

ORDINANCE NO. 2093

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 3.42.020 AND CHAPTER 5.55 PALM SPRINGS MUNICIPAL CODE, REGARDING THE TAXATION AND REGULATION OF CANNABIS IN THE CITY

City Attorney's Summary

This ordinance amends the City's cannabis taxation and regulatory regime. The taxation section is amended to clarify that "gross receipts" does not include the excise tax collected as required by State law, makes adjustments to application requirements, renewal requirements, transfer criteria, additional operational requirements for cannabis consumption lounges and dispensaries, and adds a definition of "cannabis accessories" to be consistent with State law.

WHEREAS, the City of Palm Springs allows a variety of Adult-Use Cannabis Activity in the City and continuously monitors the various issues surrounding the Adult-Use Cannabis Activity in the City; and

WHEREAS, the City levies a gross receipts tax on various cannabis businesses in the City at varying rates dependent on that type of cannabis activity being taxed and a tax on cannabis cultivation based on the square footage of the cultivation area; and

WHEREAS, Chapter 3.42 of the Palm Springs Municipal Code, among other things, imposes a gross receipts tax on cannabis businesses (sans cultivation businesses) in the City that shall not exceed fifteen percent (15%); and

WHEREAS, Palm Springs Municipal Code § 3.42.020 (M) defines "gross receipts" and there is some ambiguity if the State excise tax should be included in the calculation of gross receipts for local cannabis businesses; and

WHEREAS, other jurisdictions in the Coachella Valley do not include the State excise tax in calculating gross receipts for local taxes. The City Council finds that removing the State excise tax from the City's calculation of gross receipts tax is necessary to maintain and attract successful cannabis businesses in the City and to remain competitive with other jurisdictions; and

WHEREAS, Section 3.42.090 of the Palm Spring Municipal Code allows the City Council to set the cannabis tax at or below the maximum found in the Chapter or otherwise amend, modify, change, or revise any provision of the Chapter as the City Council deems in the best interest of the City; and

WHEREAS, removing the State excise tax from the City's calculation of gross receipts will set the cannabis tax below the maximum rate found in Section 3.42.030 and the City Council finds that it is in the best interest of the City to remove the State excise tax in order to maintain and attract successful cannabis businesses in the City; and

WHEREAS, the City's current cannabis regulation does not define "cannabis accessories" and this lack of definition has led to some confusion about what is, and is not, permitted for the City's local cannabis businesses; and

WHEREAS, defining "cannabis accessories" to match the State's definition found in the California Health and Safety Code will resolve any confusion and clearly delineate what is, and is not, allowed by the City's local cannabis businesses; and

WHEREAS, Chapter 5.55 of the Palm Springs Municipal Code states the City's application, operational and other regulations pertaining to the various forms of Adult-Use Cannabis Activity in the City; and

WHEREAS, City staff have continued to monitor the operations and best practices for Adult-Use Cannabis Activity in the City and the impact these businesses have had on the general public health and safety in the City; and

WHEREAS, through years of implementation, City staff have also noted certain ambiguities and provisions in its Adult-Use Cannabis regulations that are no longer entirely consistent with the City's policies and goals related to Adult-Use Cannabis and have resulted in scenarios and requests to City staff by Adult-Use Cannabis Businesses that are not ideal; and

WHEREAS, the number of dispensaries in the City has far exceeded the demand in the City with the City having one of the highest (if not the highest) concentration of retail cannabis stores per ratio to individual per square block; and

WHEREAS, specifically, the City desires to amend its Adult-Use Cannabis regulations to: (i) curtail the renewal of Adult-Use Cannabis Permits for businesses that are not operational; (ii) require mandatory educational materials for safe cannabis consumption at Adult-Use Cannabis Dispensaries and Cannabis Lounges; and (iii) update criteria for the transfer of an Adult-Use Cannabis Permit; and

WHEREAS, these proposed changes will all contribute to a more sustainable Adult-Use Cannabis industry in the City while ensuring other vital City interests are protected and maintained.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings. That the findings and determinations reflected above are

true and correct, and are incorporated by this reference herein as the cause and foundation for the action taken by the and through this Ordinance.

SECTION 2. Code Amendment. Section 3.42.020 (M) of the Palm Springs Municipal Code is hereby amended to read as follows:

M. Except as otherwise specifically provided in this code or by regulation authorized by this code, "gross receipts" means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction or set off therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Collection of any State excise tax shall be excluded from "gross receipts."

SECTION 3. Code Amendment. Section 5.55.050 of the Palm Springs Municipal Code is hereby amended to add the following definition:

"Cannabis accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

SECTION 4. Code Amendment. Section 5.55.105 (C) of the Palm Springs Municipal Code is hereby amended to read as follows:

"C. Any Application for renewal shall be denied if:
1. The permittee fails to conform to the criteria set forth in this Chapter;
2. The permittee is delinquent in payment of any City taxes on commercial Cannabis activity; or
3. The permit is suspended or revoked at the time of the Application.
4. The Adult-Use Cannabis Business for which the renewal is sought is not operational as determined by the City Manager.

SECTION 5. Code Amendment. Section 5.55.200 (A) of the Palm Springs Municipal Code is hereby amended to add subsection (28) to read as follows:

“28. Adult-Use Cannabis Dispensaries and Lounges shall display educational materials, either provided or approved by the City Manager, for the safe consumption of cannabis. These materials shall be displayed in a conspicuous location visible to the patrons, approved by the City Manager, at all times the dispensary or lounge is open.”

SECTION 6. Code Amendment. Section 5.55.080 (A) of the Palm Springs Municipal Code is hereby amended to read as follows:

A It is unlawful for any person to engage in, operate, conduct, carry on, or allow to be carried on, adult-use cannabis activity in the City without having first met all of the following requirements:

- 1. The person holds a valid Adult-Use Cannabis Permit pursuant to the requirements of this chapter;*
- 2. The person holds all necessary land use entitlements pursuant to the requirements of the Zoning ordinance;*
- 3. The person has paid any business tax license pursuant to Chapter 3.56 of this Code; and*
- 4. The person holds a State license in accordance with the MAUCRSA and any applicable regulations implemented by the state or any of its departments or divisions.*

Exception. Permittees with Conditional Cannabis Permits may conduct the limited actions permitted by these permits. Conditional Cannabis Permits issued for Adult-Use Cannabis Activity at newly constructed buildings shall expire 24 months from the date of issuance if the Adult-Use Cannabis Business is not operational. Conditional Cannabis Permits issued for Adult-Use Cannabis Activity at existing buildings shall expire 12 months from issuance if the Adult-Use Cannabis Business is not operational. Permittees may appeal the expiration of a Conditional Cannabis Permit to the City Manager and be granted a 12 month extension based on a showing of substantial progress toward becoming operational and no unreasonable delay (i.e., Permittee should demonstrate measurable progress to becoming operational and identify unique factors that impeded the Permittee from becoming operational) ~~City Council~~. Permittees may apply for a second 12 month extension based on the same findings; however, if granted, the Permittee shall pay a penalty determined by the City Council and not to exceed \$10,000. Any decision by the City Manager under this section shall be final. Permittees who have Conditional Cannabis Permits expire shall be prohibited from applying for a Conditional Cannabis Permit or an Adult-Use Cannabis Permit for a period of 12 months.

SECTION 7. Compliance with California Environmental Quality Act. City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the State CEQA Guidelines,

California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project this City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the State CEQA Guidelines, as it can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment.

SECTION 8. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Palm Springs hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 9. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption. The operation of Section 2 of this Ordinance (exemption from the calculation of "gross receipts" the collection of State excise taxes, shall be effective retroactively to gross receipts collected by cannabis businesses on or after January 1, 2024.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 29TH DAY OF FEBRUARY 2024



JEFFREY BERNSTEIN
MAYOR

ATTEST:



BRENDA PREE, MMC, CERA
CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, Brenda Pree, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. 2093 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on February 8, 2024, and adopted at a regular meeting of the City Council held on February 29, 2024, by the following vote:

AYES: Councilmembers Garner and Middleton; Mayor Pro Tem deHarte; and Mayor Bernstein
NOES: None
RECUSED: Councilmember Holstege
ABSENT: None
ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Springs, California, this 11th day of March 2024.



BRENDA PREE, MMC, CERA
CITY CLERK