the retail sale of adult-use cannabis or adult-use cannabis products. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of nine percent (9%) without voter approval.

- D. Distribution. The Cannabis Business Tax upon every person who engages in business in distribution shall be at the following annual rate:

The tax rate upon the effective date of this Chapter 3.30 shall be two percent (2%)

of the gross receipts derived from distribution. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of five percent (5%) without voter approval.

- E. Manufacturing. The Cannabis Business Tax upon every person who engages in business in manufacturing shall be at the following annual rate:

The tax rate upon the effective date of this Chapter 3.30 shall be three percent (3%) of the gross receipts derived from manufacturing. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of six percent (6%) without voter approval.

- F. Cultivation. The Cannabis Business Tax upon every person who engages in business in cultivation shall be at the following annual rate:

The tax rate upon the effective date of this Chapter 3.30 shall be three percent (3%) of the gross receipts derived from cultivation. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of six percent (6%) without voter approval.

- G. Testing Laboratory. The Cannabis Business Tax upon every person who engages in business as a testing laboratory shall be at the following annual rate:

The tax rate upon the effective date of this Chapter 3.30 shall be two percent (2%) of the gross receipts derived as a testing laboratory. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of five percent (5%) without voter approval.

3.30.050 - Exemptions from the tax.

The provisions of this Chapter 3.30 shall not apply to personal cannabis cultivation as MAUCRSA or any subsequent State legislation regarding the same. This Chapter 3.30 shall not apply to personal use of cannabis that is specifically exempted from State licensing requirements and that meets the definition of personal use or equivalent terminology under State law.

3.30.060 - Reporting and remittance of tax.

The Cannabis Business Tax imposed by this Chapter 3.30 shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

- A. The owner(s) or manager(s) of each cannabis business shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Tax Administrator and remit to the Tax Administrator the Tax due. The Tax due shall be no less than the quarterly installment due, but the taxpayer may prepay any amount of Tax at any time.
- B. Tax statements and payments for all outstanding Taxes owed the City are immediately due to the Tax Administrator upon cessation of a cannabis business for any reason.
- C. The Tax Administrator may, at the Tax Administrator's reasonable discretion, establish shorter reporting and payment periods for any taxpayer as the Tax Administrator reasonably deems necessary to ensure collection of the Tax.

3.30.070 - Nonpayment of Cannabis Business Tax; penalties and interest established by ordinance.

- A. Any person who fails or refuses to pay any Cannabis Business Tax required to be paid pursuant to this Chapter 3.30 on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent (5%) 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%) per month.

2. If the Tax remains unpaid for a period exceeding three (3) calendar months 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%) per month on the unpaid tax and on the unpaid penalties.
3. These penalty provisions shall not be construed to preclude or limit the enforcement of the penal provisions of this Chapter 3.30 or the Code.

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, the taxpayer will be liable for the Tax amount due plus any fees, penalties, and interest as provided for in this Chapter 3.30, and any other amount allowed under State law.

3.30.080 - 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 3.30.
- B. For purposes of administration and enforcement of this Chapter 3.30 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 3.30 as he or she deems reasonably necessary to implement or clarify such provisions or aid in enforcement, 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 3.30;
 3. Receive and record all taxes remitted to the City as provided in this Chapter 3.30;
 4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter 3.30;
 5. Assess penalties and interest to taxpayers pursuant to this Chapter 3.30; and
 6. Determine amounts owed and enforce collection pursuant to this Chapter 3.30.

3.30.090 - 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 3.30 may appeal to the City Council by filing a notice of appeal with the City Clerk within forty-five (45) calendar days of the serving or mailing of the determination of Tax 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 cannabis business at the last known place of address. The finding of the City Council shall be a final administrative decision, subject to judicial review and remedies, and shall be served upon the appellant in the manner prescribed by this Chapter 3.30 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

3.30.100 - Constitutionality and legality.

This Tax is intended to be applied in a manner consistent with the United States and State Constitutions and State law. None of the Tax provided for by this Chapter 3.30

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 or a violation of any other provision of the State 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.

3.30.110 - Apportionment.

If a cannabis 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 reasonably useful or necessary.

3.30.120 - Audit and examination of records and equipment.

- 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 activity 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 owners and managers of the 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 3.30 to keep and preserve, for a period of at least seven (7) 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.

3.30.130 - Payment of tax does not authorize unlawful conduct.

- A. The payment of a Cannabis Business Tax required by this Chapter 3.30, 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 the Code, MAUCRSA, and all other applicable State laws.
- B. No Tax paid under the provisions of this Chapter 3.30 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.
- C. Nothing in this Chapter 3.30 shall be construed as in conflict with State or federal law.
- D. It shall be the responsibility of the owners and managers of a cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with the protection of public health, safety, and community standards, including all applicable State and local laws and regulations, including any subsequently enacted State or local law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements, which may be imposed as conditions of approval of any State or City license.

3.30.140 - Other licenses, permits, taxes, fees or charges.

Nothing contained in this Chapter 3.30 shall be deemed to repeal, amend, be in lieu of,

replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City Council, 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 by, under or by virtue of any other provision of the Code or any other ordinance or resolution of the City Council. Any references made or contained in any other provision of the 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 provisions of this Code.

3.30.150 - Deficiency determinations.

If the Tax Administrator is not reasonably satisfied that any statement filed as required under the provisions of this Chapter 3.30 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 two (2) 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 discontinues engaging in a business, a deficiency determination may be made at any time within two (2) years thereafter as to any liability arising from engaging in such 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 in this Chapter 3.30.

3.30.160 - 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 3.30 at any time:
1. If the person has not filed a complete statement required under the provisions of this Chapter 3.30;
 2. If the person has not paid the Tax due under the provisions of this Chapter 3.30;
 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 3.30; or
 4. If the Tax Administrator determines that the nonpayment of any Cannabis Business Tax is due to fraud, a penalty of twenty-five percent (20%) of the amount of the Tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter 3.30 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 section of this Chapter 3.30 and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

3.30.170 - 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 via United States Postal Service Priority Mail Express (or a comparable service with another carrier or with the United States Postal Service, should Priority Mail

Express no longer be provided) with proof of delivery, 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 3.30; 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 purposes of this Section, a service by overnight delivery shall be deemed to have occurred one (1) calendar day following deposit with a courier and service by United States Postal Service Priority Mail Express shall be deemed to have occurred three (3) calendar days following deposit of the notice.

3.30.180 - Tax assessment; hearing, application, and determination.

Within forty-five (45) calendar days after the date of service 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 be a final administrative decision, subject to judicial review. 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 fifteen (15) 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 the proper tax to be charged and shall give written notice to the person in the manner prescribed in this Chapter 3.30 for giving notice of assessment.

3.30.190 - Relief from taxes; disaster relief.

- A. If a cannabis business is unable to comply with any Tax requirement due to a disaster, the cannabis business may notify the Tax Administrator of this inability to comply and request relief from the tax requirement. A request for relief must clearly indicate why relief is requested, the time period for which the relief is requested, and the reason relief is needed for the specific amount of time.
- B. To obtain relief, the cannabis business agrees to grant the Tax Administrator or designee(s) access to the location where the cannabis business has been impacted due to a disaster.
- C. The Tax Administrator, in his or her reasonable discretion, may provide relief from the Cannabis Business Tax requirement for businesses whose operations have been impacted by a disaster if such tax liability does not exceed \$25,000.00. If such tax liability is \$25,001.00 or more, than such relief shall only be approved by the City Council.
- D. Temporary relief from the Cannabis Business Tax may be granted for a reasonable amount of time as determined by the Tax Administrator or the City Council, as applicable in order to allow the cannabis business time to recover from the disaster.
- E. The Tax Administrator or City Council, as applicable may require that certain conditions be followed in order for a cannabis business to receive temporary relief from the Cannabis Business Tax requirement.
- F. For purposes of this Section, "disaster" means, including but not limited to, natural disasters (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves, and floods); war, hostilities, invasion, act of foreign enemies, mobilization, requisition, or embargo; rebellion, revolution, insurrection, or military or usurped power, or civil war; riot, commotion, strikes, go slows, lock outs or disorder; or acts or threats of terrorism.

3.30.200 - Conviction for violation; taxes not waived.

The conviction and punishment of any person for failure to pay the required Cannabis Business 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 3.30 or of any State law requiring the payment of all taxes.

3.30.210 - Violation deemed misdemeanor.

Each and every material violation of the provisions of this Chapter 3.30 may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a material violation is committed or permitted to continue shall constitute a separate offense.

3.30.220 - Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

3.30.230 - Annual report; special tax compliance.

The Tax Administrator shall annually publish an annual report that includes the special tax rates, the amounts of revenues collected and expended pursuant to this Chapter, and the status of any projects funded pursuant to this Chapter. The Tax Administrator shall take all necessary actions to ensure that the Cannabis Business Tax and its administration comport with any and all laws and regulations pertaining to special taxes and is hereby authorized to effectuate such actions.

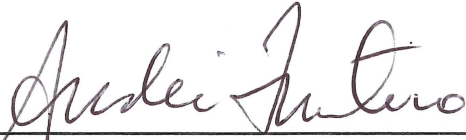
SECTION 3. Conflicting Measures. The People of the City find and declare that the provisions of this measure, relating to the taxation of commercial cannabis activity in the City, may conflict with one or more provisions of other initiative measures. It is the intent of the People that if this measure receives a greater number of affirmative votes than a conflicting measure at the same election, this measure shall prevail in its entirety over a conflicting measure.

SECTION 4. Severability. If any provision, section, paragraph, sentence, phrase or word of this measure is rendered or declared invalid, illegal, or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, such unconstitutionality, illegality or invalidity shall only affect such provision, section, paragraph, sentence, phrase or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases or words, or the application of the measure to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to be the intention of the People of the City that that the measure would have been adopted had such unconstitutional, illegal or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

SECTION 5. CEQA. This Ordinance is exempt from the California Environmental Quality Act ("CEQA"; Public Resources Code Sections 21000, et seq, and 14 Cal Code Reg Sections 15000, et seq, "CEQA Guidelines"). This Ordinance is a special tax to fund specific services and, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue generated by the tax were used for a purpose that would have such an effect the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guideline Section 15060, further CEQA analysis is not required.

SECTION 6. Publication and Effective Date. The City Clerk shall cause the same to be published once in a newspaper of general circulation within fifteen (15) days after its adoption. Upon approval by a majority of the voters of the City, and upon adoption of a resolution declaring the election results, the Mayor shall hereby be

authorized to attest to the adoption of this Ordinance. Upon its voter approval, this Ordinance shall be in full force and effect ten (10) days after the vote is declared by the City Council, pursuant to Election Code Sections 9217 and 15400 and as provided by law.



André Quintero, Mayor
City of El Monte

ATTEST:



Catherine A. Eredia, City Clerk
City of El Monte

This Ordinance No. 2999 was submitted to the People of the City of El Monte at the March 3, 2020 special municipal election. It was approved by the following vote of the People:

YES: 7,680

NO: 3,064

ATTEST:



Catherine A. Eredia, City Clerk
City of El Monte