BLYTHE CITY COUNCIL

Special Meeting

AGENDA

JULY 29, 2014

1:00 P.M.

Mike Evans, Mayor
Timothy “Tim” Wade, Vice Mayor
Joseph “Joey” DeConinck, Councilman
Wayne Cusick, Councilman
Oscar Galvan, Councilman
Frank Luckino, City Manager
Mallory Sutterfield, City Clerk

Meetings are held in the City Council Chamber, 235 North Broadway, Blythe, CA
CALL TO ORDER

ROLL CALL
Mayor Evans
Vice Mayor Wade
Councilman DeConinck
Councilman Galvan
Councilman Cusick
City Manager Luckino
City Clerk Sutterfield
City Attorney Bettenhausen
City Treasurer Elms
Public Works Director Baldizzone
Interim Police Chief Mathews
Interim DS Director Burrow

REPORT FROM CLOSED SESSION:

CONSENT CALENDAR: (Item 1) All matters listed under Consent Calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items prior to the time of voting on the motion unless members of the Council or staff request specific items be discussed and/or removed from the Consent Calendar for separate action.

1. Posting of the Agenda.
The summary of agenda items was posted on the bulletin boards on the outside of the public entrance to the Council Chamber and near the inside entrance of the Council Chamber on Friday, July 25, 2014.

NEW BUSINESS: (Items 2-3)
Recommendation: Council adopt the following Ordinances:

RESOLUTION NO. 2014-023. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, FOR THE SUBMISSION TO VOTERS OF THE CITY OF BLYTHE, CALIFORNIA QUESTIONS RELATING TO A SALES TAX, A TRANSIENT OCCUPANCY TAX AND AN ADVISORY MEASURE ON USE OF CITY FUNDS AS WELL AS A PROPOSED ORDINANCE TO AUTHORIZE, REGULATE AND TAX MEDICAL CANNABIS BUSINESSES.


RESOLUTION NO. 2014-025. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING CITY MEASURES RELATING TO A SALES TAX, TRANSIENT OCCUPANCY TAX AND AN ADVISORY MEASURE ON USE OF CITY FUNDS AS WELL AS A PROPOSED ORDINANCE TO AUTHORIZE, REGULATE AND TAX MEDICAL CANNABIS BUSINESSES; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR THE SAME CITY MEASURES.

RESOLUTION NO. 2014-026. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.


Any writings or documents provided to a majority of the City Council regarding any item on this Agenda will be made available for Public inspection in the City Clerk’s Office at City Hall, 235 N. Broadway, Blythe, California, and the information counter of the Palo Verde Valley District Library located at 125 W. Chanlerow, Blythe, California, during normal business hours. In addition such writings and documents will be posted on the City’s website: www.cityofblythe.ca.gov.
RESOLUTION NO. 2014-028 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA SUBMITTING TO THE VOTERS OF THE CITY OF BLYTHE, CALIFORNIA A MEASURE TO AUTHORIZE, REGULATE AND TAX MEDICAL CANNABIS BUSINESSES.

RESOLUTION NO. 2014-029. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA SUBMITTING TO THE VOTERS OF THE CITY OF BLYTHE, CALIFORNIA A GENERAL TAX MEASURE TO INCREASE THE CITY SALES TAX BY .5% FOR A PERIOD OF FIVE YEARS, A GENERAL TAX MEASURE TO INCREASE THE CITY TRANSIENT OCCUPANCY TAX BY 3% TO A NEW RATE OF 13% FOR A PERIOD OF FIVE YEARS, AND AN ADVISORY MEASURE ON USE OF CITY FUNDS.


ORDINANCE NO. 866-14. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA AMENDING CHAPTER 5.22 OF TITLE 5 OF THE BLYTHE MUNICIPAL CODE TO AUTHORIZE, REGULATE AND TAX MEDICAL CANNABIS BUSINESSES.

PUBLIC COMMENT: Public comments will be allowed on matters not appearing on the agenda, but within Council/Successor Agency’s jurisdiction. Speakers are asked to identify themselves by stating their name and address for the record. Comments shall be limited to 3 minutes in duration.

ADJOURNMENT The next regular City Council/Successor Agency meeting will be held on August 12, 2014, at 6:00 p.m. in the Council Chamber, 235 N. Broadway, Blythe, California.

NOTE TO THE PUBLIC:
In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact City Clerk Mallory Sutterfield at (760)922-6161 EXT. 237. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.104 ADA Title II).
MEETING DATE: July 29, 2014

SUBJECT: Calling an Election to be held November 4, 2014 for augmentation of Sales Tax and Transient Occupancy Tax (TOT), and to authorize, regulate, and tax Medical Cannabis Businesses.

PRESENTED BY: Frank J. Luckino, City Manager

PREPARED BY: Frank J. Luckino, City Manager

RECOMMENDATION: Staff recommends that the City Council adopt the following resolutions:

1. Resolution No. 2014-023 calling for the holding of a general municipal election to be held on Tuesday, November 4, 2014.
2. Resolution No. 2014-024 requesting the Board of Supervisors of the County of Riverside to consolidate a General Municipal Election to be held on Tuesday, November 4, 2014.
3. Resolution No. 2014-25 setting priorities for filing written arguments regarding City measures relating to a sales tax, a transient occupancy tax, and an advisory measure on use of City funds, as well as a proposed ordinance to authorize, regulate, and tax medical cannabis businesses; and directing the City Attorney to prepare an impartial analysis for the same City measures.
7. Resolution No. 2014-209 submitting to voters a general tax measure to increase Sales tax and Transient Occupancy Tax (TOT) and an advisory measure on use of City funds.

FISCAL IMPACT: The cost to consolidate the general municipal election and placing the Measure on the ballot for consideration by the voters is estimated to be approximately $20,000 for all ballot measures this November.

BACKGROUND: In Fiscal year 2007/08 the City began the stabilization of City funds with massive reductions in workforce and overall City expenditures. In addition to the expenditure reductions, the City also reorganized the priorities, with that, the City gave the municipal airport to the County of Riverside and leased the operation of the municipal golf course. And although the annual deficits have been eliminated, the City struggles from the lack of funding to repair
their accumulated fiscal deficits and invest into the needed community infrastructure and services.

The measures proposed would augment the sales tax rate from 8.0% to 8.5% and generate approximately $600,000 annually, the TOT rate from 10.0% to 13.0% and generate approximately $300,000. The medical cannabis business measure would give the registered voters of the City to authorize, regulate, and tax this business. The anticipated revenues are uncertain, by way of examples; the City of Palm Springs anticipates generating $500,000 in revenue whereas the City of Needles generates $50,000 in revenue.

STAFF REPORT: Staff presented several reports over the past year regarding the fiscal needs of the community. Below is a summary of the presentations and steps taken by the City Council:

1. **Strategic Planning – January 28th, 2014.** The City Council and Staff reviewed the past, present, and future needs of the City. Staff presented the needs and prioritized with the Council concurring however, the lack of funding eliminated the ability to fund most needs. Revenue augmentation was discussed;

2. **Mid-Year budget review – March 11th, 2014.** The City Council was presented the mid-year budget review that presented the adopted budget compared to actual expenditures. The results proved the staff is effectively managing the limited resources of the City. One of the presentations was the need of the City to start spending the accumulated Measure A funding which will improve the roads but, the lack of revenue prevents the investment;

3. **Citizens Fiscal Committee – April – June 2014.** The City Council formed a Citizens Fiscal Committee to review the past, present, and future of the City they love. Each Councilmember appointed two members with the Mayor picking three. These eleven people were tasked with giving a recommendation to the Council that represents the people of Blythe.

4. **Regular Council Meeting on June 10th, 2014.** The Council voted to direct staff to craft an ordinance to regulate medical cannabis dispensaries and thereafter, repeal the ban on dispensaries;

5. **Regular Council Meeting on July 8, 2014.** The Council voted to direct staff to place the authorization, regulation, and tax of medical cannabis dispensaries on the November ballot;

6. **Council Study Sessions on July 7th and July 14th.** The City Council reviewed the Citizens Committee recommendations, Sales Tax augmentation of .5% with a five-year sunset, TOT augmentation of 3% with a five-year sunset, fiscal emergency declaration, and an advisory measure. The Council agreed and gave staff direction. The Council also discussed the proposed medical cannabis regulations to be incorporated in the ordinance.

Attached are seven resolutions that will facilitate the placement of four questions on the November 4, 2014 elections. The questions are, in no particular order:

Question 1 – Shall Ordinance 2014-025, which would authorize, regulate, and tax medical cannabis businesses (including a maximum rate of fifteen cents for each $1.00 of proceeds collected by a medical cannabis business, a maximum monthly rate of $10 a square foot of cultivation of medical cannabis, and a maximum annual rate of $10,000 per medical cannabis business license), be adopted?

Question 2 – Shall the City of Blythe increase its sales tax by 0.5% for a period of five years?
Question 3 – Shall the City of Blythe increase its transient occupancy tax (TOT) by 3%, to bring its TOT rate to 13%, for a period of five years?

Question 4 - Advisory Vote Only. Shall the fire department, the police department, road improvements and maintenance, city promotion, community center enhancements, recreation center enhancements, and code enforcement (enhancing the appearance) be given priority in receipt of additional revenue generated, if either Measure A (Sales Tax 0.5% Increase) or Measure B (Transient Occupancy Tax 3% Increase), or if both of them, is/are approved by the voters?
RESOLUTION NO. 2014-023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, FOR THE SUBMISSION TO THE VOTERS OF THE CITY OF BLYTHE, CALIFORNIA QUESTIONS RELATING TO A SALES TAX, A TRANSIENT OCCUPANCY TAX, AND AN ADVISORY MEASURE ON USE OF CITY FUNDS, AS WELL AS A PROPOSED ORDINANCE TO AUTHORIZE, REGULATE AND TAX MEDICAL CANNABIS BUSINESSES.

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 4, 2014; and

WHEREAS, the City Council desires to submit to the voters at the election questions relating to a sales tax, a transient occupancy tax, and an advisory measure on the use of City funds, as well as a proposed ordinance to authorize, regulate and tax medical cannabis businesses;

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

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Blythe, California, on Tuesday, November 4, 2014, a General Municipal Election for the purpose of submission to the voters of the City of Blythe questions relating to a sales tax, a transient occupancy tax, and an advisory measure on the use of City funds, as well as a proposed ordinance to authorize, regulate and tax medical cannabis businesses.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the City Clerk is authorized, instructed and directed to coordinate with the County of Riverside Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 5. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.
SECTION 6. That notice of the time and place of holding the election is 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 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 9. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

PASSED, APPROVED AND ADOPTED this 29th day of July, 2014, by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

Mike Evans, Mayor

Mallory Sutterfield, City Clerk
RESOLUTION NO. 2014-024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE.

WHEREAS, the City Council of the City of Blythe called a General Municipal Election to be held on November 4, 2014, for the purpose of submitting to the voters at the election questions relating to a sales tax, a transient occupancy tax, and an advisory measure on the use of City funds, as well as a proposed ordinance to authorize, regulate and tax medical cannabis businesses; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the city the precincts, polling places and election officers of the two elections be the same, and that the County Election Department of the County of Riverside canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election;

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

SECTION 1. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Riverside is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 4, 2014, for the purpose of submitting to the voters at the election questions relating to a sales tax, a transient occupancy tax, and an advisory measure on the use of City funds, as well as a proposed ordinance to authorize, regulate and tax medical cannabis businesses.

SECTION 2. That the Riverside County Registrar of Voters Office is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the Riverside County Registrar of Voters Office, to take any and all steps necessary for the holding of the consolidated election.
SECTION 4. That the City of Blythe recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Riverside County Board of Supervisors and the Riverside County Registrar of Voters.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 29th day of July, 2014, by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

Mike Evans, Mayor

Mallory Sutterfield, City Clerk
RESOLUTION NO. 2014-025

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING CITY MEASURES RELATING TO A SALES TAX, A TRANSIENT OCCUPANCY TAX, AND AN ADVISORY MEASURE ON USE OF CITY FUNDS, AS WELL AS A PROPOSED ORDINANCE TO AUTHORIZE, REGULATE AND TAX MEDICAL CANNABIS BUSINESSES; AND, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR THE SAME CITY MEASURES.

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election is to be held in the City of Blythe, California on Tuesday, November 4, 2014, at which there will be submitted to the voters the following measures relating to a sales tax, a transient occupancy tax, and an advisory measure on the use of City funds, as well as a proposed ordinance to authorize, regulate and tax medical cannabis businesses:

<table>
<thead>
<tr>
<th>Measure A: Authorize, Regulate and Tax Medical Cannabis Businesses</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall Ordinance No. 2014-025, which would authorize, regulate and tax medical cannabis businesses (including a maximum rate of fifteen cents for each $1.00 of proceeds collected by a medical cannabis business, a maximum monthly rate of $10 a square foot of cultivation of medical cannabis, and a maximum annual rate of $10,000 per medical cannabis business license), be adopted?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure B: Sales Tax 0.5% Increase</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall the City of Blythe increase its sales tax by 0.5% for a period of five years?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure C: Transient Occupancy Tax 3% Increase</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall the City of Blythe increase its transient occupancy tax (TOT) by 3%, to bring its transient occupancy tax to a rate of 13%, for a period of five years?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure D: Advisory Vote Only on City Funds Use</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advisory Vote Only. Shall the fire department, the police department, road improvements and maintenance, city promotion, community center enhancements, recreation center enhancements, and code enforcement (enhancing the appearance) be given priority in receipt of additional revenue generated, if either Measure A (Sales Tax 0.5% Increase) or</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes ALL members of the City Council to file written arguments in Favor of or Against City measures not exceeding 300 words, accompanied by the printed names and signatures of the authors submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measures may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. Pursuant to Election Code Section 9600, the arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument.

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the measures to the City Attorney, unless the organization or salaries of the office of the City Attorney is affected. The City Attorney shall prepare an impartial analysis each of City measures which relate to a sales tax, a transient occupancy tax, and an advisory measure on the use of City funds, as well as a proposed ordinance to authorize, regulate and tax medical cannabis businesses not exceeding 500 words each showing the effect of the measure on existing law and the operation of the measure. If a measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis. The impartial analysis for each of the measures shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 29 day of July, 2014, by the following vote:

AYES:
NOES:
ABSENT:

Mike Evans, Mayor

ATTEST:

Mallory Sutterfield, City Clerk
RESOLUTION NO. 2014-026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

WHEREAS, Section 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions for the filing of rebuttal arguments for city measures submitted at municipal elections;

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

SECTION 1. That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five authors.

The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for filing direct arguments. Pursuant to Election Code Section 9600 the rebuttal arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3. That the provisions of Section 1 shall apply only to the election to be held on November 4, 2014 and shall then be repealed.

Section 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.
PASSED, APPROVED AND ADOPTED this 29th day of July, 2014, by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

__________________________
Mike Evans, Mayor

__________________________
Mallory Sutterfield, City Clerk
RESOLUTION NO. 2014-027

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLYTHE, CALIFORNIA DELCARING A FISCAL
EMERGENCY FOR FISCAL YEAR 2014/15

WHEREAS, the City of Blythe continues to face a dire state of fiscal emergency due to
the continuing severe impact of the economic collapse caused by the Great Recession of recent
years, being the worst recession since the Great Depression, as well as the collapse of the
housing market, continuing California state takeaways, and insufficient tax revenues to cover
government expenses; and

WHEREAS, despite the City of Blythe responsibly managing its limited financial
resources and taking reasonable and considerable steps to mitigate its continuing state of fiscal
emergency, the City of Blythe continues to experience a stagnation in the local economy and the
remaining effects of the City operated golf course, airport, and prior year accumulated deficits
resulting in the need for layoffs, reduction in essential services such as police and fire, and delay
and/or cancellation of city capital expenditure projects; and

WHEREAS, the City has made deep cuts to City expenditures to deliver a balanced
budget, and these cuts include an expenditure freeze across all City Departments, reduction of
workforce by 58%, revising City policies to be more efficient, not replacing old City vehicles,
recycling office supplies, re-assigning work duties; and

WHEREAS, the residents of the City of Blythe have expressed a desire to avoid further
cuts in essential City services such as police, fire, and capital improvements; and

WHEREAS, the City’s fiscal crisis herein described is of sufficient gravity and severity
that the City must at the earliest feasible juncture propose revenue enhancement measures to the
electorate in order to maintain, to the extent possible, the minimal level of governmental services
necessary to protect and preserve the health, safety and general welfare of the City’s residents,
workers and visitors; and

WHEREAS, to address the fiscal emergency and to maintain the level of City services
expected, required and desired by the residents of the City of Blythe and to stabilize the finances
of the City of Blythe, the City Council has identified a sales tax, a transient occupancy tax, and
medical cannabis business taxes for consideration by the voters of the City of Blythe;

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

SECTION 1. A fiscal emergency is declared for the fiscal year 2014/15 which begins
July 1, 2014 and ends June 30, 2014.
SECTION 2. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 29th day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

________________________________________
Mike Evans, Mayor

ATTEST:

________________________________________
Mallory Sutterfield, City Clerk
RESOLUTION NO. 2014-028

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLYTHE, CALIFORNIA SUBMITTING TO THE VOTERS OF
THE CITY OF BLYTHE, CALIFORNIA A MEASURE TO
AUTHORIZE, REGULATE AND TAX MEDICIAL CANNABIS
BUSINESSES

WHEREAS, in 1996 the California voters approved Proposition 215 (known as the
Compassionate Use Act (the "CUA") and codified as Health and Safety Code Section 11362.5 et
seq.) to exempt certain patients and their primary caregivers from criminal liability under state
law for the possession and cultivation of cannabis for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420 (known as the
Medical Marijuana Program Act (the "MMPA") and codified as Health and Safety Code Section
11362.7 et seq.), as later amended, to clarify the scope of the Compassionate Use Act relating to
the possession and cultivation of cannabis for medical purpose, and to authorize local governing
bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller's permits
for sales consisting only of medical cannabis; and

WHEREAS, in 2008 the California Attorney General issued guidelines for the security
and non-diversion of cannabis grown for medical use; and

WHEREAS, in 2014 the U.S. House of Representatives voted to stop federal law
enforcement from interfering with medical cannabis operations in the various states which have
decriminalized and/or authorized such operations; and

WHEREAS, Health & Safety Code Section 11362.83 provides that cities are free to
adopt and enforce local ordinances that regulate the location, operation, or establishment of
medical cannabis dispensaries and cultivation; and

WHEREAS, the City Council of the City of Blythe intends that nothing in this Ordinance
shall be deemed to conflict with federal law as contained in the Controlled Substances Act, nor
to otherwise permit any activity that is prohibited under that Act or other applicable law; and

WHEREAS, the City Council of the City of Blythe intends that nothing in this Ordinance
shall be construed to allow persons to engage in conduct that endangers others or causes a public
nuisance, to allow the use of cannabis for non-medical purposes, or to allow any activity relating
to the cultivation, distribution or consumption of cannabis that is otherwise illegal; and

WHEREAS, the operation of medical cannabis dispensaries and the cultivation of
medical cannabis within the City of Blythe presently remains prohibited and unregulated; and

WHEREAS, the City Council of the City of Blythe finds that medical cannabis
operations and cultivation require careful consideration, as does the regulation of the location
and manner in which dispensaries operate and cultivation occurs, so as to prevent negative
impacts on nearby residents and businesses; and
WHEREAS, the City Council of the City of Blythe finds that the City of Blythe has a compelling interest in protecting the public health, safety and welfare of its residents and businesses by regulating the location and operation of medical cannabis dispensaries and medical cannabis cultivation, in preserving the peace and quiet of the neighborhoods in which medical cannabis dispensaries operate and medical cannabis is cultivated, and in providing compassionate access to medical cannabis to its seriously ill residents; and

WHEREAS, the California Constitution grants local governments in Article XI, Section 7 the authority under their police powers to regulate land use; and

WHEREAS, the proposed ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would have the possibility of creating any environmental impacts, and City staff has determined that the establishment of regulations for medical cannabis businesses does not meet any of the thresholds contained in the Checklist that would trigger an environmental impact, and thus according to the “general rule exemption” (Section 15061(b)(3)) of the CEQA Guidelines, projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required, and a notice of exemption will be filed;

WHEREAS, pursuant to subdivision (b) of Section 2 of Article XIIIC of the California Constitution and Section 53720 et. seq. of the Government Code the City Council is authorized to impose a general tax upon submission of such general tax to the voters of the City and approval by a majority of the voters voting on the issue, at an election consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by unanimous vote of the governing body; and

WHEREAS, the City Council desires to submit to the voters of the City, pursuant to this Resolution, a ballot measure on Ordinance No. 2014-025 to authorize, regulate and tax medical cannabis businesses;

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

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

<table>
<thead>
<tr>
<th>Measure A: Authorize, Regulate and Tax Medical Cannabis Businesses</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall Ordinance No. 2014-025, which would authorize, regulate and tax medical cannabis businesses (including a maximum rate of fifteen cents for each $1.00 of proceeds)</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
collected by a medical cannabis business, a maximum monthly rate of $10 a square foot of cultivation of medical cannabis, and a maximum annual rate of $10,000 per medical cannabis business license), be adopted? | No

SECTION 2. That the proposed measure submitted to the voters is attached as Exhibit A, being Ordinance No. 2014-025

SECTION 3. The method of tax collection and all aspects of the application and operation of any tax levied pursuant to the adoption of Ordinance No. 2014-025 shall be as provided for in the ordinance and/or as authorized in the ordinance to be conducted and determined by the City Council, and any such tax shall become effective only upon approval of a majority of the votes cast by the voters voting upon the ballot measure.

SECTION 4. The ballot measure shall not take effect, and no tax authorized by the ballot measure, shall be levied, unless and until the ballot measure receives the approval of a majority of the votes cast by the voters of the City voting upon the ballot measure at the November 4, 2014 general municipal election.

SECTION 5. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. That notice of the time and place of holding the election is 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 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 29th day of July, 2014, by the following vote:

AYES:  
NOES:  
ABSENT:  

______________________________  
Mike Evans, Mayor

ATTEST:  

______________________________  
Mallory Sutterfield, City Clerk
RESOLUTION NO. 2014-029

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA SUBMITTING TO THE VOTERS OF THE CITY OF BLYTHE, CALIFORNIA A GENERAL TAX MEASURE TO INCREASE THE CITY SALES TAX BY 0.5% FOR A PERIOD OF FIVE YEARS, A GENERAL TAX MEASURE TO INCREASE THE CITY TRANSIENT OCCUPANCY TAX BY 3% TO A NEW RATE OF 13% FOR A PERIOD OF FIVE YEARS, AND AN ADVISORY MEASURE ON USE OF CITY FUNDS

WHEREAS, pursuant to subdivision (b) of Section 2 of Article XIIIC of the California Constitution and Section 53720 et. seq. of the Government Code the City Council is authorized to impose a general tax upon submission of such general tax to the voters of the City and approval by a majority of the voters voting on the issue, at an election consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by unanimous vote of the governing body; and

WHEREAS, pursuant to Revenue and Taxation Code section 7285.9 the City Council upon approval by a two-thirds vote of all members of that governing body, and upon compliance with aforementioned election and voter approval requirements, may levy a transactions and use (sales) tax for general revenue purposes; and

WHEREAS, pursuant to Revenue and Taxation Code Section 7280 the City Council upon compliance with aforementioned election and voter approval requirements may impose a transient occupancy tax;

WHEREAS, pursuant to Elections Code section 9603, the City Council is authorized to submit to the voters advisory measures for an indication of general voter opinion on substantive issues and/or ballot proposals; and

WHEREAS, the City Council desires to submit to the voters of the City, pursuant to this Resolution, a ballot measure to increase by 0.5% the City’s Sales Tax in the City for a period of five years, the proceeds of the increase to be deposited in the City’s General Fund for general governmental purposes; and

WHEREAS, the City Council desires to submit to the voters of the City, pursuant to this Resolution, a ballot measure to increase by 3% the City’s Transient Occupancy Tax to a new rate of 13% for a period of five years, the proceeds of the increase to be deposited in the City’s General Fund for general governmental purposes; and

WHEREAS, the City Council desires to submit to the voters of the City, pursuant to this Resolution, an advisory ballot measure on use of City funds; and
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following questions:

<table>
<thead>
<tr>
<th>Measure B: Sales Tax 0.5% Increase</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall the City of Blythe increase its sales tax by 0.5% for a period of five years?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure C: Transient Occupancy Tax 3% Increase</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall the City of Blythe increase its transient occupancy (TOT) tax by 3%, to bring its transient occupancy tax to a rate of 13%, for a period of five years?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure D: Advisory Vote Only on City Funds Use</th>
<th>Response</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advisory Vote Only. Shall the fire department, the police department, road improvements and maintenance, city promotion, community center enhancements, recreation center enhancements, and code enforcement (enhancing the appearance) be given priority in receipt of additional revenue generated, if either Measure A (Sales Tax 0.5% Increase) or Measure B (Transient Occupancy Tax 3% Increase), or if both of them, is/are approved by the voters?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

SECTION 2. The method of collection, exemptions, and all other details and aspects of the application and operation of both the proposed Sales Tax increase and the proposed Transient Occupancy Tax increase described herein by this Resolution (with the express exceptions of the rate and the period of time effective) shall be the same as at the present, and the proposed Sales Tax and proposed Transient Occupancy Tax shall each become effective upon approval of a majority of the votes cast by the voters voting upon the respective ballot measures for each tax.

SECTION 3. Each ballot measure shall not take effect, and neither the proposed Sales Tax increase nor the proposed Transient Occupancy Tax increase, shall be levied, unless and
until the respective ballot measure receives the approval of a majority of the votes cast by the
voters of the City voting upon such ballot measure at the November 4, 2014 general municipal
election.

SECTION 4. That 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. That notice of the time and place of holding the election is 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. That the City Clerk shall certify to the passage and adoption of this
Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 29th day of July, 2014, by the following
vote:

AYES:
NOES:
ABSENT:

__________________________
Mike Evans, Mayor

ATTEST:

__________________________
Mallory Sutterfield, City Clerk
MEETING DATE: July 29, 2014

SUBJECT: Ordinance to Authorize, Regulate and Tax Medical Marijuana

PRESENTED BY: Frank J. Luckino, City Manager

PREPARED BY: Frank J. Luckino, City Manager/Christian L. Bettenhausen, City Attorney

RECOMMENDATION: Staff recommends the Council consider Ordinance No. 866-14 that authorizes, regulates, and taxes Medical Marijuana dispensaries and send it to the voters for approval.

FISCAL IMPACT: The cost to consolidate the general municipal election and placing the Measure on the ballot for consideration by the voters is estimated to be approximately $20,000 for all ballot measures this November.

BACKGROUND: In 1996 the California voters approved Proposition 215 (known as the Compassionate Use Act (the "CUA") and codified as Health and Safety Code Section 11362.5, et seq.) to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis for medical purposes.

In 2003 the California legislature enacted Senate Bill 420 (known as the Medical Marijuana Program Act (the "MMPA") and codified as Health and Safety Code Section 11362.7 et seq.), as later amended, to clarify the scope of the Compassionate Use Act relating to the possession and cultivation of cannabis for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions. Recently, California court decisions have affirmed the authority of local governments to prohibit both dispensaries and cultivation pursuant to local control. Likewise, local governments can regulate dispensaries and cultivation.

Scores of cities throughout California have both banned medical cannabis operations in their cities as well as authorized and taxed medical cannabis operations in their cities. The heaviest concentration of cities which have authorized medical cannabis operation remains in Northern California. Notable exceptions are the City of Los Angeles, and as of March 2014 the City of San Diego. Riverside County presently has two cities which authorize medical cannabis operations, being Palm Spring and Desert Hot Springs.

At the present, SB 1262 is pending in Sacramento. This legislation is co-sponsored by the League of California Cities and the California Police Chiefs Association. This legislation requires the Department of Consumer Affairs to license dispensaries, cultivation sites, and processing facilities. Such licenses are subject to local restrictions, meaning that if the City adopts a local
ordinance to authorize and regulate medical marijuana, SB 1262 would work with such a local law. Further security regulations are provided by SB 1262, as well as provisions related to the transportation, testing and distribution of marijuana. State licensing of medical marijuana dispensaries would be dependent on local permitting approval and other regulations. Local authority to ban dispensaries remains intact.

And, a statewide ballot initiative to legalize recreational use may also be on the California 2016 ballot. This proposed initiative is the California Control, Regulate and Tax Marijuana Initiative, which was approved for signature circulation for the 2014 ballot. Although it failed to qualify for 2014, it appears that the proponents are focused on 2016. The initiative proposes to legalize limited amounts of marijuana for personal use; have the state regulate and license commercial marijuana cultivation, transportation, sales and testing; impose a 25% tax on nonmedical marijuana retail sales; and maintain authority of local governments to ban/limit the number of marijuana businesses.

The City of Blythe in 2010 affirmatively prohibited medical marijuana dispensaries through adoption of Chapter 5.22 ["Cannabis Dispensaries"] of Title 5 ["Business Licenses and Regulations"] of the municipal code. The proposed Measure, if adopted by the voters, would amend Chapter 5.22 in its entirety to authorize, regulate and tax medical cannabis businesses.

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**STAFF REPORT:** The Blythe City Council gave staff direction on regulation which consists of the following:

**PROPOSED MEDICAL CANNABIS LAW**

1. **Regulation**

The proposed ordinance provides for a comprehensive regulatory scheme for both medical cannabis dispensaries as well as the cultivation of medical cannabis for a dispensary. These operations would be prohibited without the issuance of a City permit. The maximum number of medical marijuana dispensaries is three.

Although voter approval is being sought for the new Medical Cannabis Dispensaries, Cultivation and Taxation law, the proposed ordinance is expressly subject to amendment by the Council.

The proposed ordinance has strict regulations governing security, maintenance of written records, background checks, odor and labeling. Notable among these are continuous 24 hours a day security camera monitoring and a mandatory security guard. No physician recommendation can be made on site. The City is authorized to make unannounced inspections to insure compliance with the law.

2. **Further Council Action**

There are a number of items in the proposed ordinance which mandate further Council action, such as establishment of the actual application process for a permit, appropriate zones for use, determination of who is awarded one of the three permits, and further regulations on delivery, edibles, etc.
3. **Taxation**

Finally, the proposed ordinance provides for comprehensive taxation of medical cannabis. *Voter approval is required to levy any new taxes.* Pursuant to subdivision (b) of Section 2 of Article XIIIIC of the California Constitution and Section 53720 et. seq. of the Government Code the City Council is authorized to impose a general tax *only* upon submission of such general tax to the voters of the City and approval by a majority of the voters voting on the issue, at an election consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by unanimous vote of the governing body.

Because the November 4, 2014 election does not have any members of the governing body of the local government up for election, the tax measure is only properly brought before the voters if the entire Council declares a fiscal emergency. Such a resolution has been separately prepared for consideration by the Council.

Voters may approve a maximum tax amount which then can be set by the City Council up to that maximum rate. The proposed measure places a maximum 15% tax rate on business proceeds, a maximum $10/sq. ft monthly tax on cultivation, and a maximum $10,000 business license fee for issuance of one of the three annual permits.

4. **Consistency With Changes in State Law**

Finally, the proposed law is designed to also commence taxation of recreational cannabis if such is legalized in the future, and is also designed to regulate general cannabis operations if they are legalized as well under State law.
Chapter 5.22 Medical Cannabis Dispensaries, Cultivation and Taxation

Section 5.22.010 Purpose and Intent
Section 5.22.020 Definitions
Section 5.22.030 Operation Prohibited Without Permit
Section 5.22.040 Maximum Numbers of Medical Cannabis Businesses
Section 5.22.050 Medical Cannabis Business Permits
Section 5.22.060 General Operating Standards and Restrictions
   A. Security.
   B. Authorizations.
   C. Indemnification and Defense of City.
   D. No Minors.
   E. Odors.
   F. Site management.
   G. Records.
   H. Employees.
   I. No Recommendations On-site.
   J. Labeling.
   K. Use Restrictions.
   L. Non-profit.
   M. Delivery of Medical Cannabis to Members.
   N. Insurance.
   O. Edibles.
   P. Operating Hours for Medical Cannabis Dispensary.
Section 5.22.070 Fees
Section 5.22.080 Taxes
   A. Medical Cannabis Tax.
   B. Returns and Remittances.
   C. Failure to Pay Tax.
   D. Refunds.
   E. Enforcement.
   F. Debts; Deficiencies; Assessments.
Section 5.22.090 Location Restrictions
Section 5.22.100 Suspension and Revocation
Section 5.22.110 Violations and Penalties
Section 5.22.120 Public Nuisance
Section 5.22.130 Appeals
Section 5.22.140 Prohibited Operations and Nonconforming Use
Section 5.22.150 Severability
Section 5.22.160 Consistency with Statewide Regulation of Cannabis
ORDINANCE NO. 866-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BLYTHE, CALIFORNIA AMENDING CHAPTER 5.22 OF TITLE 5
OF THE BLYTHE MUNICIPAL CODE TO AUTHORIZE,
REGULATE AND TAX MEDICAL CANNABIS BUSINESSES

WHEREAS, in 1996 the California voters approved Proposition 215 (known as the
Compassionate Use Act (the “CUA”) and codified as Health and Safety Code Section 11362.5, et seq.) to exempt certain patients and their primary caregivers from criminal liability under state
law for the possession and cultivation of cannabis for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420 (known as the
Medical Marijuana Program Act (the “MMPA”) and codified as Health and Safety Code Section
11362.7 et seq.), as later amended, to clarify the scope of the Compassionate Use Act relating to
the possession and cultivation of cannabis for medical purpose, and to authorize local governing
bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller’s permits
for sales consisting only of medical cannabis; and

WHEREAS, in 2008 the California Attorney General issued guidelines for the security
and non-diversion of cannabis grown for medical use; and

WHEREAS, in 2014 the U.S. House of Representatives voted to stop federal law
enforcement from interfering with medical cannabis operations in the various states which have
decriminalized and/or authorized such operations; and

WHEREAS, Health & Safety Code Section 11362.83 provides that cities are free to
adopt and enforce local ordinances that regulate the location, operation, or establishment of
medical cannabis dispensaries and cultivation; and

WHEREAS, the City Council of the City of Blythe intends that nothing in this Ordinance
shall be deemed to conflict with federal law as contained in the Controlled Substances Act, nor
to otherwise permit any activity that is prohibited under that Act or other applicable law; and

WHEREAS, the City Council of the City of Blythe intends that nothing in this Ordinance
shall be construed to allow persons to engage in conduct that endangers others or causes a public
nuisance, to allow the use of cannabis for non-medical purposes, or to allow any activity relating
to the cultivation, distribution or consumption of cannabis that is otherwise illegal; and

WHEREAS, the operation of medical cannabis dispensaries and the cultivation of
medical cannabis within the City of Blythe presently remains prohibited and unregulated; and

WHEREAS, the City Council of the City of Blythe finds that medical cannabis
dispensary operations and cultivation require careful consideration as well as the regulation of
the location and manner in which dispensaries operate and cultivation occurs so as to prevent
negative impacts on nearby residents and businesses; and

WHEREAS, the City Council of the City of Blythe finds that the City of Blythe has a
compelling interest in protecting the public health, safety and welfare of its residents and
businesses by regulating the location and operation of medical cannabis dispensaries and medical
cannabis cultivation, in preserving the peace and quiet of the neighborhoods in which medical
cannabis dispensaries operate and medical cannabis is cultivated, and in providing compassionate access to medical cannabis to its seriously ill residents; and

WHEREAS, the California Constitution grants local governments in Article XI, Section 7 the authority under their police powers to regulate land use; and

WHEREAS, the proposed ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would have the possibility of creating any environmental impacts, and City staff has determined that the establishment of regulations for medical cannabis businesses does not meet any of the thresholds contained in the Checklist that would trigger an environmental impact, and thus according to the "general rule exemption" (Section 15061(b)(3)) of the CEQA Guidelines, projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required, and a notice of exemption will be filed;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLYTHE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5.22 ["Cannabis Dispensaries"] of Title 5 of the Blythe Municipal Code is hereby repealed and replaced with the following:

Chapter 5.22 Medical Cannabis Dispensaries, Cultivation and Taxation

Section 5.22.010 Purpose and Intent

A. The purpose of this chapter is to authorize, regulate and tax medical cannabis businesses. The City intends that both the operation of medical cannabis dispensaries, as well as the cultivation of medical cannabis, are each consistent with the overall health, welfare and safety of the city and its populace, and that such operations are in compliance with California’s Compassionate Use Act of 1996 as well as California’s Medical Marijuana Program Act of 2003.

B. Provisions of this chapter may be amended by ordinance passed by a majority vote of the City Council.

C. The City has sought voter approval for this chapter conditioned on maintenance of flexibility in amending this chapter from time to time as determined by the City Council. To that end this chapter if approved by the voters is subject to amendment by the City Council to further the purpose of this chapter, such amendment to include but not be limited to amendment of the maximum number of dispensaries allowed, the process and procedure for securing a permit, and all sections of this chapter related in whole or in part to public health, safety and welfare.

D. The tax measures provided for in this chapter which apply to medical cannabis are intended to equally apply to all cannabis if statewide authorization of general cannabis use in California is promulgated in the future.

E. The chapter is not intended to permit activities that are otherwise illegal under federal, state or local law. This chapter is not intended to conflict with federal or state law.

Section 5.22.020 Definitions
The following terms and phrases, whenever used in this chapter, shall be construed as defined in this section:

A. "Applicant" means a person who is required to file an application for a permit or a license under this chapter.

B. "Attending physician" has the same definition as set forth in Health and Safety Code section 11362.7.

C. "Attorney General Guidelines" shall refer to the California Attorney General Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use, issued by the Attorney General's Office in August, 2008, as amended from time to time, which sets forth regulations intended to ensure the security and non-diversion of cannabis grown for medical use by qualified patients or primary caregivers.

D. "Cultivation" means the growing of medical cannabis for medical purposes as defined in strict accordance with Health and Safety Code sections 11362.5 and 11362.7 et seq.

E. "Cultivator" means a person who engages in the cultivation of medical cannabis.

F. "Delivery" means the act of taking something to a person or place.

G. "Dispense" means the selection, measuring, packaging, labeling, delivery, or distribution or sale of medical cannabis to a qualified patient or a primary caregiver.

H. "Edible" has the same definition as "food" as set forth in Health and Safety Code section 109935.

I. "Employee" means any person (whether paid or unpaid) who provides regular labor or regular services for a medical cannabis business, including but not limited to at the location of a medical cannabis business.

J. "Identification card" has the same definition as set forth in Health and Safety Code section 11362.7, and as may be amended, and which provides that "identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any.

K. "Labeling" means all labels and other written, printed, or graphic matter (a) upon any cannabis intended for medical use, or (b) accompanying such cannabis intended for medical use.

L. "Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

M. "Lighting" means the act of illuminating as well as the effect achieved by the arrangement of lights.

N. "Live scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and
automated background check process as determined by the city council.

O. “Manager” means an employee responsible for management and/or supervision of a medical cannabis business.

P. “Cannabis” has the same definition as “marijuana” as set forth in Health and Safety Code section 11018, and as may be amended.

Q. “Medical cannabis” means cannabis used for medical purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5) and the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 et seq.).

R. “Medical cannabis business” means a medical cannabis dispensary and/or a medical cannabis cultivation site.

S. “Medical cannabis cultivation site” means a location where the cultivation of medical cannabis occurs.

T. “Medical cannabis dispensary” means:

1. Any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical cannabis to one or more persons with identification cards or qualified patients; or

2. Any facility, building, structure or location where qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate to cultivate or distribute cannabis for medical purposes.

3. "Medical cannabis dispensary" shall not include the following uses, so long as such uses otherwise fully comply with this Code, Health and Safety Code Section 11362.5 et seq., and other applicable law:
   a. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
   b. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
   c. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
   d. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
   e. A hospice or a home health agency, licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

U. “Member” means either a qualified patient, a person with an identification card, or a primary caregiver.

V. “Non-profit” means to use surplus revenue to achieve the goals of an organization rather than distributing surplus revenue as profit or dividends.

W. “Owner” means the owner of a medical cannabis dispensary and/or a medical cannabis cultivation site.

X. “Permit” means the various regulatory licenses issued pursuant to this chapter, including
but not limited to a license for a medical cannabis business.

Y. "Person" means any natural person, firm, corporation, partnership, club, or any association or combination of natural persons, whether acting by themselves or through any servant, agent or employee.

Z. "Person with an identification card" has the same definition as set forth in Health and Safety Code section 11362.7, and as may be amended, and which provides that "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article [being Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code].

AA. "Physician’s referral" means a written recommendation for a patient from a licensed medical doctor indicating that cannabis would be a beneficial treatment for a serious medical condition of the patient.

BB. "Police Department" means the Police Department of the City of Blythe.

CC. "Primary caregiver" has the same definition as set forth in Health and Safety Code section 11362.7(d), (e), and as may be amended.

DD. "Proceeds" means gross receipts of any kind, including without limitation, membership dues; the value of in-kind contributions; reimbursements provided by members regardless of form; any payments made; and anything else of value obtained by a medical cannabis business.

EE. "Qualified Patient" has the same definition as set forth in Health and Safety Code section 11362.7(f).

FF. "Reasonable Compensation" means compensation commensurate with wages and benefits paid to officers and employees of other not-for-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked.

GG. "Serious Medical Condition" has the same definition as set forth in Health and Safety Code section 11362.7(h), and as may be amended.

Section 5.22.030 Operation Prohibited Without Permit

It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medical cannabis business, or to participate with or in a medical cannabis business as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this chapter. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a medical cannabis business to occupy or use a location, vehicle, or other mode of transportation.

The general prohibition contained in this section shall not operate until the City Council determines by resolution that this section is operative, to coincide on or about the date when the City Council establishes, pursuant to the requirements of this chapter, the practices and procedures governing a valid medical cannabis business permit.

Section 5.22.040 Maximum Numbers of Medical Cannabis Businesses
No more than three (3) permitted medical cannabis businesses shall be maintained or operated in the City at any time.

The selection process applied to applications for the limited number of permits shall be governed by regulations and procedures to be determined by the City Council, which may (but is not required to) consist of a lottery, a priority system for existing uses, and/or an interview process.

Section 5.22.050 Medical Cannabis Business Permits

Prior to initiating operations as a medical cannabis business and as a continuing requisite to conducting operations, the owner of a medical cannabis business shall obtain a regulatory permit from the City Manager or his/her designee under the terms and conditions set forth in this chapter.

A. Conditions necessary for the continuing validity of any and all regulatory permits issued for the operation of a medical cannabis business will be set forth by further action of the City Council.

B. Separate permits may be required for the cultivation of medical cannabis at a specific location, as distinct from the dispensing of medical cannabis at a specific location.

C. The City Council retains the authority to establish any and all lawful conditions for the issuance, as well as the revocation, of medical cannabis business permits and licenses.

Section 5.22.060. General Operating Standards and Restrictions

A medical cannabis business shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions of approval on the permit for a medical cannabis business to ensure that its operation is in compliance with California law, the Attorney General Guidelines, and the Blythe Municipal Code, and to mitigate any potential adverse impacts of the medical cannabis business on the public health, safety or welfare. These conditions may be amended from time to time as determined by the City Council.

A. Security.

1. Any criminal activity occurring at the location of a medical cannabis business and/or at the location where medical cannabis is cultivated, which an employee is aware of, or should reasonably be aware of, and which violation constitutes a felony violation as defined in the Penal Code, or any act of theft, shall be reported to the City Manager or the City Police Department immediately upon discovery.

2. One security guard who is licensed by the State of California shall be present at the location of the medical cannabis business during all business hours. The security guard shall only be engaged in activities related to providing security for the medical cannabis business, except on an incidental basis. The medical cannabis business shall take those steps necessary to assure that the persons assigned to provide security are properly trained or employed by a private security service in good standing with all supervisory or regulatory bodies exercising jurisdiction over such services. Each security guard shall possess a “Security Guard Card” at all times, and shall not possess firearms. The duties of the security guard shall include but are not limited to:

   a. Ensuring no person smokes any substance within twenty feet (20’) of any building entrance, exit, window and air intake vent.
b. Monitoring of the outside of the premises for loitering and unlawful sale of medical cannabis by members. Security guards shall be directed to report to the medical cannabis business all unlawful sales of medical cannabis by members, and the medical cannabis business shall make a report immediately to the Blythe Chief of Police.

3. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 30 days of digitally recorded documentation in a format approved by the City Manager or his/her designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and windows, and any other areas as determined by the City Manager or his/her designee. Signs on the premises shall not obstruct the full and complete operation of the security camera system.

4. The location of the medical cannabis business shall be alarmed with a centrally-monitored fire and burglary alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business & Professions Code section 7590 et seq. and whose agents are properly licensed and registered under applicable law.

5. All entrances into the building housing a medical cannabis business shall be locked from the exterior at all times with entry controlled by employees.

B. Authorizations.

1. The City Manager or his/her designee shall have the right to enter the medical cannabis dispensary and/or cultivation site from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter and all laws of the city and State of California.

2. Recordings made by security cameras required pursuant to this chapter shall be made available to the City Manager or his/her designee or the Police Department upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

C. Indemnification and Defense of City.

1. A medical cannabis business shall execute an agreement with the city indemnifying the city, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, from all liability in connection with all claims, damages, attorney’s fees, costs and allegations arising from or in any way related to the operation of the medical cannabis business. Failure to execute and maintain this agreement will automatically void any prospective or current permits provided by, or issued under, this chapter.

2. A medical cannabis business shall execute an agreement with the city to defend at its sole expense, any action against the city, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, which arises from the application and/or use of this chapter by an applicant, as well to reimburse the city for any court costs and attorney fees that the city may be
required to pay as a result of such action. The city may, at its sole discretion, participate at its own expense in the defense of any such action. Failure to execute and maintain this agreement will automatically void any prospective or current permits provided by, or issued under, this chapter.

D. No Minors.

Minors are prohibited from entering the location of the medical cannabis business unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

E. Odors.

A medical cannabis business shall have an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the medical cannabis business shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the medical cannabis business is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the medical cannabis business, if the use only occupies a portion of a building.

F. Site management.

1. The medical cannabis business permit holder shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the members of the subject medical cannabis business.

   a. "Reasonable steps" shall include immediately calling the Police Department upon observation of the activity, and requesting that those engaging in activities that constitute a nuisance or are otherwise illegal to cease those activities, unless personal safety would be threatened in making the request.

   b. "Nuisance" includes but is not limited to disturbances of peace, open public consumption of medical cannabis or alcohol, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.

2. The medical cannabis business permit holder shall make available to members who are dispensed medical cannabis a list of the rules and regulations governing medical cannabis use and consumption within the city and recommendations on sensible medical cannabis etiquette.

G. Records.

1. Medical cannabis businesses shall maintain records reflecting:

   a. The full name, address, and telephone number(s) of the owner and/or lessee of the property.
b. Full and complete compliance with all of the provisions of Section 5.22.080 governing taxes. Such compliance is determined by the reasonable ability of the City to conduct an audit on such records which can determine whether the medical cannabis business is in full and complete compliance with Section 5.22.080.

c. The full name, address, and telephone number(s) of all employees.

d. Results of annual live scans of all employees.

e. The full name, address, and telephone number(s) of all members who participate in cultivation of cannabis.

f. The state issued identification card number of all members to whom the medical cannabis business provides medical cannabis. If a member does not have a state issued identification card, then the medical cannabis business shall assign the member a unique identifying number for the use of the medical cannabis business, and maintain a written copy of the physician’s referral for the member.

g. The full name, address, and telephone number(s) of all members to whom the medical cannabis business provides medical cannabis.

h. The designation, by qualified patient(s) and person(s) with identification cards, of any and all primary caregivers who participate in the collective cultivation of cannabis.

i. The dates upon which all members are dispensed medical cannabis, the amount dispensed, and the name of the recipient.

j. The delivery of medical cannabis, from the medical cannabis business to a member located outside of the medical cannabis business location, including but not limited to the identity of the recipient, the amount delivered, the date of the delivery, the address of the delivery, the name of the employee making the delivery, and a written receipt from the member confirming the delivery.

k. A written accounting of all cash, payments and in-kind contributions, reimbursements, and reasonable compensation provided by the management members and members to the medical cannabis business, and all expenditures and costs incurred by the medical cannabis business.

l. A copy of the medical cannabis business' commercial general liability insurance policy and all other insurance policies related to the operation of the medical cannabis business.

m. An inventory record documenting the dates and amounts of medical cannabis received at the medical cannabis business, the amounts of medical cannabis being cultivated at the location of the medical cannabis business, the daily amounts of medical cannabis stored at the location of the medical cannabis business, and the daily amounts distributed to members.
n. Proof of a valid and current permit issued by the city in accordance with this chapter. Every medical cannabis business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the location of the medical cannabis business.

2. Records shall be maintained on-site, either in paper or electronic form, and secured and verified by the City Manager or his/her designee as needed (consistent with requirements pertaining to patient confidentiality pursuant to applicable State and Federal law), and at least every 12 months by the qualified patient's attending physician.

3. All records are required to be maintained by the medical cannabis business for no less than 3 years and are subject to immediate inspection upon written request by the City Manager or his/her designee.

H. Employees.

1. A medical cannabis business shall maintain results of live scans conducted annually by the medical cannabis business on all employees, the written results of such live scans being maintained at the location of the medical cannabis business.

2. No employee convicted within the last ten years of a felony shall be employed by a medical cannabis business, unless such employee has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted.

3. All employees must possess a valid government issued (or equivalent) form of identification containing an identifying photograph of the employee, the name of the employee, the date of birth of the employee, and the residential address of the employee. Color copies of such identification shall be maintained at the location of the medical cannabis business. A valid California Driver’s license will satisfy this requirement.

4. All employees must have a current and valid identification card.

I. No Recommendations On-site.

A medical cannabis business shall not have a physician or an attending physician at the location of the medical cannabis business to evaluate patients or provide a recommendation for medical cannabis.

J. Labeling.

1. Any medical cannabis provided to members shall be properly labeled in strict compliance with state and local laws, regulations and policies.

2. A distinct and clearly legible label must be affixed onto all medical cannabis items provided by a medical cannabis business which states:

   a. This item contains medical cannabis.
   b. Warning that the item is a medication and not a food.
   c. Warning that the item is to be kept away from children.
   d. Warning if nuts or other known allergens are used.
e. The specific date of manufacture.
f. Total weight (in ounces or grams) of cannabis in the item.

3. Packaging that makes the product attractive to children or imitates candy is not allowed.

4. Any edible cannabis product that is made to resemble a typical food product (i.e. brownie, cake) must be in a properly labeled opaque (non see-through) package before it leaves the medical cannabis business.

5. The City Council is authorized to establish additional minimum requirements as deemed necessary for labeling of medical cannabis products, which shall be strictly adhered to by all medical cannabis businesses.

K. Use Restrictions.

Smoking, ingesting or consuming cannabis at the location of the medical cannabis business or within 20 feet of the medical cannabis business is prohibited.

L. Non-profit.

1. A medical cannabis business shall operate on a non-profit basis. A medical cannabis business shall not profit from the sale or distribution of cannabis. Any monetary reimbursement that members provide to the medical cannabis business should only be an amount necessary to cover overhead costs and operating expenses. Retail sales of medical cannabis that violate California law or this chapter are expressly prohibited.

2. Reasonable proof (as determined to the satisfaction of the City Manager or his/her designee) of compliance with these non-profit requirements shall be providing annually to the City Manager or his/her designee in writing along with supporting documentation.

M. Delivery of Medical Cannabis to Members.

The City Council and or/its designees may establish regulations and restrictions on the delivery of medical cannabis from or to a medical cannabis business.

N. Insurance.

A medical cannabis business shall carry insurance in the amounts and of the types that are acceptable to the City Manager or his/her designee. Such insurance shall name the city, its council members, officers, employees, agents and contractors as additional insured as respects to any liability arising out of the operation of the medical cannabis business.

O. Edibles.

Regulations governing medical cannabis edibles shall be established by the City Council or its designees.

P. Operating Hours for Medical Cannabis Dispensary.
The maximum hours of operation for a medical cannabis dispensary shall be established by the City Manager or his/her designees.

Section 5.22.070. Fees

The fee measures provided for in this section which apply to medical cannabis are intended to equally apply to all cannabis if statewide authorization of general cannabis use in California is promulgated in the future.

A. Fees.

1. An application fee set by resolution of the City Council shall be required for formal processing of every application made under this chapter.

2. The City Council is authorized to pass resolutions to recover any and all fees and costs incurred by the implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon medical cannabis businesses and their operations.

3. An annual medical cannabis business license fee set by resolution of the City Council, but not to exceed $10,000, shall be required for the issuance of a medical cannabis business permit.

B. State Board of Equalization Seller’s Permit Required.

The State Board of Equalization has determined that medical cannabis transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical cannabis must obtain a Seller’s Permit from the State Board of Equalization. Such permit shall be conspicuously displayed at the Medical Cannabis Business. Failure to maintain the Seller’s Permit is grounds for revocation of a medical cannabis dispensary permit and/or medical cannabis cultivation site permit.

Section 5.22.080. Taxes

The tax measures provided for in this section which apply to medical cannabis are intended to equally apply to all cannabis if statewide authorization of general cannabis use in California is promulgated in the future.

A. Medical Cannabis Tax.

1. Every person engaged in operating or otherwise conducting a medical cannabis business, and regardless of whether such business has valid permit(s) pursuant to this Code and/or this chapter, shall pay a maximum cannabis tax of 15 cents for each $1.00 of proceeds or fractional part thereof, the rate to be set by resolution of the City Council.

2. Every person engaged in the cultivation of medical cannabis, and regardless of whether such cultivation has valid permit(s) pursuant to this Code and/or this chapter, shall pay a maximum monthly fee of $10.00 per square foot under active cultivation, the rate to be set by resolution of the City Council.

3. Failure to pay the taxes set forth in this chapter shall be subject to penalties, interest charges, and assessments as the City Council may establish and
the City may use any or all other code enforcement remedies provided in this Code.

4. The City Council may impose the tax authorized by this chapter at a lower rate and may establish exemptions, incentives, or other reductions, and penalties and interest charges or assessments for failure to pay the tax in a timely manner, as otherwise allowed by Code or California law. No action by the Council under this Section shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction, and restoring the maximum tax specified in this chapter.

5. The payment of the tax required pursuant to this chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed in strict and full conformance to the provisions of this Code. Nothing in this chapter shall be applied or construed as authorizing the sale of cannabis.

6. Taxes provided for under the provisions of this chapter are not sales or use taxes and shall not be calculated or assessed as such. The taxes shall not be separately identified or otherwise specifically assessed or charged to any individual member; rather, the taxes are imposed upon the medical cannabis business.

7. The City Manager or his/her designee shall promulgate rules, regulations, and procedures to implement and administer this chapter to ensure the efficient and timely collection of the tax imposed by this chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.

B. Returns and Remittances.

The Tax shall be due and payable as follows:

1. Each person owing Tax, on or before the last business day of each calendar month as established by the City Manager, shall prepare a tax return to the City Manager of the total proceeds and/or total square feet under active cultivation, and the amount of Tax owed for the preceding calendar month. At the time the Tax return is filed, the full amount of the Tax owed for the preceding calendar month shall be remitted to the city.

2. All tax returns shall be completed on forms provided by the City Manager or his/her designee.

3. Tax returns and payments for all outstanding taxes owed the city are immediately due the City Manager upon cessation of business for any reason.

4. Whenever any payment, statement, report, request or other communication received by the City Manager is received after the time prescribed by this section for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this section for the receipt thereof, or whenever the City Manager is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the
United States mail on or prior to the date prescribed for receipt thereof, the City Manager may regard such payment, statement, report, request, or other communication as having been timely received. If the due day falls on Friday, Saturday, Sunday, or a federal holiday, the due day shall be the last regular business day on which the City Hall is open to the public prior to the due date.

5. 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 paid on or before the due date specified in by this section.

6. The City Manager is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

C. Failure to Pay Tax.

Any person who fails or refuses to pay any 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 twenty-five percent 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 a rate established by resolution of the City Council; and, an additional penalty equal to twenty-five percent of the amount of the Tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid Tax and interest on the unpaid penalties calculated at the rate established by resolution of the City Council.

2. Whenever a check is submitted in payment of a Tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the Tax amount due plus penalties and interest as provided for in this section plus any amount allowed under state law.

3. The Tax due shall be that amount due and payable from the operative date of this Chapter.

4. The City Manager may waive the first and second penalties of twenty-five percent each imposed upon any person if:

   a. The person provides evidence satisfactory to the City Manager that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the city prior to applying to the City Manager for a waiver.

   b. The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four month period.

D. Refunds.

1. No refund shall be made of any tax collected pursuant to this chapter, except as provided in this Section.
2. No refund of any Tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a medical cannabis business.

3. Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against medical cannabis business Taxes for the next calendar month.

4. Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, such amount may be refunded to the claimant who paid the Tax provided that a written claim for refund is filed with the City Manager.

5. The City Manager 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 therefor refuses to allow such examination of claimant’s books and business records after request by the City Manager to do so.

6. In the event that the Tax was erroneously paid and the error is attributable to the city, the entire amount of the Tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the city shall retain the amount set forth in this Chapter from the amount to be refunded to cover expenses.

7. The City Manager shall initiate a refund of any Tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is uncovered by a city audit of Tax receipts. In the event that the Tax was erroneously paid and the error is attributable to the city, the entire amount of the Tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the city shall retain the amount set forth in this chapter from the amount to be refunded to cover expenses.

E. Enforcement.

1. It shall be the duty of the City Manager to enforce each and all of the provisions of this chapter.

2. For purposes of administration and enforcement of this chapter generally, the City Manager, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.

3. The City Manager or his/her designee shall have the power to audit and examine all books and records of medical cannabis businesses as well as persons engaged in the operation of a medical cannabis business, including both state and federal income tax returns, California sales tax returns, cultivation records or logs, or other evidence documenting the gross receipts of the medical cannabis business or persons engaged in the operation of a medical cannabis business, or other evidence documenting the cultivation of medical cannabis, for the purpose of ascertaining the amount of Tax, if any, required to be paid by the provisions of this chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this chapter. If such medical cannabis business or person, after written demand by the City Manager,
refuses to make available for audit, examination or verification such books, records, or equipment as the City Manager requests, the City Manager may, after full consideration of all information within the City Manager’s knowledge concerning the medical cannabis business and activities of the person so refusing, make an assessment in the manner provided in subsection (F) of this Section.

4. 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.

5. Any person violating any of the provisions of this Chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring permits from the City as provided for in this Chapter shall be deemed guilty of a misdemeanor.

F. Debts; Deficiencies; Assessments.

1. The amount of any tax, penalties, and interest imposed by the provisions of this chapter shall be deemed a debt to the city and any person operating a medical cannabis business without also making payment to the city of the taxes imposed by this chapter shall be liable in an action in the name of the city in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such medical cannabis business.

2. If the City Manager 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, the City Manager 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. 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 three 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.

3. Under any of the following circumstances, the City Manager may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:

a. If the person has not filed any statement or return required under the provisions of this chapter;
b. If the person has not paid any tax due under the provisions of this chapter;
c. If the person has not, after demand by the City Manager, filed a corrected statement or return, or furnished to the City Manager adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under the provisions of this chapter;
d. If the City Manager determines that the nonpayment of any tax due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

c. The notice of assessment shall separately set forth the amount of any tax

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known by the City Manager to be due or estimated by the City Manager, after consideration of all information within the City Manager’s knowledge concerning the business and activities of the person assessed, to be due under each applicable section 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.

f. The notice of assessment shall be served upon the person either by handing it to him or her personally, 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 appearing on the face of the business tax certificate issued under this Code or to such other address as he or she shall register with the City Manager for the purpose of receiving notices provided under this Chapter; or, should the person have no business tax certificate issued and should the person have no address registered with the City Manager for such purpose, then to such person’s last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

g. Within ten days after the date of service the person may apply in writing to the City Manager 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 City Manager shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the City Manager shall cause the matter to be set for hearing before a hearing officer pursuant to the provisions of this Code not later than thirty days after the date of application, unless a later date is agreed to by the City Manager and the person requesting the hearing. Notice of such hearing shall be given by the City Manager to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the City Manager should not be confirmed and fixed as the tax due. After such hearing the hearing officer 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 for giving notice of assessment.

Section 5.22.090. Location Restrictions.

A. Medical cannabis businesses shall not be located within five hundred (500) feet of a public or private school, public library or youth center (serving youth ages eighteen (18) and under).

B. Medical cannabis businesses shall not be located within five hundred (500') feet of a residential zone except pursuant to the issuance of a minor conditional use permit as determined by the director of development services.

C. No medical cannabis dispensary can be located within five hundred (500') feet of any other medical cannabis dispensary, irrespective of ownership.

D. Medical cannabis businesses may only be located in zones as designated by the City Council.

Section 5.22.100. Suspension and Revocation.

The City Manager or his/her designee is authorized to suspend and/or revoke any and all permits and/or licenses issued pursuant to this chapter upon the determination through written findings of
a failure to comply with any provision of this chapter, any condition of approval, or any agreement or covenant as required pursuant to this chapter. The City Manager or his/her designee may revoke a medical cannabis business permit if any of the following, singularly or in combination, occur:

A. The City Manager or his/her designee determines that the medical cannabis dispensary or cultivation site has failed to comply with any aspect of this chapter, any condition or approval, or any agreement or covenant as required pursuant to this chapter; or

B. Operations cease for more than 180 calendar days (including during any change of ownership, if applicable); or

C. Ownership is changed without securing a new regulatory permit; or

D. The medical cannabis dispensary and/or cultivation site fails to maintain required security camera recordings; or

E. The medical cannabis dispensary and/or cultivation site fails to allow inspection of the security recordings, the records, the activity logs, or of the premise by authorized city officials.

Section 5.22.110. Violations and Penalties.

Any person, whether as principal, employee, agent, partner, director, officer, stockholder, or trustee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and any conviction thereof shall be punishable by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

Section 5.22.120. Public Nuisance.

In addition to the penalties set forth in this chapter, any medical cannabis business which is operating in violation of any provisions of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation. All costs to abate such public nuisance, including attorneys’ fees and court costs, shall be paid by the permit holder of the medical cannabis business pursuant to Chapter 8.28 (Nuisances) of Title 8 (Health and Safety) of the Blythe Municipal Code. Any appeals to a determination that a medical cannabis business is operating as a public nuisance shall be pursuant to the provisions in the same chapter.

Section 5.22.130. Appeals

Any decision regarding approval, conditional approval, denial, suspension or revocation may be appealed to the city manager in writing for a review and decision. Said appeal must be filed within thirty days of the decision. If further appeal is required the person shall file a notice of appeal with the city clerk within fifteen days of the city manager’s decision. The city clerk shall present the notice to the city council and the council shall set a time and place for hearing such appeal.

Section 5.22.140. Prohibited Operations and Nonconforming Use

All medical cannabis businesses in violation of Health and Safety Code Section 11362.7 et seq. and 11362.5 et seq., this chapter, or any other applicable State law are expressly prohibited.
It is unlawful for any medical cannabis business in the city, or any agent, employee or representative of such medical cannabis business, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the medical cannabis business, or to violate any State law, or this chapter.

No use which purports to have distributed cannabis prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Blythe Zoning Code, the Blythe Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

Section 5.22.150. Severability

If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Blythe hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 5.22.160. Consistency with Statewide Regulation of Cannabis

This chapter shall be read consistent with any statewide regulation of medical cannabis that is promulgated by the California legislature or by voter approval in the future. In the event statewide regulation is passed pursuant to the decriminalization or legalization of cannabis for recreational use, this chapter shall govern the conduct of those business allowed to distribute cannabis under such provisions to the fullest extent possible consistent with such statewide regulation, including but not limited to the taxation of cannabis.
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