

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING SECTION 3.80.261 TO
REDUCE THE ADULT-USE AND MEDICAL CANNABIS
CULTIVATION AND RETAIL TAXES FOR EQUITY
BUSINESSES

The City Council of the City of Long Beach ordains as follows:

Section 1. Subsection 3.80.261.A of the Long Beach Municipal Code is amended to read as follows:

A. Definitions. For purposes of this Section, the following terms shall be defined as follows:

1. "Equity Business" means a cannabis business where a minimum of fifty-one percent (51%) ownership in the cannabis business is held by one equity applicant or, if the cannabis business will be held by a group of applicants in the Equity Program, any one (1) of the equity applicants must hold majority ownership interest in the cannabis business.

2. "Gross Receipts" shall mean any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration including any monetary consideration for marijuana whatsoever, including, but not limited to, membership dues, reimbursements or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation, processing, storage, delivery or provision of marijuana or any transaction related thereto. The term "Gross Receipts" shall also include the total amount of the sale price of all sales, the total amount

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1 charged or received for the performance of any act, service or employment
2 of whatever nature it may be, whether or not such service, act or
3 employment is done as a part of or in connection with the sale of goods,
4 wares, merchandise, for which a charge is made or credit allowed, including
5 all refunds, cash credits and properties of any amount or nature, any
6 amount for which credit is allowed by the seller to the purchaser without any
7 deduction therefrom, on account of the cost of the property sold, the cost of
8 materials used, the labor or service cost, interest paid or payable, losses, or
9 any other expense whatsoever; provided that cash discounts allowed or
10 payment on sales shall not be included. "Gross Receipts" shall not include
11 the amount of any federal tax imposed on or with respect to retail sales
12 whether imposed upon the retailer or the consumer and regardless of
13 whether or not the amount of federal tax is stated to customers as a
14 separate charge, or any California state, city or city and county sales or use
15 tax required by law to be included in or added to the purchase price and
16 collected from the consumer or purchaser, or such part of the sales price of
17 any property previously sold and returned by the purchaser to the seller
18 which is refunded by the seller by way of cash or credit allowances given or
19 taken as part payment on any property so accepted for resale. "Gross
20 Receipts" shall be calculated without any deduction on account of any of
21 the following:

- 22 a. The cost of tangible property sold or bartered;
- 23 b. The cost of materials or products used, labor or
24 service cost, interest paid, losses, or other expense; or
- 25 c. The cost of transportation of the marijuana, or
26 other property or product.

27 3. "Income Tax Exempt Non-Profit Organization" shall
28 mean any association, corporation or other entity that is exempt from

1 taxation measured by income or gross receipts under Article XIII, Section
2 26 of the California Constitution.

3 4. "Marijuana" shall mean all parts of the plant Cannabis
4 sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing
5 or not; the seeds thereof; the resin; whether crude or purified, extracted
6 from any part of the plant; and every compound, manufacture, salt,
7 derivative, mixture, or preparation of the plant, its seeds, or resin.

8 "Marijuana" also means the separated resin, whether crude or purified,
9 obtained from marijuana. "Marijuana" also means the term as defined in
10 California Health and Safety Code Section 11018 and is not limited to
11 medical marijuana.

12 5. "Marijuana Business" shall mean any business,
13 whether operating for-profit or not-for-profit, which performs any of the
14 following activities: marijuana cultivation, delivering, distribution, processing,
15 transporting, dispensing, selling at retail or wholesale, manufacturing,
16 compounding, converting, preparing, storing, packaging, or testing.

17 "Marijuana Business" includes both a Medical Marijuana Business and Non-
18 Medical Marijuana Business. "Marijuana Business" does not include
19 personal medical marijuana cultivation that is specifically permitted by state
20 law or the Long Beach Municipal Code.

21 6. "Marijuana Cultivation" shall mean the seeding,
22 planting, watering, warming, cooling, growing, cultivating, harvesting,
23 drying, curing, grading or trimming of marijuana.

24 7. "Marijuana Delivery" shall mean the commercial
25 transfer of marijuana or marijuana products from a marijuana business to a
26 retail or wholesale customer.

27 8. "Marijuana Distribution" or "Marijuana Transport" shall
28 mean any activity involving the commercial procurement, sale, transfer

1 and/or transport of marijuana and marijuana products from one Marijuana
2 Business to another Marijuana Business for purposes authorized pursuant
3 to state law or the Long Beach Municipal Code.

4 9. "Marijuana Processing" shall mean any activity
5 involving the manufacturing, production, preparation, propagation,
6 processing, converting, or compounding of raw marijuana or marijuana
7 products either directly or indirectly or by extraction methods, or
8 independently by means of chemical synthesis at a fixed location that
9 packages or repackages marijuana or marijuana products or labels,
10 packages or relabels its container.

11 10. "Marijuana Product" shall mean marijuana that has
12 undergone a process whereby the raw agricultural product has been
13 transformed into a concentrate, an edible product, or a topical product.
14 "Marijuana Product" also means marijuana products as defined by
15 California Health and Safety Code Section 11018.1 and is not limited to
16 medical marijuana products.

17 11. "Marijuana Retail Sale" shall mean any activity
18 involving the retail sale to customers of marijuana, marijuana products, or
19 devices for the use of marijuana or marijuana products, either individually or
20 in any combination, including marijuana delivery as part of a retail sale.

21 12. "Marijuana Testing" means any activity involving the
22 testing of marijuana or marijuana products by a facility that is both of the
23 following:

24 a. Accredited by an accrediting body that is
25 independent from all other persons involved in the marijuana industry in the
26 state; and

27 b. Registered with the California State Department
28 of Public Health.

1 13. "Medical Marijuana Business" shall mean any
2 Marijuana Business which performs marijuana cultivation, delivering,
3 distribution, processing, transporting, dispensing, selling at retail or
4 wholesale, manufacturing, compounding, converting, preparing, storing,
5 packaging, or testing, for the ultimate consumption or use of marijuana by
6 qualified patients in accordance with California Health and Safety Code
7 Sections 11362.5 et seq., the California Medical Marijuana Regulation and
8 Safety Act ("MMRSA"), and any other State law authorizing activities
9 related to the medical use of marijuana.

10 14. "Non-Medical Marijuana Business" shall mean any
11 business which performs marijuana cultivation, delivering, distribution,
12 processing, transporting, dispensing, selling at retail or wholesale,
13 manufacturing, compounding, converting, preparing, storing, packaging, or
14 testing, for any other purpose than as a Medical Marijuana Business.

15 15. "Personal Medical Marijuana Cultivation" means
16 cultivation by a qualified patient who cultivates one hundred (100) square
17 feet total canopy area or less of marijuana exclusively for his or her
18 personal medical use but who does not provide, donate, sell, or distribute
19 marijuana to any other person. "Personal Medical Marijuana Cultivation"
20 also includes cultivation by a primary caregiver who cultivates one hundred
21 (100) square feet total canopy area or less of marijuana exclusively for the
22 personal medical purposes of no more than five (5) specified qualified
23 patients for whom he or she is the primary caregiver, but who does not
24 receive remuneration for these activities except for compensation in full
25 compliance with California Health and Safety Code Section 11362.765(c),
26 as it may be amended.

27 16. "Square Foot under Cultivation" or "Square Footage
28 under Cultivation" shall mean the actual amount of canopy (measured by

1 the aggregate area of vegetative growth of live marijuana plants on the
2 premises including the area occupied by vertically and horizontally stacked
3 canopies) that is limited by the maximum amount a marijuana business is
4 authorized to cultivate by either a City permit or license, or by a state
5 license in the absence of a City permit or license, not deducting for
6 unutilized square footage.

7 Section 2. Subsection 3.80.261.C of the Long Beach Municipal Code is
8 amended to read as follows:

9 C. Business License Tax Rates.

10 1. Every medical marijuana business engaged in
11 marijuana retail sale or delivery within the City shall pay a business tax at a
12 rate of up to eight percent (8%) of gross receipts, except equity businesses
13 who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a
14 business tax at half the rate set for non-equity businesses. The tax shall be
15 initially set at a rate of six percent (6%). The tax under this paragraph shall
16 not be increased on medical marijuana businesses unless and until the City
17 Council by ordinance takes action, and the tax rate shall not exceed eight
18 percent (8%) of gross receipts.

19 2. Every non-medical marijuana business engaged in
20 marijuana retail sale or delivery within the City shall pay a business tax at a
21 rate of up to twelve percent (12%) of gross receipts, except equity
22 businesses who meet the eligibility criteria as stated in Section 5.92.1615,
23 shall pay a business tax at half the rate set for non-equity businesses. The
24 tax shall be initially set at a rate of eight percent (8%). The tax under this
25 paragraph shall not be increased on non-medical marijuana businesses
26 unless and until the City Council by ordinance takes action, and the tax rate
27 shall not exceed twelve percent (12%) of gross receipts.

28 3. If a marijuana business is engaged in retail sales or

1 delivery of both medical marijuana and a non-medical marijuana, it shall
2 pay the business tax set forth in paragraph C.2., unless the marijuana
3 business identifies to the City, by reasonable and verifiable standards, the
4 portions of its retail sales activities that are tied to medical marijuana and
5 those that are tied to non-medical marijuana, through the marijuana
6 business' books and records kept in the regular course of business, and in
7 accordance with generally accepted accounting principles, and not
8 specifically created and maintained for tax purposes. The marijuana
9 business has the burden of proving the proper apportionment of taxes
10 under this paragraph C.3.

11 4. Every marijuana business, whether medical or non-
12 medical, that is engaged in marijuana distribution, transport, processing, or
13 testing within the City, shall pay business tax at a rate of up to eight percent
14 (8%) of gross receipts. The tax which was initially set at a rate of six percent
15 (6%), is reduced and set at a rate of one percent (1%). The tax under this
16 section shall not be increased on marijuana businesses unless and until the
17 City Council by ordinance takes action, and the tax rate shall not exceed
18 eight percent (8%) of gross receipts. If a marijuana business that is
19 engaged in marijuana distribution, transport, processing, or testing, is also
20 engaged in marijuana retail sale or delivery of the same marijuana and
21 marijuana products, then it shall pay the business taxes set forth in
22 paragraphs C.1. or C.2., as applicable, for retail sale or delivery of any
23 marijuana or marijuana products and is not required to pay the business
24 taxes set forth in this paragraph for marijuana distribution, transport,
25 processing, or testing for the same marijuana and marijuana products. The
26 marijuana business has the burden of proving that the marijuana or
27 marijuana products involved in distribution, transport, processing, or testing
28 are the same.

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5. In addition to the taxes set forth in paragraphs C.1., C.2., and C.4., every marijuana business, whether medical or non-medical, engaged in marijuana cultivation shall pay a tax of up to fifteen dollars (\$15.00) per square foot under cultivation, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax shall initially be set at a rate of twelve dollars (\$12.00) per square foot under cultivation. The City Council may by ordinance increase any such tax rate from time to time, not to exceed the maximum tax rate of fifteen dollars (\$15.00) per square foot under cultivation.

6. Notwithstanding the maximum tax rates imposed in paragraphs C.1., C.2., C.4. and C.5., the City Council may in its discretion at any time by ordinance implement a lower tax rate, as defined in such ordinance, subject to the maximum rates set forth in C.1., C.2., C.4. and C.5. City Council may subsequently in its discretion at any time by ordinance implement a higher tax rate, subject to the maximum rates set forth in C.1., C.2., C.4. and C.5., and such increase does not constitute a tax increase for which voter approval is required Article XIII C of the California Constitution.

7. All marijuana businesses shall pay a minimum tax of one thousand dollars (\$1,000.00) annually.

Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2023, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

_____ City Clerk

Approved: _____
(Date)

_____ Mayor