

ORIGINAL

RESOLUTION NO. 6438(21)

**A Resolution of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Issuing a Call to Consolidate the Special Municipal Election Previously
Called by City Council Resolution No. 6415(21) With The Statewide
California Gubernatorial Recall Election To Be Held on September 14, 2021, and
Calling That September 14, 2021 Special Municipal Election, Pursuant to
Elections Code Section 1605(f), for Submission to the Qualified
Electorate of The City of Lompoc (City) Changes to the Tax
Structure for Cannabis Manufacturing and Distribution Operators for
General Fund Purposes and Other Changes to the Regulations
and Definitions Applicable to the Cannabis Industry in Lompoc;
Requesting the Santa Barbara County Board of Supervisors to Have the County
Elections Department Consolidate the Special Municipal Election with the Statewide
California Gubernatorial Recall Election to be Held on September 14, 2021; and
Authorizing City Payment for Election Activities**

WHEREAS, on June 1, 2021, the City Council Adopted Resolution No. 6415(21) which called a special municipal mail-in only election to be held on August 31, 2021 for submission to the qualified electorate of the City changes to the tax structure for cannabis manufacturing and distribution operators for General Fund purposes and other changes to the regulations and definitions applicable to the cannabis industry in Lompoc; and

WHEREAS, effective June 28, 2021, Section 1605 was added to the California Elections Code (EC) and Subdivision (f) of that section states:

Notwithstanding any other law, if the Lieutenant Governor issues a proclamation calling a gubernatorial recall election, a district, city, or other political subdivision that previously called a special local election that has not yet been conducted for the submission of any question, proposition, or office to be filled may call that special local election to be consolidated with the gubernatorial recall election if all of the following conditions are met:

- (1) The special local election was called prior to June 15, 2021.
- (2) The original date on which the special local election was called is not more than 30 days before and not more than 30 days after the date of the gubernatorial recall election.
- (3) The call to consolidate the special local election with the gubernatorial recall election is issued within four days from the date of issuance of the Lieutenant Governor's proclamation.

WHEREAS, on July 1, 2021, the Lieutenant Governor proclaimed and declared the statewide California Gubernatorial Recall Election be held on September 14, 2021, to determine whether Gavin Newsom, Governor of the State of California, shall be recalled and if the majority vote on the question is to recall, to elect a successor; and

WHEREAS, on the basis of the foregoing, following a hearing on July 5, 2021, the City Council determines it is appropriate to issue a call to consolidate the special municipal election, previously called by the City Council by Resolution No. 6415(21) on June 1, 2021, with the September 14, 2021 statewide California Gubernatorial Recall Election, and to call that Special Municipal Election for September 14, 2021 to place a measure before the voters regarding changes to the City's taxing structure for cannabis manufacturing and distribution operations with no sunset.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

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

SECTION 2. Pursuant to the authority established by Subdivision (f) of Section 1605 of the Elections Code, the City Council hereby issues a call to consolidate the special municipal election, previously called by Resolution No. 6415(21), with the statewide California Gubernatorial Recall Election to be held on September 14, 2021, and not to be held as a mail-in-only election, for the purpose of submitting to the voters of the City of Lompoc the ordinance attached hereto as Exhibit A;

SECTION 3. The City Council orders submitted to the voters at the special election on September 14, 2021, the following question:

Shall a measure, (i) imposing a graduated tax ranging from 0.5 cents per dollar to 2.5 cents per dollar, at half-cent increments, on five levels of Lompoc cannabis manufacturing/distribution operators' annual revenues ranging from \$10,000,000 or less to over \$55,000,000, with no sunset clause, estimated to collect \$1,200,000 annually based on currently established operations, (ii) excluding sales/excise taxes from City cannabis tax calculations and (iii) allowing receipts to show those taxes, be adopted?	YES
	NO

SECTION 4. Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law. Pursuant to California Elections Code, section 9295, the measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The City Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

SECTION 5. Upon approval of the voters of the City of Lompoc, the Lompoc Municipal Code shall be amended to amend various sections and subdivisions of Chapter 3.50 of Title 3, establishing a new tax structure for cannabis manufacturing and distribution operations. The proposed complete text of the measure submitted to the voters is attached hereto as Exhibit "A". This question requires the approval of a majority of those casting votes. The City Council hereby proposes and approves the ordinance, the form thereof attached hereto as Exhibit "A," shall be submitted to the voters of the City.

SECTION 6. Pursuant to the authority established by Subdivision (f) of Section 1605 of the Elections Code, the Board of Supervisors of the County of Santa Barbara is hereby requested to consent and agree to the consolidating the special municipal election with the statewide California Gubernatorial Recall Election on September 14, 2021, for the purpose of submitting to the voters the ballot question relating to the changes to the City's cannabis tax regulations identified in Section 3 of this Resolution. The City Council authorizes the Santa Barbara County Registrar of Voters to consolidate the special municipal election with the statewide California Gubernatorial Recall Election on September 14, 2021, for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation. The election will be held and conducted in the manner prescribed in applicable state law, including Section 10418 and/or subdivision (f) of Section 1605 of the Elections Code as applicable.

- a) The City Clerk shall, not later than July 7, 2021, file with the Board of Supervisors and the County Clerk – Registrar of Voters of the County of Santa Barbara, State of California, a certified copy of this Resolution.
- b) The County Election Department is authorized to canvass the returns of said 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. Pursuant to authority established by subdivision (f) of Section 1605 of the Elections Code, the election will be held and conducted in accordance with the provisions of law regulating a statewide election.
- c) The Santa Barbara County Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the election. The City Clerk may request the assistance of the County Elections Department in regard to said election, as the City Clerk deems necessary.
- d) The City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill. The City Council determines and declares the City will pay to the County the reasonable and actual expenses incurred by the County by consolidating the special municipal election with the statewide California Gubernatorial Recall Election. The City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill. The City Manager of the City of Lompoc is authorized and directed to pay for the expenses incurred after receiving a statement from the County of Santa Barbara.


SECTION 7. This Resolution shall become effective upon its passage and adoption.

The foregoing Resolution was proposed by Council Member Cordova, seconded by Council Member Ball, and was duly passed and adopted by the Council of the City of Lompoc at its special meeting on July 5, 2021, by the following vote:

AYES: Council Member(s): Gilda Cordova, Jeremy Ball, Dirk Starbuck, Victor Vega, and Mayor Jenelle Osborne.

NOES: Council Member(s): None

ABSENT: Council Member(s): None



Jenelle Osborne, Mayor
City of Lompoc

ATTEST:



Stacey Haddon, City Clerk
City of Lompoc

Exhibit A: Ordinance No. 1681(21)

ORDINANCE NO. 1681(21)

**An Ordinance of the People of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Certain Provisions of Chapter 3.50 (Cannabis Taxes)
of the Lompoc Municipal Code to (i) Impose Tiered Taxes
on Cannabis Manufacturing and Distribution Operators,
(ii) Change How All Cannabis Taxes are Calculated and
(iii) Allow Those Taxes to be Shown on Receipts**

WHEREAS, on November 6, 2018, the Lompoc voters adopted Ordinance No. 1651(18), which amended the Lompoc Municipal Code (LMC) by adding a new Chapter 3.50, which imposes taxes, at varying rates, on all commercial cannabis activities, except testing and medical retail sales; and

WHEREAS, the City Council, based on real experiences with the City's commercial cannabis industry has determined certain changes to the tax structure adopted by the voters are in the public interest; and

WHEREAS, the City is authorized to make such changes only with the 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 City Council, unless, by unanimous vote, the City Council determines a fiscal emergency requires that vote be held at a special election; and

WHEREAS, by Resolution No. **6437(21)** the City Council made that determination; and

WHEREAS, the City Council finds revisions to the City's tax structure of commercial cannabis businesses and cannabis products can better generate the revenue needed by the City to ensure its citizens and visitors are safe and cannabis operations comply with the City's standards; and

WHEREAS, the City Council further finds tax revenues from commercial cannabis businesses and cannabis products to be generated by those changes can better provide funds for additional City services to protect the general health and welfare of the citizens of the City of Lompoc.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF LOMPOC, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 3.50.020 of the LMC is hereby amended by renumbering current Subdivisions B.2. through B.9. to B.3. through B.10. and then by adding a new Subdivision B.2., amending newly numbered Subdivision B.4. and adding a new Subdivision B.11., thereto, all to read as follows:

2. Cultivation means the same as defined in California Business and Professions Code § 26001.

4. "Manufacturing" and "Distribution" mean the same as "Manufacture" or "Manufacturer" are defined in California Business and Professions Code § 26001, and include (i) packaging and labeling as defined in California Business and Professions Code § 26001, (ii) processing, storing, and staking of cannabis, and (iii) "Distribution" as defined in Section 9.36.020 of this code.
11. "Taxed amount" means the total revenue and moneys received from customers of a commercial cannabis activity for the products and services directly or indirectly provided by that commercial cannabis activity. "Taxed amount" subject to the taxes imposed by this chapter shall reflect the proportion of the taxed activity that is connected to conduct carried on within the City of Lompoc.

SECTION 2. Subdivisions A. B., C. and E. of Section 3.50.030 of the LMC are hereby amended to read as follows:

- A. Cannabis Cultivation Tax. Every person cultivating commercial cannabis within the City, including nurseries, whether for profit or by a non-profit organization, either pursuant to this code or otherwise, and regardless of whether such operation has a valid permit pursuant to this code, shall pay an annual maximum tax of up to 1% of the taxed amount.
- B. Cannabis Retail Operations Tax. Every person engaged in any commercial cannabis business for the delivery, dispensing or retail sale of cannabis or a cannabis product, whether fixed or mobile, as part of a for-profit or non-profit business within the City, either pursuant to this code or otherwise, and regardless of whether such operation has a valid permit pursuant to this code, shall pay a maximum of up to 6% of the taxed amount for non-medical cannabis transactions.
- C. Cannabis Manufacturing/Distribution Tax. Every person engaged in any commercial cannabis manufacturing or distribution business, as part of a for-profit or non-profit business within the City, either pursuant to this code or otherwise, and regardless of whether such operation has a valid permit pursuant to this code, shall pay a tax in an annual amount based on the following taxed amounts:

For an operation that receives \$10 Million or less annually the tax shall be 0.5 cents per dollar.

For an operation that receives more than \$10 Million up to \$25 Million, annually, the tax shall be 1.0 cent per dollar.

For an operation that receives more than \$25 Million up to \$40 Million, annually, the tax shall be 1.5 cents per dollar.

For an operation that receives more than \$40 Million up to \$55 Million, annually, the tax shall be 2.0 cents per dollar.

For an operation that receives more than \$55 Million, annually, the tax shall be 2.5 cents per dollar.

- D. Cannabis Testing. No separate tax shall be assessed for any cannabis testing business.
- E. Cannabis Microbusiness Tax. Every person engaged in any commercial cannabis microbusiness, as part of a for-profit or non-profit business within the City, either pursuant to this code or otherwise, and regardless of whether such operation has a valid permit pursuant to this code, shall pay taxes in accordance with this section based on the type of cannabis business, but up to an aggregate total of 6% of the taxed amount, not including that received for retail medical cannabis transactions.
- F. The taxes imposed by this chapter are in addition to all other applicable taxes imposed by this code, including, but not limited to, the business taxes imposed by Title 5 of this code.

SECTION 3. Section 3.50.040 of the LMC is hereby amended by amending Subdivision E., thereto, to read as follows:

- E. Even though the taxes established by this chapter are imposed upon each applicable commercial cannabis activity and not directly upon the customers, those taxes may be separately identified or otherwise specifically shown on a customer's receipt.

SECTION 4. Section 3.50.050 of the LMC is hereby amended by amending Subdivision A., thereto, to read as follows:

- A. Each person owing tax, on or before the last business day of each term, as established by the Management Services Director, shall prepare a tax return to the Management Services Director of the total proceeds and taxed amount, and the amount of tax owed for the preceding term. At the time the tax return is filed, the full amount of the tax owed for the preceding term shall be remitted to the City.

SECTION 5. Section 3.50.060 of the LMC is hereby amended by amending Subdivision D. 2., thereto, to read as follows:

- 2. The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent taxes and a waiver shall be granted only once during any 24-month period for taxation of the taxed amounts.

SECTION 6. Effective Date.

If a majority of the voters of the City of Lompoc voting at the special election held on September 14, 2021 vote in favor of this Ordinance, then this Ordinance shall become a valid and binding ordinance of the City of Lompoc, and shall be considered as adopted upon the date the vote is declared by the City Council of the City of Lompoc, and this Ordinance shall go into effect 10 days after that date, pursuant to Election Code section 9217.

SECTION 7. City Council Authority To Amend

This is a City Council sponsored initiative Ordinance, which otherwise would only be subject to amendment by the voters of the City of Lompoc. However, pursuant to Section 9217 of the California Elections Code, the City Council expressly reserves the right and authority to amend the Ordinance and Chapter 3.50 of the LMC to further the purposes and intent of the Ordinance (including, but not limited to, suspending or reducing any tax established herein or thereby and amendment for more efficient administration as determined by the City Council) in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

SECTION 8. Execution.

The Mayor of the City of Lompoc is hereby authorized and ordered to attest to the adoption of the Ordinance by the voters of the City of Lompoc by signing where indicated below.

I hereby certify the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Lompoc, California voting on September 14, 2021.

Jenelle Osborne, Mayor

ATTEST:

Stacey Haddon, City Clerk