

RESOLUTION NO. 2022-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA ADDING A COMMERCIAL CANNABIS TAX CATEGORY AND ESTABLISHING RELATED GROSS RECEIPTS AND SQUARE FOOTAGE TAX RATES FOR CONSUMPTION LOUNGES AND TEMPORARY CONSUMPTION/SPECIAL EVENTS AND REDUCING THE COMMERCIAL CANNABIS GROSS RECEIPTS AND SQUARE FOOTAGE TAX RATES FOR CULTIVATION ACTIVITIES, DISTRIBUTION ACTIVITIES, AND MANUFACTURING ACTIVITIES (INCLUDING SHARED MANUFACTURING)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

A. In November 2016, the California Marijuana Legalization Initiative, also known as the Adult Use of Marijuana Act (AUMA or Proposition 64) was approved by the voters of the State of California. The AUMA legalized specified personal use and cultivation of marijuana for adults 21 years of age or older.

B. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) establishing state regulations and licensing for retail sales, manufacturing, distribution, delivery and testing of adult-use (also called recreational) marijuana.

C. On November 21, 2017, the City Council created Chapter 40 of the Santa Ana Municipal Code, allowing adult-use commercial cannabis retail businesses in the city, and amended certain sections of Chapters 18 and 21 of the Santa Ana Municipal Code to ensure consistency with State law and Chapter 40. Since 2014, the City has allowed medicinal marijuana collectives/cooperatives to operate within the City pursuant to regulations set forth in Chapter 18 and Chapter 21 of the Santa Ana Municipal Code.

D. In 2018, the City Council adopted Ordinance Nos. NS-2941 and NS-2942, allowing and regulating commercial cannabis businesses.

E. A general business license tax based on the gross receipts derived from commercial cannabis businesses and gross square footage serves to generate essential

funds for protecting vital City services and facilities and places such businesses on more equal footing with existing City businesses, including medical marijuana businesses.

F. The City Council is authorized to impose general and special taxes in order to fund municipal services and facilities, subject to requisite voter approval as set forth in Government Code section 53720 et seq.

G. The voters of the City of Santa Ana approved Measure Y (Ordinance No. NS-2962) on November 6, 2018, for the purpose of fixing the rate of taxation for commercial cannabis businesses including delivery, distribution, manufacturing, cultivation, testing and retail sales of cannabis and related products. The taxes required to be paid under this article are declared to be required pursuant to the taxing power of the City of Santa Ana solely for the purpose of obtaining revenue and are not regulatory permit fees.

H. On September 3, 2019, the City Council adopted Ordinance No. NS-2972 amending certain sections of chapters 21 of the Santa Ana Municipal Code allowing vertical and horizontal integration of cannabis businesses; updating ownership transfers procedural standards and requirements, security deposits, and various administrative processes; updating and streamlining regulatory components; reducing cannabis testing taxes to greater amount of one (1%) percent of gross receipts or \$1.50 per square foot; and adopting a canopy measurement and square footage allocation service fee.

I. The City of Santa Ana desires to remain at the forefront of commercial cannabis by allowing and regulating commercial cannabis business activities, routinely updating and amending its ordinances, and establishing commercial cannabis gross receipts tax rates that are competitive and provide for the needs of the Santa Ana community.

J. The City of Santa Ana has a compelling interest in ensuring that cannabis is not sold in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these businesses may operate, and in providing access to safe and tested cannabis to residents. To ensure safe and tested cannabis, the City desires to see the establishment and successful operation of cultivation, distribution, and manufacturing (including shared manufacturing and microbusiness) facilities in the City.

K. Section 21-133 of Article XIII of Chapter 21 of the Santa Ana Municipal Code establishes initial and current commercial cannabis gross receipts tax and square footage tax rates by reference to the authorizing ordinances and resolutions, the content of which are presented in condensed tabular format as follows:

Commercial Cannabis Business Activity	Gross Receipts Tax Rate	Gross Square Footage Tax Rate
Adult-use Cannabis Retail Business (including Delivery, but not including Consumption Lounges and Temporary Consumption and/or Special Events) (effective beginning December 21, 2018)	8%	\$ 25.00
Consumption Lounges and Temporary Consumption and/or Special Events) (effective beginning January 1, 2023)	8%	\$ 0.00
Cultivation (effective December 21, 2018 through December 31, 2022)	6%	\$ 10.00
Cultivation (effective beginning January 1, 2023)	1%	\$ 7.00
Distribution (effective December 21, 2018 through December 31, 2022)	6%	\$ 4.00
Distribution (effective beginning January 1, 2023)	1%	\$ 3.00
Manufacturing (effective December 21, 2018 through December 31, 2022)	6%	\$ 10.00
Manufacturing (effective beginning January 1, 2023)	1%	\$ 3.00

L. Section 21-133(c) of Article XIII of Chapter 21 of the Santa Ana Municipal Code allows the City Council by resolution to implement any lower commercial cannabis tax rate it deems appropriate.

Section 2. The City Council hereby establishes: (1) the consumption lounge and temporary consumption/special events gross receipts tax rate; (2) the commercial cannabis cultivation gross receipts tax rate; (3) the manufacturing (including shared manufacturing) gross receipts tax rate; and (4) the distribution gross receipts tax rate at one (1%) percent, lowering it from six (6%) percent. The reduced one (1%) percent gross receipts tax rate for cultivation activities, manufacturing (including shared manufacturing) activities, and distribution activities shall become effective January 1, 2023.

Section 3. The City Council hereby establishes: (1) the consumption lounge and temporary consumption/special events and shared manufacturing square footage tax rate at zero (\$0) dollars per square foot; (2) the commercial cannabis square footage tax rate for cultivation activities at seven (\$7) dollars per square foot and for manufacturing activities at three (\$3) dollars per square foot (lowering both from ten (\$10) dollars per square foot); and (3) the commercial cannabis square footage tax for distribution activities at three (\$3) per square foot (lowering it from four (\$4) per square foot). The reduced seven (\$7) per square foot tax rate for cultivation activities, the reduced three (\$3) per square foot tax rate for manufacturing activities, the reduced zero (\$0) per square foot tax rate for consumption lounge and temporary consumption/special events and shared manufacturing, and the reduced three (\$3) per square foot tax rate for distribution activities shall become effective January 1, 2023.

Section 4. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this ____ day of _____, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: John M. Funk
John M. Funk
Chief Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, _____, Clerk of the Council, do hereby certify the attached Resolution No. 2022 - _____ to be the original resolution adopted by the City Council of the City of Santa Ana on _____, 2022.

Date: _____

Clerk of the Council
City of Santa Ana