



## OFFICE OF THE CITY ATTORNEY

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# ORD-39

**DAWN MCINTOSH**  
City Attorney

August 8, 2023

**GARY J. ANDERSON**  
Assistant City Attorney

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

### RECOMMENDATION:

Recommendation to declare an Ordinance 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, read for the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide).

### DISCUSSION

On April 18, 2023, the City Council passed a motion to request the City Attorney to prepare an ordinance amending the LBMC to reduce the adult-use and medical cannabis cultivation and retail taxes for equity businesses by half the rate set in Section 3.80.261 of the LBMC. The cannabis business license tax rate for adult-use retail is currently set at eight percent of gross receipts with medical retail following at six percent of gross receipts, whereas the cannabis business license tax rate for medical and adult-use cultivation is currently set at \$13.70 per square foot. This ordinance amendment would reduce the tax rates for equity businesses to four percent of gross receipts for adult-use retail, three percent of gross receipts for medical retail, and \$6.85 per square foot for medical and adult-use cultivation. The minimum \$1,000 yearly tax payment as required in Section 3.80.261 (C)(7) of the LBMC would continue to apply to equity businesses.

It is important to note that each year, on October 1<sup>st</sup>, the cultivation tax rate is adjusted equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the Los Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics. However, the cultivation tax may not exceed the maximum rate of \$15.00 per square foot. The maximum rate for adult-use retail may not exceed twelve percent of gross receipts with medical retail following at a maximum rate of eight percent of gross receipts.

Pursuant to your request on April 18, 2023, this office has prepared and submits the above described Ordinance for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

DAWN MCINTOSH, City Attorney

By *Arturo Sanchez*  
ARTURO D. SANCHEZ  
Deputy City Attorney

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### 3.80.261 Marijuana Businesses.

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. ~~1.~~—"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 charged or received for the performance of any act, service or employment of whatever nature it may be, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise, for which a charge is made or credit allowed, including all refunds, cash credits and properties of any amount or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom, on account of the cost of the property sold, the cost of materials used, the labor or service cost, interest paid or payable, losses, or any other expense whatsoever; provided that cash discounts allowed or payment on sales shall not be included. "Gross Receipts" shall not include the amount of any federal tax imposed on or with respect to retail sales whether imposed upon the retailer or the consumer and regardless of whether or not the amount of federal tax is stated to customers as a separate charge, or any California state, city or city and county sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part payment on any property so accepted for resale. "Gross Receipts" shall be calculated without any deduction on account of any of the following:
  - a. ~~a.~~—The cost of tangible property sold or bartered;
  - b. ~~b.~~—The cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or
  - c. ~~c.~~—The cost of transportation of the marijuana, or other property or product.
3. ~~2.~~—"Income Tax Exempt Non-Profit Organization" shall mean any association, corporation or other entity that is exempt from taxation measured by income or gross receipts under Article XIII, Section 26 of the California Constitution.
4. ~~3.~~—"Marijuana" shall mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin; whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana. "Marijuana" also means the term as defined in California Health and Safety Code Section 11018 and is not limited to medical marijuana.
5. ~~4.~~—"Marijuana Business" shall mean any business, whether operating for-profit or not-for-profit, which performs any of the following activities: marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing. "Marijuana Business" includes both a Medical

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

6. ~~5.~~—"Marijuana Cultivation" shall mean the seeding, planting, watering, warming, cooling, growing, cultivating, harvesting, drying, curing, grading or trimming of marijuana.
7. ~~6.~~—"Marijuana Delivery" shall mean the commercial transfer of marijuana or marijuana products from a marijuana business to a retail or wholesale customer.
8. ~~7.~~—"Marijuana Distribution" or "Marijuana Transport" shall mean any activity involving the commercial procurement, sale, transfer and/or transport of marijuana and marijuana products from one Marijuana Business to another Marijuana Business for purposes authorized pursuant to state law or the Long Beach Municipal Code.
9. ~~8.~~—"Marijuana Processing" shall mean any activity involving the manufacturing, production, preparation, propagation, processing, converting, or compounding of raw marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels, packages or relabels its container.
10. ~~9.~~—"Marijuana Product" shall mean marijuana that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Marijuana Product" also means marijuana products as defined by California Health and Safety Code Section 11018.1 and is not limited to medical marijuana products.
11. ~~10.~~—"Marijuana Retail Sale" shall mean any activity involving the retail sale to customers of marijuana, marijuana products, or devices for the use of marijuana or marijuana products, either individually or in any combination, including marijuana delivery as part of a retail sale.
12. ~~11.~~—"Marijuana Testing" means any activity involving the testing of marijuana or marijuana products by a facility that is both of the following:
- a. ~~a.~~—Accredited by an accrediting body that is independent from all other persons involved in the marijuana industry in the state; and
  - b. ~~b.~~—Registered with the California State Department of Public Health.
13. ~~12.~~—"Medical Marijuana Business" shall mean any Marijuana Business which performs marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing, for the ultimate consumption or use of marijuana by qualified patients in accordance with California Health and Safety Code Sections 11362.5 et seq., the California Medical Marijuana Regulation and Safety Act ("MMRSA"), and any other State law authorizing activities related to the medical use of marijuana.
14. ~~13.~~—"Non-Medical Marijuana Business" shall mean any business which performs marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing, for any other purpose than as a Medical Marijuana Business.
15. ~~14.~~—"Personal Medical Marijuana Cultivation" means cultivation by a qualified patient who cultivates one hundred (100) square feet total canopy area or less of marijuana exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute marijuana to any other person. "Personal Medical Marijuana Cultivation" also includes cultivation by a primary caregiver who cultivates one hundred (100) square feet total canopy area or less of marijuana exclusively for the personal medical purposes of no more than five (5) specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for

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compensation in full compliance with California Health and Safety Code Section 11362.765(c), as it may be amended.

~~16.15-~~ "Square Foot under Cultivation" or "Square Footage under Cultivation" shall mean the actual amount of canopy (measured by the aggregate area of vegetative growth of live marijuana plants on the premises including the area occupied by vertically and horizontally stacked canopies) that is limited by the maximum amount a marijuana business is authorized to cultivate by either a City permit or license, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage.

B. Business License Tax.

1. Every Marijuana Business whether organized as not-for-profit or for-profit, shall pay a business license tax in accordance with Chapter 3.80 of this Code and this Section.
2. For the purposes of this Section, a Marijuana Business is considered to be a business as that term is defined in Long Beach Municipal Code Section 3.80.133.
3. For the purposes of this Section, a Marijuana Business is not considered to be a religious or charitable organization as defined in Long Beach Municipal Code Section 3.80.320 (Exemption - Religious and charitable organizations).
4. The business tax set forth in this section is a general tax, the revenues from which shall be deposited into the City's general fund and may be expended for any valid public purpose of the City.

C. Business License Tax Rates.

1. Every medical marijuana business engaged in marijuana retail sale or delivery within the City shall pay a business tax at a rate of up to eight percent (8%) of gross receipts, 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 be initially set at a rate of six percent (6%). The tax under this paragraph shall not be increased on medical marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed eight percent (8%) of gross receipts.
2. Every non-medical marijuana business engaged in marijuana retail sale or delivery within the City shall pay a business tax at a rate of up to twelve percent (12%) of gross receipts, 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 be initially set at a rate of eight percent (8%). The tax under this paragraph shall not be increased on non-medical marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed twelve percent (12%) of gross receipts.
3. If a marijuana business is engaged in retail sales or delivery of both medical marijuana and a non-medical marijuana, it shall pay the business tax set forth in paragraph C.2., unless the marijuana business identifies to the City, by reasonable and verifiable standards, the portions of its retail sales activities that are tied to medical marijuana and those that are tied to non-medical marijuana, through the marijuana business' books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not specifically created and maintained for tax purposes. The marijuana business has the burden of proving the proper apportionment of taxes under this paragraph C.3.
4. Every marijuana business, whether medical or non-medical, that is engaged in marijuana distribution, transport, processing, or testing within the City, shall pay business tax at a rate of up to eight percent (8%) of gross receipts. The tax which was initially set at a rate of six percent (6%), is reduced and set at a rate of one percent (1%). The tax under this section shall not be increased on marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed eight

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- percent (8%) of gross receipts. If a marijuana business that is engaged in marijuana distribution, transport, processing, or testing, is also engaged in marijuana retail sale or delivery of the same marijuana and marijuana products, then it shall pay the business taxes set forth in paragraphs C.1. or C.2., as applicable, for retail sale or delivery of any marijuana or marijuana products and is not required to pay the business taxes set forth in this paragraph for marijuana distribution, transport, processing, or testing for the same marijuana and marijuana products. The marijuana business has the burden of proving that the marijuana or marijuana products involved in distribution, transport, processing, or testing are the same.
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.
- D. Modification, Repeal or Amendment. The City Council may repeal the ordinance codified in this Section, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. If the City Council repeals said ordinance or any provision of this Section, it may subsequently reenact it without voter approval, as long as the reenacted ordinance or Section does not result in an increase in the tax or taxes beyond the maximum rate or methodology imposed herein.
  - E. Annual Adjustment. The taxes imposed by paragraph C.5 shall be adjusted annually by the Director of Financial Management. Beginning on October 1, 2018, and on October 1 of each succeeding year thereafter, the amount of each tax imposed by paragraph C.5 shall be adjusted equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the Los Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics; however no adjustment shall decrease any tax imposed by paragraph C.5. For the purposes of calculating the annual adjustment factor under paragraph C.5, the base year shall be that year ending with December 31, 2016. Rates shall next be adjusted on October 1, 2018, and annually thereafter, based on the annually calculated change from the base year. The October 1, 2018, adjustment shall be the change in the average CPI for the year ending December 31, 2017, compared to the base year ending December 31, 2016.
  - F. Administration. The City Manager, or designee, and/or the City Council by ordinance, may promulgate regulations to implement and administer this Section including, but not limited to regulations allowing Marijuana Businesses to report and or remit taxes more or less frequently than monthly. The City Manager shall provide no less than annually a report to the City Council detailing annual expenditures.
  - G. Reporting and Remittance. In order to aid in the City's collection of taxes due under this Section and to ensure that all Marijuana Businesses are taxed consistently to the best of the City's ability, beginning as set forth in Section K, below, and monthly thereafter, each Marijuana Business shall report to the City any Gross Receipts received during the reporting period and shall likewise remit to the City the taxes due and owing during said period. For purposes of this Section, taxes shall begin to accrue on the date that a person or entity first receives a business license or other permit to operate as a Marijuana Business or Cultivation Site.

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Square Footage payments shall be made annually at the beginning of the calendar year and should be based on the square footage that the marijuana business is authorized to cultivate by either a City permit or license, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage, pro-rated based on the number of months of operation.

- H. Delinquent date—Penalties. Any individual or entity who fails to pay the taxes required by this Section within thirty (30) days after the due date shall pay in addition to the taxes a penalty for nonpayment in a sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid; up to a maximum of one hundred percent (100%) of the tax payable on the due date. Receipt of the tax payment in the office shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.
- I. Records Inspection. Whenever it is necessary to examine any books or records, including tax returns, of any Marijuana Business or Cultivation Site in the City to ascertain the amount of any tax due pursuant to this Section, the City shall have the power and authority to examine such necessary books and records at any reasonable time including, but not limited to, during normal business hours. Records must be maintained for no less than seven (7) years.
- J. Suspension, Revocation and Appeal. The provisions of Sections 3.80.429.1 (Suspension or Revocation) and 3.80.429.5 (Appeal of License Revocation) shall apply in the case of Marijuana Businesses or Cultivation Sites governed by this Section.
- K. Application of Provisions. No business license permit issued under the provisions of this Code, or the payment of any tax required under the provisions of this Code shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Section implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed by California and federal law. Nothing in this Section shall be applied or construed as authorizing the sale of marijuana.
- L. Operative Date. This ordinance establishing a marijuana business tax shall only become operative: 1) if Chapter 5.89 of the Long Beach Municipal Code (banning marijuana businesses in the City of Long Beach) is repealed; and 2) if a regulatory scheme to permit marijuana businesses within the City is adopted. The tax shall become effective on the effective date of the regulatory ordinance as provided by law.

( ORD-20-0001 § 1, 2020; Measure MA § 2, 11-8-2016; Measure MM § 2, 11-6-2016; Measure A , 4-8-2014, eff. 5-23-2014)

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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



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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OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 W. Ocean Boulevard, 9th Floor  
Long Beach, CA 90802

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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