

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA READOPTING AND AMENDING CERTAIN SECTIONS OF ARTICLE XIII OF CHAPTER 18 OF THE SANTA ANA MUNICIPAL CODE PERTAINING TO MEDICINAL MARIJUANA RETAIL AND CHAPTER 40 OF THE MUNICIPAL CODE PERTAINING TO COMMERCIAL CANNABIS RETAIL BUSINESSES TO MODIFY THE MAXIMUM NUMBER OF RETAIL BUSINESSES AND ZONING REQUIREMENTS; TERMINATE THE MEDICINAL RETAIL WAITLIST; ALLOW AND REGULATE RETAIL FACILITY RELOCATION, CANNABIS CONSUMPTION LOUNGES, AND TEMPORARY CONSUMPTION EVENTS AND FESTIVALS; AND AMEND BACKGROUND CHECK AND BADGE REQUIREMENTS; AND AMENDING CERTAIN SECTIONS OF ARTICLES XII AND XIII OF CHAPTER 21 OF THE SANTA ANA MUNICIPAL CODE PERTAINING TO THE TAX TREATMENT OF COMMERCIAL CANNABIS MICROBUSINESSES AND SHARED MANUFACTURING BUSINESSES TO REDUCE THE TAX RATES FOR COMMERCIAL CANNABIS CULTIVATION, DISTRIBUTION, AND MANUFACTURING / SHARED MANUFACTURING AND TO ADOPT A SEPARATE TAX RATE CATEGORY FOR CANNABIS CONSUMPTION LOUNGES, AND TEMPORARY CONSUMPTION EVENTS AND FESTIVALS

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS FOLLOWS:

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

A. On November 4, 2014, Santa Ana voters approved Santa Ana's Medical Marijuana Regulatory Program ordinance ("Measure BB") which was codified in Chapters 18 and 21 of the Santa Ana Municipal Code. Such regulations govern medicinal marijuana and the retail sale thereof.

B. In 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act, further amended in 2016 as the Medical Cannabis Regulation and Safety Act, which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing.

C. In November 2016, the voters of the State of California approved Proposition 64, the California Marijuana Legalization Initiative, also known as the Adult Use of Marijuana Act.

D. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act.

E. On November 9, 2017, the City Council created Chapter 40 of the Santa Ana Municipal Code (Ordinance No. NS-2929), 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.

F. Since November 2014, the City of Santa Ana has permitted the retail sale of cannabis for medicinal purposes and since January 2018 for adult-use purposes. On March 20, 2018, the City Council adopted Ordinance NS-2941 and NS-2942, allowing and regulating commercial cannabis testing laboratories.

G. On April 17, 2018, the City Council adopted Ordinance NS-2944 allowing and regulating commercial cannabis cultivation, distribution, and manufacturing activities.

H. On November 6, 2018, the voters of the City of Santa Ana approved Measure Y (Ordinance NS-2962), establishing a tax on commercial cannabis business activities except medicinal cannabis retail sales, which continue to be subject to taxes under Measure BB.

I. On September 3, 2019, the City Council adopted Ordinances NS-2972 and NS-2973 amending certain sections of chapters 18, 21, and 40 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 the greater amount of one (1%) percent of gross receipts or one and one-half (\$1.50) dollars per square foot; and adopting a canopy measurement and square footage allocation service fee.

J. The State of California continues to update its regulations on commercial cannabis business licensing, resulting in the need for local jurisdictions to update and amend local commercial cannabis ordinances from time to time.

K. It is the desire of the City Council to combine and unify the regulations for medicinal cannabis retail and all other types of commercial cannabis business activities, currently contained in Chapters 18 and 40 of the Santa Ana Municipal Code, respectively, for clarity and cohesion.

L. The City Council recognizes those entities that have remained on the Medicinal Cannabis Waitlist pursuant to Santa Ana Municipal Code Section 40-104, and those entities that were scored as part of the merit-based selection process in Section 40-9.

M. Commercial cannabis businesses form an integral part of the Santa Ana economy, contributing revenues and community benefits through business engagement with the Santa Ana community.

N. The City Council of the City of Santa Ana intends that nothing in this article 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.

O. The City of Santa Ana has a compelling interest in ensuring that cannabis is not sold, cultivated, manufactured, tested, consumed, or distributed 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 uses may operate, and in providing access of cannabis to residents.

P. The City Council has held a duly noticed public hearing on September 20, 2022 in connection with consideration and adoption of this ordinance.

Section 2. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to: Article XI, Section 7 of the California Constitution, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program (California Health and Safety Code Section 11362.7 et seq.), the Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter “MMRSA”), the Adult Use of Marijuana Act (Proposition 64), and the Medical and Adult Use Cannabis Regulation and Safety Act (SB 94; hereafter “MAUCRSA”).

Section 3. Pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, the adoption of this ordinance is exempt from CEQA review pursuant to California Code of Regulations section 15061(b)(3), which is applicable if it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment. Santa Ana is a built-out, urbanized community, and the uses permitted and regulated by this Ordinance are already allowed by the underlying zoning designations and the development standards in Chapter 41 (Zoning) of the Santa Ana Municipal Code. The uses permitted and regulated by this ordinance will not lead to any cumulative or unforeseen impacts. As a result, a Notice of Exemption will be filed upon the adoption of this ordinance.

Section 4. All provisions of the Santa Ana Municipal Code which are repeated herein are repeated solely in order to comply with the provisions of Section 418 of the City Charter. Any such restatement of existing provisions of the Code is not intended, nor shall it be interpreted, as constituting a new action or decision of the City Council, but rather such provisions are repeated for tracking purposes only in conformance with the Charter.

Section 5. The title of Chapter 40 of the Santa Ana Municipal Code is hereby amended to read in its entirety as follows:

Chapter 40 - REGULATION OF COMMERCIAL CANNABIS BUSINESS
~~ACTIVITIES OTHER THAN MEDICINAL CANNABIS RETAIL ACTIVITIES~~

Section 6. Article I of Chapter 40 of the Santa Ana Municipal Code is hereby amended to read in its entirety as follows:

Sec. 40-1. Purpose and intent, intent, and community benefits required.

- A. The purpose and intent of this article is to regulate commercial cannabis business activities, as defined in this article, in order to ensure the health, safety and welfare of the residents of the City of Santa Ana by establishing regulations necessary for commercial cannabis business operating in the City of Santa Ana to obtain and maintain a Regulatory Safety Permit ("RSP"). Any commercial cannabis businesses operating in the City of Santa Ana shall at all times be in compliance with current State Law and this article. All commercial cannabis facilities shall operate in accordance with the regulations in this article and with the conditions of approval associated with the applicable zone for the parcel of real property upon which the commercial cannabis activities are conducted. Any commercial cannabis business shall qualify for and receive a Regulatory Safety Permit from the City of Santa Ana as provided by this article and operate only in a zone in compliance with Santa Ana Municipal Code before commencing with any commercial cannabis business activity. Any commercial cannabis business without a Regulatory Safety Permit is in violation of this article. The regulations in this article, in compliance with the Compassionate Use Act, the Medicinal Marijuana Program Act, SB 94, AB 133, Proposition 64, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with the right to use adult-use cannabis or medicinal cannabis as authorized under State Law, nor do they criminalize the possession of cannabis as authorized under State Law.
- B. Any person operating a medicinal marijuana collective/cooperative (as defined in ~~Chapter 18 Article II~~ Article II of this Code ~~Chapter~~) as of December 14, 2017, or who has a RSP application pending to operate a medicinal collective/cooperative, and has met all of the requirements of ~~Chapter 18 Article II~~ Article II, shall be allowed to apply for a Regulatory Safety Permit for the sale of Adult-Use cannabis ~~provided that they enter into the Commercial Cannabis Operating Agreement with the City.~~

~~C. The Commercial Cannabis Operating Agreement shall be a legally binding written agreement between each commercial cannabis business operator and the City, executed by the City Manager, or his or her designee, and in a form and substance satisfactory to the Executive Director of Planning and Building and the City Attorney, and containing those provisions necessary to ensure that the requirements of this article are satisfied. A distinct Commercial Cannabis Operating Agreement shall be required for each location of a commercial cannabis business activity taking place at an approved Commercial Cannabis Business Community Benefits, Sustainable Business Practices, and Social Equity Plan Required.~~

1. Effective January 1, 2024, all commercial cannabis businesses operating in the City shall be required to provide community benefits through a Community Benefits, Sustainable Business Practices, and Social Equity Plan ("Plan") that promotes health and sustainability of the community in a format acceptable by the Executive Director of the Planning and Building Agency or his or her designee as reviewed and verified from time to time as a component of issuance of a regulatory safety permit (RSP). By January 1, 2025, all such Plans shall contain provisions for social equity obligations, as per the approved format established by the City.
2. The Plan shall document each of the business's commitment to local hiring, local sourcing, community engagement and contributions, sustainable business practices, and consideration of social equity goals through paying prevailing wages, hiring from disadvantaged communities, supporting local non-profit organizations (NPOs), and job and skills training. The Plan shall quantify the value of each commitment therein.
3. Documentation of fulfillment of the aforementioned Plan shall be submitted to the Code Enforcement Division on an annual basis, including as part of a renewal application for an RSP during the annual renewal process. Said documentation shall detail said business's satisfaction of its commitments and shall be evaluated for satisfaction by the Executive Director of the Planning and Building Agency or his or her designee. Failure to provide the requested documentation shall result in a suspension or revocation of an RSP, delay or denial of an RSP renewal application, as applicable.
4. The Planning and Building Agency may enforce these provisions pursuant to Section 40-12 of this Chapter, including issuance of warnings, citations, and fines as authorized by the Santa Ana Municipal Code, and suspension and revocation, to enforce the commitments in each Plan.

Sec. 40-2. Definitions.

The definitions are incorporated herein as fully set forth and are applicable to this article. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis business activities.

1. "Applicant" means a person who is required to file an application for a permit under this article, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a commercial cannabis business. "Adult-Use" means cannabis or cannabis products that are intended to be used for non-medicinal purposes by a person twenty-one (21) years of age or older.
3. "Adult-Use Cannabis Retailer Operating Agreement" or "Operating Agreement" means the agreement entered into by and between the City and the commercial cannabis business operator which will specify terms for local hiring and sourcing, community benefit plans, and fees to compensate for authorized impacts on City services.
4. "Adult-Use cannabis retail business" means an Adult-Use retail business that obtains a Regulatory Safety Permit and engages in the delivery or sale of Adult-Use cannabis, or an Adult-Use cannabis product, except as related Business and Professions Code Section 19319, or Health and Safety Code Sections 11362.1 through 11362.45, as amended from time to time, excepting medicinal cannabis retail.
5. "Authorized City of Santa Ana representative" means any police officer, city employee, contractor or agent of the city designated by the director of any city department which has the authority and responsibility to enforce provisions as set forth in this article.
6. "Business owner" means any of the following:
 - a) A person with an aggregate ownership interest of twenty (20) percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
 - b) The chief executive officer of a nonprofit or other entity.
 - c) A member of the board of directors of a nonprofit.
 - d) An individual who will be participating in the direction, control, or management of the person applying for a license.
7. "Cannabis" or "cannabis product" means all parts of the 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. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis"

does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

8. "City" means the City of Santa Ana, a charter city and municipal corporation.
9. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for this Chapter. Permitted commercial cannabis activities are listed in Land Use Table 40-5 of this Chapter and are allowed in the Commercial Cannabis Eligible Areas Map as adopted and modified from time to time by resolution of the City Council.
10. "Commercial cannabis business" means a business that obtains a Regulatory Safety Permit and engages in the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of adult-use cannabis, medicinal cannabis or an adult-use cannabis or medicinal cannabis product, except as related Business and Professions Code Section 19319, or Health and Safety Code Sections 11362.1 through 11362.45, as amended from time to time.
11. "Cultivation" means to plant, grow, harvest, dry, cure, grade or trim cannabis, as defined by California Business and Professional Code Section 26001, as amended from time to time.
12. "Customer" means a natural person twenty-one (21) years of age or over.
13. "Delivery" means the commercial transfer of cannabis or cannabis products from a retail cannabis business to a customer up to an amount determined to be authorized by the State of California, or any of its departments or divisions. "Delivery" also includes the use by a retail cannabis business of any technology platform owned, controlled, and/or licensed by the retail cannabis business, or independently licensed by the State of California under the State law (as amended from time to time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed retail cannabis business of cannabis or cannabis products. For the purposes of this article, "delivery" does not include distribution or purchase of cannabis from a licensed cultivator, and cannabis products from a licensed manufacturer, for sale to a licensed cannabis retail business.
14. "Delivery employee" means an individual employed by a licensed retail cannabis business who delivers cannabis goods from the permitted retail premises to a customer at a physical address.
15. "Display" means cannabis goods that are stored in the licensed retail business during the hours of operation.
16. "Distribution" means the procurement, sale, and transport of cannabis or cannabis products between Licensees.

17. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
18. "Free sample" means any amount of commercial cannabis goods provided to a purchaser of cannabis without cost or payment or exchange of any other thing of value.
19. "Labor Peace Agreement" means a legally binding agreement between an employer and a bona fide labor organization in which the employer agrees to remain neutral in the event its employees wish to unionize, as described more fully in Business and Professions Code 26001(z), as amended from time to time. For the purposes of this Chapter, a "Bona Fide Labor Organization" means any organization or any agency or employee representation committee or any local unit thereof in which employees participate, and exists for the purpose, in whole or in part, of working with employers concerning grievances, labor disputes, wages, hours of employment or conditions of work, which labor organization is not found to be or to have been financed in whole or in part, interfered with, dominated or controlled by the employer or any employer association.
20. "License/Licensee" means a license issued by the State and includes both an A-license (Adult-Use) and an M-license (Medicinal), and the holder of such license.
21. "Manufacturer" means a Licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
22. "Manufacturing" means all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Manufacturing also includes any processing, preparing, propagating, holding, or storing of components and ingredients.
- 22.5. "Shared Manufacturing" means manufacturers who work in a shared-use facility. Shared-use facilities are places where multiple shared manufacturers engaging in cannabis extraction using butter or cooking oils, infusion, and/or packaging and labeling rotate on a schedule and share space and equipment. All or part of manufacturing premises may be registered as a shared-use facility.
- 23 "Medicinal cannabis patient" is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

24. "Microbusiness" means a commercial cannabis business that cultivates cannabis on an area less than ten thousand (10,000) square feet and acts as a licensed distributor, Level 1 manufacturer, and retailer.
25. "Nursery" means a commercial cannabis Licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
26. "Medicinal/medical cannabis" or "Medicinal cannabis product," means cannabis or a product containing cannabis, including, but not limited to, concentrates, and extractions, intended to be sold for use by medicinal cannabis patients in California pursuant to the Compassionate Use Act of 1996, found at Section 11362.5 of the California Health and Safety Code. Medicinal cannabis retail is regulated by this Chapter ~~48~~ and Chapter 21 of the Santa Ana Municipal Code.
27. "Outdoor cultivation" means the cultivation of cannabis outside a permanent enclosed building. Outdoor cultivation is prohibited within the City of Santa Ana.
28. "Ownership interest" means an interest held by a person who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of twenty (20) percent or more.
29. "Package" and "Packaging" means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. "Package" and "packaging" does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a Licensee.
30. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
31. "Premises" means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or Licensee to conduct the commercial cannabis activity.
32. "Primary Caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code, as amended from time to time.
33. "Private Residence" shall have the same definition as that contained in Health and Safety Code section 11362.2(5) and also means a lawfully established structure, suitable for human occupancy as required by section 17922 and 17958 of the California Health and Safety Code. A recreational vehicle does not constitute a lawfully established structure for the purposes of this article.
34. "Private security officer" has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

35. "Purchase" means obtaining cannabis goods in exchange for consideration.
36. "Purchaser" means a person who is engaged in a transaction with a Licensee for purposes of obtaining cannabis goods.
37. "Qualified patient" has the same meaning as such term is defined in California Health and Safety Code section 11362.5, as amended from time to time, and means a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.
38. "Responsible person" means any of the following:
- a) A person who causes a Code violation to occur.
 - b) A person who maintains or allows a Code violation to continue by way of his or her action or failure to act.
 - c) A person whose agent, employee, or independent contractor causes a Code violation by its failure to act.
 - d) A person who is the owner of, and/or a person who is a lessee or sub lessee with the current right of possession of, real property where property-related Code violation occurs.
 - e) A person who is the on-site manager of a business who normally works daily at the site when the business is open and is responsible for the activities of such premises.
39. "Retail business" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

39.1. For the purposes of this Chapter, "Consumption lounge" means a facility for the onsite retail sale and consumption or smoking of cannabis or cannabis products that is a licensed premises that is a physical location from which commercial cannabis activities are conducted, as defined by Business and Professions Code Section 26070 as amended from time to time. For the purposes of this definition, "consumption" and "smoking" shall also include inhalation, vaping, and/or ingestion.

39.2. For the purposes of this Chapter, "Temporary Consumption Event" shall mean an event organized by a commercial cannabis retail business that may be single- or multi-day where people can sell and consume cannabis subject to full compliance with local, County, and State licensing requirements.

39.3. For the purposes of this Chapter, "Temporary Consumption Festival" shall mean a large-scale event organized and held by the City of Santa Ana that may be single- or multi-day where people can sell and consume cannabis subject to full compliance with local, County, and State licensing requirements.

40. "Regulatory Safety Permit (RSP)" means a permit issued by the City pursuant to this article to a commercial cannabis business.
41. "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis is transferred from one (1) person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a Licensee to the Licensee from whom such cannabis goods were purchased.
42. "State" means the State of California.
43. "Testing Facility" or "Testing Laboratory" defined in the Business and Professions Code section 26001, as amended from time to time, means a laboratory, facility, or entity in the State that offers or performs tests of cannabis or cannabis products and that is both of the following:
- a) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State; and,
 - b) Licensed by the Bureau of Cannabis Control.
44. "Wholesale" means the sale of cannabis goods to a distributor for resale to one (1) or more retail cannabis businesses.

Sec. 40-3. Compliance with state and local licensing requirements.

- A. Any commercial cannabis business as defined by the State of California and the City of Santa Ana shall operate in conformance with all regulations and standards set forth in this article to assure that the operations of any commercial cannabis business as defined by the State of California and allowed by the City of Santa Ana are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations.
- B. Commercial cannabis businesses shall be required to obtain a Regulatory Safety Permit (RSP) from the City of Santa Ana and a State license, and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria.
- C. Co-location of commercial cannabis businesses proposed on any one (1) site shall occur only if authorized by the State and the City of Santa Ana and only if

allowed pursuant to the City's Zoning Code. Any commercial cannabis activity not specifically permitted by this article is prohibited.

Sec. 40-4. Maximum number of regulatory safety permits for commercial cannabis retail businesses.

- ~~A. Twenty (20) total medicinal cannabis retail businesses (as regulated by Article XIII of Chapter 18);~~
- ~~B. Thirty (30) total adult-use cannabis retail businesses (which could include any or all of the medicinal cannabis retail businesses)~~
- A. The total number of commercial cannabis retail businesses in operation shall be determined based on a figure established by resolution of the City Council.
- B. In no case shall the maximum number of regulatory safety permits for commercial cannabis retail businesses be less than thirty (30).
- C. All commercial cannabis retail businesses may sell medicinal and adult-use cannabis.

Sec. 40-5. Zoning compliance and regulatory safety permit requirements.

Commercial cannabis activities are expressly prohibited in all zones in the City of Santa Ana; however, specific commercial cannabis businesses are allowed in ~~the Industrial zoning districts (M-1, M-2)~~ areas specified on the Commercial Cannabis Eligible Areas Map as adopted by resolution of the City Council. The allowed current permit types are described in Table 40-5 and the City of Santa Ana's zoning ordinance as a requisite for obtaining a Regulatory Safety Permit. No commercial cannabis business may operate in the City of Santa Ana without a Regulatory Safety Permit.

This Land Use Table 40-5 shall be used to determine whether a commercial cannabis business is permitted — "P," or not permitted — "X." Any commercial cannabis business in the City of Santa Ana shall also operate in compliance with the City's zoning ordinance. If a Zoning District is not listed in the Land Use Table in this section, then the use is expressly not permitted.

| City of Santa Ana Municipal Code Table 40-5 | | | | |
|--|-------------------------|---|----------|-----------------------------------|
| Commercial Cannabis Business Activities Use Type | Land Use Classification | <u>Indication on the Commercial Cannabis Eligible Areas Map</u> M-1 Zone | M-2 Zone | Regulatory Safety Permit Required |

| | | | | |
|--|---|---|--|---------------|
| Cultivator/Nursery | Indoor only | P | P | Yes |
| Cultivator/Nursery | Outdoor or mixed-light | X | X | NA |
| Cultivator/Nursery | Indoor/Outdoor — Type 5A (Cultivation: Indoor; Large) Grows, as defined and amended by the State, permitted beginning January 1, 2023) | X P | X P | NA <u>Yes</u> |
| Manufacturing (including “shared manufacturing”) | Manufacturing | P | P | Yes |
| Retail | Medicinal Retail (SAC — Chapter 18) | P | P | Yes |
| Retail | Adult-Use Retail | P | P | Yes |
| Testing Laboratory | Adult-Use and/or Medicinal Industrial | P | P | Yes |
| Distribution | Freight/Transport | P | P | Yes |
| Microbusiness | Cultivation/Retail/Manufacturing/Distribution | P – only as part of a vertically-integrated/co-located business in full conformance with the requirements of this and Chapter 18. | P – only as part of a vertically-integrated/co-located business in full conformance with the requirements of this article and Chapter 18. | Yes |

| | | | | |
|---------------------------|--|----------|----------|------------|
| <u>Consumption Lounge</u> | <u>Consumption Lounge, as an ancillary component to Retail</u> | <u>P</u> | <u>P</u> | <u>Yes</u> |
|---------------------------|--|----------|----------|------------|

Sec. 40-6. Location and Separation requirements for all commercial cannabis retail businesses.

A. Commercial cannabis businesses may only operate within an area in accordance with the Commercial Cannabis Eligible Areas Map as adopted by resolution of the City Council.

B. No commercial cannabis retail business shall be located within five hundred (500) feet of another retail cannabis business, as measured from primary entrance of the business to primary entrance of the other business.

~~(a) — No commercial cannabis retail business shall be located within one thousand (1,000) feet of any:~~

~~(1) — School (K-12) as defined by Section 11362.768 of the Health and Safety Code; or~~

~~(2) — Park; or~~

~~(3) — Existing Residential zones in place on November 4, 2014.~~

~~(b) — No commercial cannabis retail business shall be located within five hundred (500) feet of another retail cannabis business, except for permitted co-location.~~

Sec. 40-7. ~~Separation requirements for non-retail (cultivation, manufacturing, testing laboratory, and distribution) commercial cannabis businesses~~ Relocation of commercial cannabis retail businesses (medicinal and/or adult-use).

(a) Relocation of an existing medical marijuana collective, medical marijuana cooperative, and/or adult-use cannabis retail business as defined in this Chapter is permitted within the City of Santa Ana subject to the following:

(1) The medical marijuana collective, medical marijuana cooperative, and/or adult-use cannabis retail business must hold a valid RSP, business license, and the appropriate State commercial cannabis license, and be operating with all required permits and licenses. For the purposes of this sub-section, “operating” means a medical marijuana collective, medical marijuana cooperative, and/or adult-use cannabis retail business currently holding a valid RSP and Santa Ana business license.

- (2) The existing RSP holder and existing location must be in good standing, including but not limited to full compliance with all requirements of the Santa Ana Municipal Code, no active code enforcement and/or building safety violations, no violations of regulations imposed by the State of California and County of Orange, and have no outstanding business license fees and taxes, except those subject to and performing under a Finance and Management Services Agency approved payment plan agreement.
- (3) An application to relocate to a proposed new location may be filed after October 1, 2023.
- (4) The proposed new location of the medical marijuana collective, medical marijuana cooperative, and/or adult-use cannabis retail business is in full compliance with the zoning and separation requirements for commercial cannabis retail businesses as outlined in Sections 40-5 and 40-6 of the Santa Ana Municipal Code.
- (5) The proposed new location of the medical marijuana collective, medical marijuana cooperative, and/or adult-use cannabis retail business must comply with separation requirements of this Chapter except that the proposed new location must also satisfy said separation requirements from any location identified on the Qualified Registration Applicant List ("Waitlist"), as defined in Section 40-104 of this chapter and from any entity selected during the City's evaluative process in 2018.
- (b) Any operating medical marijuana collective, medical marijuana cooperative, and/or adult-use cannabis retail business wishing to relocate shall be required to concurrently: (1) File an application for an RSP by and (2) Submit all required construction plans for plan check by the City, subject to the requirements of this Chapter and other applicable chapters of the Santa Ana Municipal Code, and operate within 180 days of construction permit issuance. An extension may be issued for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director of Planning and Building or his or her designee.
- (c) Upon issuance of the RSP for the new location, the previous location's RSP and certificate of occupancy immediately becomes null and void and the location must cease to operate.
- (d) Within 60 days of issuance of the RSP for the new location, the applicant must provide the City documentation demonstrating that any State-issued commercial cannabis retailer license associated with the previous location has been cancelled, rescinded, or updated to reflect the new location.
- (a) — ~~No non-retail commercial cannabis business shall be located within one thousand (1,000) feet of any:~~

- ~~(1) School (K-12) as defined by Section 11362.768 of the Health and Safety Code; or~~
- ~~(2) Park; or~~
- ~~(3) Existing Residential zones in place on November 4, 2014.~~

Sec. 40-8. General provisions for commercial cannabis activities in the City of Santa Ana.

1. *Regulatory Safety Permit Required.*

- a. Each commercial cannabis business shall obtain a Regulatory Safety Permit (RSP) specific to the business activity or activities defined by the State pertaining to that activity. The only allowed current activity types pursuant to this article are for commercial cannabis retail sales and cultivation, distribution, manufacturing, and testing laboratories/facilities. Co-location is permitted pursuant to Section 40-9.3.4.
- b. It shall be unlawful for any person, as defined by this ordinance, to engage in, conduct or carry on, in or upon any premises within the City of Santa Ana any commercial cannabis business without a RSP. A commercial cannabis business shall register and obtain a RSP from the City of Santa Ana prior to operation. The RSP applicant shall pay an annual non-refundable application fee in an amount established by the City Council.
- c. A copy of the RSP shall be displayed at all times in a place visible to the public.
- d. A RSP shall be valid for a period of one (1) year from the date of issuance, unless sooner revoked. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.

2. *Maintenance of Records and Reporting.* All records shall be maintained by the commercial cannabis business for a period of five (5) years and shall be made available by the commercial cannabis business to an authorized City of Santa Ana representative upon request. If they are not produced as requested, the City may seek a search warrant, subpoena, or court order. In addition to all other formats that the commercial cannabis business may maintain, these records shall be stored by the business at the location in a printed format in a fireproof safe or filing cabinet. Any loss, damage or destruction of the records shall be reported to the Police Department within twenty-four (24) hours of the loss, destruction or damage.

- a. The business shall obtain and maintain a valid Seller's Permit from the ~~State Board of Equalization~~ California Department of Tax and Fee Administration (CDTFA).
- b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the ~~California State Board of Equalization~~ CDTFA under Title 18 California Code of Regulations section 1968.

- c. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable.
- d. Training records, including, but not limited to, the content of the training provided and the names of the employees that received the training.
- e. Contracts with other businesses regarding commercial cannabis business activity.
- f. Permits, licenses, and other local authorizations to conduct the commercial cannabis business activity.
- g. Security records, as outlined in the Operational Standards for All Commercial Cannabis Business Activities.
- h. Proof of building ownership or landlord letter acknowledging business type.
- i. Proof of insurance.

3. *Operational Standards for All Commercial Cannabis Business Activities.*

- a. The location, interior and exterior, shall be monitored at all times by web-based closed circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the location. The recordings shall be maintained unaltered in a secure location for a period of not less than ninety (90) days. The Police Department may request the recordings in connection with an investigation.
- b. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet.
- c. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the police department or their designee on request.
- d. If applicable, the applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.
- e. Commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis retail activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within twenty-four (24) hours of the system being available.

- f. No physical modification of the licensed premises is allowed without written prior permission by the City of Santa Ana and payment of any additional fees required by the City.
- g. Commercial cannabis business businesses shall provide adequate off-street parking and comply with the City of Santa Ana Municipal Code parking requirements in order to service customers without causing negative impact.
- h. The commercial cannabis business shall provide adequate disabled access parking per the requirements in the California Building Code.
- i. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.
- j. Any and all signage, packaging, and facilities shall not be "attractive," as it is defined by the State, to minors.
- k. Commercial cannabis business facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, in any adjacent tenant suites, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the use occupies only a portion of a building.
- l. The commercial cannabis business shall comply with all State regulations regarding:
 - i. Testing, labeling and storage of all cannabis products.
 - ii. Use of appropriate weighing devices.
 - iii. Electrical and plumbing regulations subject to periodic and unannounced inspections to ensure compliance.
 - iv. State deadlines for applying for a State license and receiving a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks.
- m. The commercial cannabis business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount no less than two million dollars (\$2,000,000.00), with primary coverage, naming the City of Santa Ana as additional insured.
- n. No free samples of any cannabis or cannabis product may be distributed at any time.

- o. ~~Badges shall be worn by any individuals as required to do so pursuant to All agents, private security officers or other persons acting for or employed by a collective shall display a laminated an identification badge at least two (2) inches by two (2) inches in size the California Code of Regulations, Title 4, Section 15043 and California Business and Professions Code Section 7582.28, as amended from time to time., issued by the City. The badge, at a minimum, shall include the employee's first and last name, date of most recent Live Scan, expiration date of Live Scan results after the one-year period, and a color photo of the employee that shows the full front of the employee's face.~~
- p. All private security officers acting for or employed by a commercial cannabis business shall be licensed by the State and issued a security/patrol services business license from the City of Santa Ana.
- q. The commercial cannabis business shall have a centrally monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows and the building or portion of the building where the business is located shall contain a fireproof safe or fireproof filing cabinet and include a safety and security plan.
- r. The commercial cannabis business shall ensure a licensed alarm company operator or one (1) or more of its registered alarm agents installs, maintains, monitors and responds to the alarm system. The alarm company shall obtain a City of Santa Ana business license.
- s. The commercial cannabis business shall provide the name and phone number of an on-site staff person to the police department and the Code Enforcement Division of the Planning and Building Agency for notification if there are operational problems with the establishment.
- t. The commercial cannabis business must obtain and maintain a valid City business license at all times as a condition for receiving, renewing, and maintaining its regulatory safety permit.
- u. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code, and the maximum occupancy load shall be posted at the main entrance.
- v. For any commercial cannabis business with two (2) or more employees, the business owner shall attest that he/she has entered into a labor peace agreement and provide a copy of the agreement to the City.
- w. ~~Each commercial cannabis business owner, operator(s) and employee(s) shall complete a criminal background check and wear a visible photo ID at all times during working hours. Owners, operators, employees, managers or volunteers may not have been convicted of, or pled guilty/no-contest to a felony or~~

~~misdemeanor drug charge within the past four (4) years; nor shall they be a person required to register as a controlled substance offender pursuant to Health and Safety Code section 11590. Any individual with an ownership interest shall complete a live scan and submit the results to the City.~~

- x. All signage for the commercial cannabis business must comply with Article XI of Chapter 41 of the Santa Ana Municipal Code.
- y. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business's regular business hours.

4. *Additional Operational Standards for ~~Adult-Use~~ Cannabis Retail Business.*

- a. At all times the ~~Adult-Use~~ cannabis retail business is open, it shall provide at least one (1) private security guard who is licensed, possesses a valid Department of Consumer Affairs "security guard card," and has a valid business license from the City of Santa Ana as a security/private patrol service.
- b. The private security guard and ~~adult-use~~ retail cannabis business personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the retail business or on the property or in the parking lot.
- c. Exterior signage shall comply with Article XI of Chapter 41 of the Santa Ana Municipal Code. Interior signage or advertising may not be visible from the exterior. Retail cannabis businesses must comply with the advertising and marketing provisions of Business and Professions Code §§ 26150—26155.
- d. There shall be no on-site sales of alcohol or tobacco products, (excluding rolling papers and lighters) and no on-site consumption of alcohol or tobacco by patrons. Food may not be consumed on site, except as permitted by Section 40-8 (10) of this chapter.
- e. Hours of operation shall be limited to: 7:00 a.m. to ~~10:00~~ 11:00 p.m. daily. No licensed retail business shall be open to the public between the hours of ~~10:01~~ 11:01 p.m. and 6:59 a.m. of any day.
- f. The ~~Adult-Use~~ cannabis retail business shall notify patrons of the following both verbally and through posting of a sign in a conspicuous location:
 - i. Secondary sale, barter or distribution of adult-use cannabis is a crime and can lead to arrest.
 - ii. That loitering on and around the retail site is prohibited by California Penal Code § 647(e) and that patrons must immediately leave the site and not consume cannabis in the vicinity of the retail site or on the property or in the parking lot.

- iii. A warning that patrons and/or employees may be subject to prosecution under federal cannabis laws.
- iv. That the use of cannabis may impair a person's ability to drive a motor vehicle or operate machinery.
- g. No one under the age of twenty-one (21) shall be allowed to enter an ~~Adult-Use~~ cannabis retail facility unless the licensed ~~Adult-Use~~ cannabis facility holds a medicinal use cannabis RSP issued by the City and retail license issued by the State, and the licensed premises for the ~~adult-use~~ cannabis license and medicinal cannabis license are the same in accordance with Business and Professions Code section 26140.
- h. If non-cannabis food is distributed, the retail business shall comply with all relevant State laws, County and City ordinances pertaining to the preparation, distribution and sale of food.
- i. All ~~Adult-Use~~ cannabis retail businesses shall establish and implement a program to incentivize the recycling of used containers. Failure to establish and implement a program to incentivize the recycling of used containers will result in a violation of the terms of the required commercial cannabis Operating Agreement requiring sustainable building or business practices.
- j. ~~Adult-Use~~ Cannabis retail businesses shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.
- k. Adequate signage shall clearly state who has inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.
- l. Shipments of cannabis goods may only be accepted during regular business hours.
- m. Inventory shall be secured using a lockable storage system during non-business hours.
- n. No cannabis product shall be visible from the exterior of the business.
- o. All required labelling shall be maintained on all product, as required by State law, at all times.
- p. Educational tours of ~~adult-use~~ retail cannabis businesses shall be allowed.
- q. A permitted commercial cannabis retail business shall have one hundred eighty (180) days after construction permit issuance by the City of Santa Ana to operate. A permitted commercial cannabis retail business that ceases to operate for more than ninety (90) calendar days shall be deemed "abandoned" and the permit shall be forfeited. A permitted commercial cannabis business may temporarily suspend

operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director of Planning and Building or his or her designee. For the purposes of this section, "operate" shall mean that the gross receipts fees charged for the business exceed the fee per square foot calculations by the end of the one hundred eighty (180) day period. A pending commercial cannabis retail business shall be required to concurrently: (1) File an application for an RSP and (2) Obtain all required construction permits for the facility from the City within six months of the effective date of this ordinance, subject to the requirements of this Chapter and other applicable chapters of the Santa Ana Municipal Code, and open within 180 days of construction permit issuance. An extension may be issued for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director of Planning and Building or his or her designee. Failure to satisfy these requirements by that deadline will disqualify the applicant from the RSP Eligibility List and the Waitlist described in Article II of this Chapter. Relocation is permitted pursuant to Section 40-7 of this Chapter.

- r. (r)-A licensee that is authorized to conduct medicinal and/or adult-use retail sales may donate cannabis or cannabis products and the use of equipment in compliance with any State compassionate use, equity, or other similar program in accordance with Section 26071 to the Business and Professions Code.
- s. Subject to approval of an operations plan by the Executive Director of the Planning and Building Agency, the opening of cannabis packages and demonstration of cannabis products at a commercial cannabis retail business is permitted for educational purposes without establishment of a consumption lounge, subject to the following requirements:
 - i. The maximum amount of cannabis product which may be consumed in such a setting is one-half (1/2) of one gram.
 - ii. There shall be a separate room dedicated for such purposes. Activities in said dedicated room shall be limited to the opening of packages, use demonstration, and consumption for consumer education purposes, by the consumer only.
 - iii. The dedicated room shall be limited to 100 square feet maximum size, shall be included as part of the facility's ventilation and odor control methods, and shall be monitored using video surveillance systems.
 - iv. Such activities shall be subject to an administrative permit issued by the Planning and Building Agency. As part of the permit application, the applicant shall include administrative policies ensuring the opening of

packages, demonstration and education, and limited consumption are restricted to the room and for ensuring such activities do not pose a threat to the health, safety, and welfare of other consumers, employees of the business, and visitors to the surrounding area.

5. *Additional Operational Standards for Commercial Cannabis Retail Delivery Services.*

- a. Commercial cannabis retail deliveries may be made only from a commercial cannabis retail business permitted by the City in compliance with this article, and in compliance with all State regulations.
- b. All employees who deliver cannabis shall have valid identification and a copy of the commercial cannabis retail business' Regulatory Safety Permit and State license at all times while making deliveries.
- c. All commercial cannabis retail businesses shall maintain proof of vehicle insurance for any and all vehicles being used to transport cannabis goods as required by State law.
- d. Deliveries may only take place during normal business hours of the commercial cannabis retail business.
- e. During delivery, the delivery employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers. The delivery request documentation shall comply with State law.
- f. A licensed delivery employee shall not leave the State of California while possessing cannabis products.
- g. A commercial cannabis retail business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State.
- h. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.
- i. Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).
- j. Each delivery request shall have a receipt prepared by the commercial cannabis retail business with the following information:
 - i. Name and address of the commercial cannabis retail business.
 - ii. The name of the employee who delivered the order.

- iii. The date and time the delivery request was made.
 - iv. The complete delivery addresses.
 - v. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested.
 - vi. The total amount paid for the delivery including any fees or taxes.
 - k. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.
 - l. No cannabis delivery vehicle shall display signs, decals or any other form of advertisement with the exception of a maximum four-inch by four-inch decal.
 - m. Inspections by an authorized City of Santa Ana representative may be conducted anytime during regular business hours.
6. *Additional Operational Standards for Commercial Cannabis Testing Facilities or Laboratories.*
- a. A licensed cannabis testing facility or laboratory business, its owners and employees may not hold an interest in any other cannabis business except another testing laboratory business.
 - b. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business's regular business hours.
 - c. Educational tours of cannabis testing facility/laboratory businesses shall be allowed.
7. *Additional Operational Standards for Commercial Cannabis Manufacturing Facilities.*
- a. A licensed commercial cannabis manufacturing facility may conduct all activities permitted by the State. This includes, but is not limited to: extractions, repackaging and relabeling, infusions and extractions.
 - b. Any manufacturing that will be conducted by the commercial cannabis business shall be included on the application. No additional manufacturing activity can be conducted without notifying the Executive Director of the Planning and Building Agency or his or her designee, after which a determination will be made if the new activity may commence with or without modification to the RSP or if a new RSP is required.
 - c. At all times, the commercial cannabis manufacturing facility will be compliant with all State regulations for cannabis manufacturing including Health and Safety Code § 11362.775, as amended from time to time. Signage shall be posted regarding the type(s) of chemicals being used at the manufacturing facility.

- d. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location unless the facility is co-located with an approved commercial cannabis retail business with a RSP.
- e. Extraction equipment and extraction process utilizing hydrocarbon solvents shall be located in a room or area dedicated to extraction.
- f. All commercial cannabis manufacturing/processing facilities shall comply with any and all applicable safety guidelines adopted by the Orange County Fire Authority, the State of California, and/or the City of Santa Ana for cannabis plant processing and extraction.

8. *Additional Operational Standards for Indoor Commercial Cannabis Cultivation Facilities.*

- a. There shall be no exterior evidence of cannabis cultivation from a public right-of-way.
- b. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.
- c. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board is required.
- d. All commercial cannabis cultivation facilities shall comply with any and all applicable safety guidelines adopted by the Orange County Fire Authority, the State of California, and/or the City of Santa Ana for cannabis carbon dioxide enrichment systems.
- e. Cannabis cultivation facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location unless the facility is co-located with an approved commercial cannabis retail business with a RSP.

9. *Additional Operational Standards for Commercial Cannabis Distribution Facilities.*

- a. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business's regular business hours.
- b. A distributor shall ensure that all cannabis goods stored in compliance with all applicable State regulations to ensure conformance to any and all applicable Track and Trace systems required by the State.
- c. Employee breakrooms, eating areas, changing facilities, locker rooms and bathrooms shall be completely separated from the storage areas.

10. *Additional Operational Standards for Consumption Lounges and Onsite Cannabis Consumption.*

- a. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business's regular business hours.
- b. Consumption lounges are permitted as an ancillary use to a commercial cannabis medicinal or adult-use retail business.
- c. Consumption lounges must be on the same site as and physically contiguous to a commercial cannabis retail business.
- d. All retail sales transactions for the purposes of onsite consumption shall be conducted using point-of-sales equipment and reported separately in a format satisfactory to the Executive Director of the Finance and Management Services Agency.
- e. Two (2) parking spaces per 1,000 square feet of gross building square footage shall be provided for any building expansion constructed for a consumption lounge.
- f. Consumption lounges shall be designed such that a patron need not enter a consumption lounge in order to access a retail-only portion of the facility. There shall be no connection between a consumption lounge and another tenant suite.
- g. Medicinal or adult-use cannabis and cannabis products may be sold on the premises of a consumption lounge, subject to the following:
 - i. The operator must hold a valid adult-use and/or medicinal retail business RSP.
 - ii. Products shall be sold for on-site consumption only. Products may not be sold for off-site consumption. All cannabis products purchased and opened at the facility must be smoked or consumed on site and shall not be permitted to leave the facility unless in a resealed package that meets all State guidelines.
 - iii. All products consumed or smoked on premises shall be sold at the consumption lounge. Operators shall not permit patrons to bring their own personal cannabis or cannabis products to the consumption lounge.
- h. Outdoor smoking is permitted with the installation of odor-control mechanisms as reviewed and approved by the Planning and Building Agency.
- i. Food may be consumed in the consumption lounge; however, the sale or consumption of alcohol or tobacco products is prohibited.
- j. Access to the consumption lounge shall be restricted to persons twenty-one (21) years of age or older, or as allowed by State law.

- k. The consumption or smoking of cannabis products shall not be visible from any public place, public right-of-way, or area where minors may be present. If the consumption lounge contains an outdoor area, the outdoor area shall be oriented so as to eliminate visibility from any adjacent public place, public right-of-way, area where minors may be present, or adjacent business, tenant space, or building.
- l. Commercial cannabis consumption lounges shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. The facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, in any adjacent tenant suites, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the use occupies only a portion of a building.
- m. Odor control response.
 - i. Within twenty-four (24) hours of any complaint concerning odors emanating from or originating at the facility, the operator shall respond to the complaint in question and shall timely file a written disclosure to the Planning and Building Agency documenting any and all actions taken and planned to address the odor complaint(s). The City, upon determination of the continued existing of detectable odor from the facility, may require an operator to submit an implementation plan and/or a performance schedule, above and beyond this written disclosure filed within twenty-four (24) hours, to ensure the employment of measures to control the odor.
 - ii. The Executive Director of the Planning and Building Agency shall have the authority to require an operator of a consumption lounge to amend any implementation plan and/or performance schedule submitted pursuant to this sub-section to cause compliance herewith.
 - iii. Any failure to timely submit a written disclosure, a more detailed implementation plan and/or performance schedule or amendment thereto, to timely adhere to terms of either, or to complete any required improvements within the timeframe specified by the Executive Director of the Planning and Building Agency shall be grounds for revocation of the RSP.
 - iv. Odors from a consumption lounge are identified as a public nuisance pursuant to the Santa Ana Municipal Code. The City may pursue all administrative, civil, and criminal remedies available in relation to any nuisance determined to exist with respect to the operation of a consumption lounge in violation of this sub-section.

- v. All consumption lounges shall be equipped with point-of-sale or similar equipment to distinguish sales of products made for onsite consumption from sales of retail products for offsite consumption.

11. Additional Operational Standards for Temporary Consumption Events and Temporary Consumption Festivals.

- a. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the event.
- b. All retail sales transactions for the purposes of onsite consumption during a temporary consumption event shall be conducted using point-of-sales equipment and reported separately in a format satisfactory to the Executive Director of the Finance and Management Services Agency.
- c. Temporary Consumption Festivals.
 - i. Temporary consumption festivals may be held on public or private property as approved by the City.
 - ii. Temporary consumption festivals may only be organized and held by the City of Santa Ana.
 - iii. Temporary consumption festivals are subject to all applicable standards promulgated by this Chapter for temporary consumption events.
- d. Temporary consumption events are permitted as an ancillary use to each commercial cannabis medicinal or adult-use retail business, subject to review and approval of a Land Use Certificate (LUC), pursuant to Section 41-675 through 41-677 of the Santa Ana Municipal Code, and verification of any applicable required valid business licenses required pursuant to Chapter 21, Articles XII and XIII of this Code. The number of temporary consumption events permissible per business per calendar year is subject to establishment by resolution of the City Council.
- e. Live entertainment may be provided only in conjunction with an approved LUC.
- f. Applications for temporary consumption event LUCs must be submitted at least 45 days prior to the event date.
- g. Applicant(s) for a temporary consumption event must provide a copy of all final application materials submitted to the State of California pursuant to California Code of Regulations Section 15002.1 (Temporary Cannabis Event Application) as amended from time to time.
- h. The event shall last no longer than 48 hours and in all cases shall begin no earlier than 8:00 a.m. and end no later than 10:00 p.m. The duration of setup

and dismantling activities associated with the event shall be specified on the LUC application.

- i. Location. Temporary consumption events must be on the same site as a commercial cannabis medicinal or adult-use retail business.
- j. Medicinal or adult-use cannabis and cannabis products may be sold on the premises during temporary consumption events, subject to the following:
 - i. The operator must hold a valid adult-use and/or medicinal retail business RSP.
 - ii. Products shall be sold for on-site consumption only. All unconsumed cannabis products purchased and opened at the facility must be resealed prior to leaving the facility.
 - iii. All products consumed or smoked on premises shall be sold at the facility. Operators shall not permit patrons to bring their own personal cannabis or cannabis products to the event.
- k. Outdoor smoking is permitted with the installation of odor-control mechanisms as reviewed and approved by the Planning and Building Agency.
- l. Food may be consumed; however, the sale or consumption of alcohol or tobacco products on the premises is prohibited.
- m. Access to the temporary consumption and/or special event shall be restricted to persons twenty-one (21) years of age or older.
- n. The consumption or smoking of cannabis products shall not be visible from any public right-of-way or area where minors may be present. If the temporary consumption event takes place in an outdoor area, the outdoor area shall be oriented to eliminate visibility from any adjacent public place, public right-of-way, area where minors may be present, or adjacent business, tenant space, or building, and shall be oriented to minimize odor intrusion onto adjacent tenant spaces and properties.
- o. All events shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. The site shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, in any adjacent tenant suites, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the use occupies only a portion of a building. Outdoor smoking, including vaping and the use of other electronic inhalation devices, must take place within ventilated enclosures subject to the satisfaction of the Planning and Building Agency and Orange County Fire Authority.

p. Odor control response.

- i. Odors from a temporary consumption event are identified as a public nuisance pursuant to the Santa Ana Municipal Code. The City may pursue all administrative, civil, and criminal remedies available in relation to any nuisance determined to exist with respect to the operation of a consumption lounge in violation of this Chapter.
- ii. Upon receipt of any complaint concerning odors emanating from or originating at the temporary consumption event, the Planning and Building Agency may suspend or revoke the LUC.
- g. All temporary consumption events shall be equipped with point-of-sale or similar equipment to distinguish sales of products made for onsite consumption from sales of retail products for offsite consumption.

Sec. 40-9. Commercial cannabis selection process.

1. Commercial Cannabis — Registration Application and Regulatory Safety Permit Required.

- a. For applicants prior to January 1, 2018: Existing medicinal cannabis business operators, or those with pending applications for a medicinal RSP, who desire to operate an adult cannabis retail business shall apply for the cannabis Regulatory Safety Permit ("RSP") on or before December 14, 2017. The Director of Planning and Building shall review such application and issue the RSP, without consideration of the merit based point system, so long as they satisfy all other requirements of this Chapter article and Chapter 18.
- b. The Regulatory Safety Permit ("RSP") selection process will be conducted in two (2) phases, Phase 1 (Registration Application) and Phase 2 (Regulatory Safety Permit Application). Registration Applications will be reviewed by the Director of Planning and Building or designees(s) for completeness and compliance, and if eligible, will be notified in writing to enter ~~placed on the "Regulatory Safety Permit ("RSP") Eligibility List" and entered~~ into the Phase 2 Regulatory Safety Permit Application process. In Phase 2, the City of Santa Ana has established a merit based point system for adult-use commercial cannabis retail businesses to objectively award permits as described in the Regulatory Safety Permit Application.

2. Phase 1 — Registration Application.

- a. Following the adoption of this article, the Director of Planning and Building shall prepare commercial cannabis business registration application forms and a related administrative policy. Each commercial cannabis business interested in operating

pursuant to this article may submit an application together with a non-refundable processing fee in an amount established by the City Council.

- b. The Registration Application period shall be thirty (30) calendar days from the date the applications are released. Following the application period, the Director of Planning and Building or designee(s) shall stop accepting applications and review all applications received in Phase 1. Each application that is complete and in compliance with the application requirements in Phase 1 shall be ~~placed on the "RSP Eligibility List" and shall be notified in writing whether they are a "RSP Eligible Applicant" or not.~~ Each complete and compliant applicant ~~on the RSP Eligibility List~~ may then choose to file an application for a RSP in Phase 2.
- c. The requirements for Phase 1 include, but are not limited to:
 - i. All application documents required in the City's Phase 1 Registration Application package.
 - ii. Application was submitted during the application period.
 - iii. Application forms are filled out completely.
 - iv. Phase 1 application fee is paid.
 - v. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this article including, but not limited to, any and all sensitive use separation criteria required by this article.
 - vi. Proof of site control for commercial cannabis retail businesses submitting Phase 1 applications on or after July 1, 2018.

~~d. The Director of Planning and Building or his or her designee(s) shall determine whether each application demonstrates compliance with the minimum requirements (above) and be placed on the RSP Eligibility List and entered into the Phase 2 application and review process.~~

(e) d. The Director of Planning and Building or his or her designee(s) shall review each application upon submission and ensure that the application is complete. Incomplete applications will be promptly rejected and the applicant shall be notified in writing of the deficiencies. The applicant shall be given an opportunity to cure any incomplete or deficient application prior to the conclusion of the application processing term, if such time period is applicable.

3. *Phase 2 — Regulatory Safety Permit Application.*

- a. Each complete and compliant applicant ~~identified on the RSP Eligibility List~~ may choose to complete and file a RSP application to the Director of Planning and Building. The application shall be filed together with a nonrefundable fee as

established by resolution of the City Council, to defray the cost of investigation required by this article.

- b. The RSP application period shall be open for thirty (30) calendar days and may run concurrently with the Phase 1 review period. Following the RSP application period, the Director of Planning and Building or designee(s) shall stop accepting applications and review all applications received in Phase 2.
- c. The Director of Planning and Building or designee(s) will review all application documents required in the City's Phase 2 application package plus the additional requirements in subsection (d) below. The Director of Planning and Building or his or her designee(s) will use a merit based point system to review and rank each of applications from the most to the least points and objectively award the top applicants a RSP. A complete description of the merit based point system and all merit based point considerations shall be included with the application forms.
- d. Phase 2 requirements include, but are not limited to:
 - i. All application documents required in the City's Phase 2 RSP application package.
 - ii. Phase 2 application fee is paid and a comprehensive background check is completed on all owners, ~~employees, volunteers,~~ managers, security guards, and/or agents.
 - iii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.
 - iv. The Planning Manager or designee has issued zoning clearance documenting compliance with the following:
 - a. The use is permitted;
 - b. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing; and,
 - c. No zoning violations exist on the property.
- e. The Director of the Planning and Building Agency or his or her designee(s) shall review each application upon submission and ensure that the application is complete. Incomplete applications will be promptly rejected and the applicant shall be notified that business day of the deficiencies. The applicant shall be given an

opportunity to cure any incomplete or deficient application prior to the conclusion of the application processing term, if such time period is applicable.

3.1. Commercial Cannabis – Selection Process for New Commercial Cannabis Retail Businesses after January 1, 2023.

a. Measure BB Waitlist Entities. The commercial cannabis selection process for new retail licenses available after January 1, 2023 for entities on the Waitlist, as defined by Section 40-104 of this Chapter, is as follows:

- i. Those entities listed on the Waitlist as defined and set forth in Article II of this Chapter shall be afforded first priority to submit a complete RSP application for a new commercial cannabis retail business. Said RSP application must be submitted no later than March 30, 2023. Failure to submit a complete RSP application by March 30, 2023 shall result in disqualification to obtain an RSP.
- ii. The RSP application for Waitlisted entities must be for the same location as identified on the Waitlist. The location must comply with the 500-foot separation required by Section 40-6 of this Chapter from any operating or selected entity identified during the Measure BB lottery process, or the City's evaluative process for adult-use retailers in 2018.
- iii. If there remain additional commercial cannabis retail business permits available after steps i and ii, above, then the City shall open a new window for applications as specified in subsection b, below.

b. Entities Selected during the City's 2018 Evaluative Process. The commercial cannabis selection process for new retail licenses available after January 1, 2023 for entities selected during the City's 2018 evaluative process is as follows:

- i. If there remain additional commercial cannabis retail business permits available after the selection process identified in subsection a, above, then the City shall open a new window for applications as specified below.
- ii. Those entities scored as part of the City's evaluative process for adult-use retailers in 2018 pursuant to this Chapter may submit an RSP application after May 1, 2023 but no later than June 30, 2023. Failure to submit a complete RSP application by July 31, 2023 shall result in disqualification to obtain an RSP.
- iii. Applications shall be considered in order of their scoring from the City's evaluative process for adult-use retailers in 2018.

- iv. The RSP application for those entities scored as part of the City's evaluative process for adult-use retailers in 2018 must be for the same location as identified on each respective application that was scored. The location must comply with the 500-foot separation required by Section 40-6 of this Chapter, from any operating or selected entity identified during the City's evaluative process for adult-use retailers in 2018.
- c. For those entities listed on the Waitlist and for those entities scored as part of the City's evaluative process for adult-use retailers in 2018, the commercial cannabis retail business shall complete the process to receive all necessary approvals and be operational with sustained business activity no later than one (1) year after submittal of a complete RSP application. An extension of time may be granted by the Executive Director of the Planning and Building Agency on an as-needed basis.
- d. Failure of those entities listed on the Waitlist and for those entities scored as part of the City's evaluative process for adult-use retailers in 2018 to receive all necessary approvals and be operational with sustained business activity within the specified time period will result in disqualification to obtain an RSP.
- e. Any additional commercial cannabis retail business permits available after the implementation of steps a. through d. above shall be subject to the selection process identified in Section 40-9 (1), (2), and (3) of this Chapter.

3.1-3.2 Commercial Cannabis — Registration Application and Regulatory Safety Permit for Additional Commercial Cannabis Business Activities on the Same Premises (Co-Location).

- a. An existing commercial cannabis business with an RSP may co-locate additional non-retail commercial cannabis business activities (cultivation, distribution, and/or manufacturing) by applying for a new RSP for the additional use(s). The new RSP must meet the all requirements of the Santa Ana Municipal Code except that background checks (live scans) shall only be required for any new staff owners as outlined in Section 40-8. A single RSP that lists any and all approved cannabis business activity/activities may be renewed annually thereafter.
- b. New or pending RSP applicants wishing to co-locate additional non-retail (cultivation, distribution, and/or manufacturing) uses may submit a new RSP for any of the non-retail commercial cannabis business activities. The additional RSP must meet the all requirements of the RSP except that background checks (live scans) shall only be required for any new staff owners as outlined in Section 40-8. A single RSP that lists any and all approved cannabis business activity/activities may be renewed annually thereafter.

c. New commercial cannabis business applicants — co-location.

1. New commercial cannabis retail applicants wishing to co-locate additional non-retail (cultivation, distribution, and/or manufacturing) uses shall submit separate RSPs for the proposed retail activity and another RSP for any of the non-retail (cultivation, distribution, and/or manufacturing) commercial cannabis business activities. Each RSP application will be evaluated independently and must meet any applicable requirements of the RSP as outlined in Sections 40-8 and 40-9, including, but not limited to, merit evaluation and additional separation requirements for the retail RSP. A single RSP that lists any and all approved cannabis business activity/activities may be renewed annually thereafter.
2. New non-retail commercial cannabis applicants wishing to co-locate additional non-retail (cultivation, distribution, and/or manufacturing) uses may submit a single RSP for the proposed activity or activities. The RSP application must meet any applicable requirements of the RSP as outlined in Sections 40-8 and 40-9. A single RSP that lists any and all approved cannabis business activity/activities may be renewed annually thereafter.

4. *Regulatory Safety Permit Annual Renewal.*

- a. Applications for the renewal of a permit shall be filed with the Director of Planning and Building or designee(s) at least sixty (60) calendar days before the expiration of the current permit. Temporary permits will not be issued. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.
- b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the Director of Planning and Building or his or her designee(s) who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this article. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Planning and Building or designee(s) in order to determine whether said permit should be renewed based on compliance with all applicable provisions of the Santa Ana Municipal Code.

c. Compliance with Section 40-1 (C) to provide for community benefits is required for all commercial cannabis businesses seeking renewal of the RSP.

5. *Appeal of Denial of Regulatory Safety Permit/Denial of RSP Renewal.* The Executive Director of the Planning and Building Agency ~~City Manager~~ or his or her designee(s) will review all Regulatory Safety Permit applications and renewal requests, along with

all other relevant information, and determine if a RSP should be granted and/or renewed based on compliance with all applicable provisions of the Santa Ana Municipal Code. If the Executive Director of the Planning and Building Agency ~~City Manager~~ determines that the permit shall not be granted and/or renewed, the reasons for denial shall be provided in writing to the applicant. No such denial shall become effective until the applicant for the regulatory safety permit and/or renewal has been notified in writing by certified mail of the right to appeal the denial decision pursuant to the provisions of Chapter 3 of this Code. If a timely appeal is filed, the denial shall be effective only upon decision of a hearing officer as provided for in Chapter 3 of the Santa Ana Municipal Code. Otherwise, the denial shall become effective after the timely appeal period has passed. The matter may be subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

Sec. 40-9.1. Non-retail commercial cannabis business (cultivation, manufacturing, distribution, and testing facility/laboratory) selection process.

1. Non-Retail Commercial Cannabis Businesses — Registration Application (Phase 1) and Regulatory Safety Permit (Phase 2) Required.
 - a. Every Non-Retail Commercial Cannabis Business shall apply for the Phase 1 (Registration Application) and Phase 2 (Regulatory Safety Permit Application) in the manner described in Section 40-9, except that the Director of the Planning and Building Agency or his or her designee may accept Phase 1 and Phase 2 applications for a Non-Retail Commercial Cannabis Business concurrently, and shall review such applications and issue the Regulatory Safety Permit Application without consideration of the merit based point system, insofar as the applications satisfy all other requirements of this article ~~and Chapter 18~~.
 - b. Applications for a Non-Retail Commercial Cannabis Business shall be accepted during normal City Hall business hours and are not subject to the thirty (30) day Phase 1 or Phase 2 application periods.

Sec. 40-9.2. Commercial cannabis consumption lounge permitting process.

- (a) After the adoption of this Ordinance, the Executive Director of the Planning and Building Agency shall prepare application forms to evaluate a proposed commercial cannabis consumption lounge. Each commercial cannabis retail business interested in operating a consumption lounge pursuant to this article may submit an RSP application together with a non-refundable processing fee in an amount established by the City Council.
- (b) The Director or his or her designee shall determine whether each RSP application demonstrates compliance with this article as prescribed by Section 40-9 of this Chapter and notify the applicant of the outcome of the application as either eligible or ineligible.

(c) Qualified Consumption Lounge Applicants shall be notified by the City that they may submit any/all required documentation and plan drawings to complete the City's plan check and permitting process to construct a consumption lounge.

(d) Upon notification of eligibility, applicants shall have 180 days to complete the plan check and construction process, and be issued a certificate of occupancy, unless an extension is granted by the Executive Director of the Planning and Building Agency to resolve required building or site upgrades, modifications, repairs, or other property issue mitigations tied directly to construction of the lounge.

Sec. 40-10. Audits - Commercial Cannabis Businesses.

Annual audits. No later than September 30 of every year, each licensed commercial cannabis business, except commercial cannabis businesses licensed and operating solely as shared manufacturers, shall be liable to file with the City an independent audit or financial review of its operations of the previous calendar year. Provided, however, that licensed commercial cannabis businesses which operate as microbusiness, or that operate on a vertically or horizontally integrated basis as established in Chapter 21, Article XIII of this Code, or that are co-located on shared premises may file a consolidated independent audit or financial review. The form and contents of the document shall be specified by the Executive Director of Finance and Management Services, or his or her designee(s). The Executive Director of Finance and Management Services, or his or her designee(s) may waive this requirement for certain licensed commercial cannabis businesses in accordance with guidelines established by the Finance and Management Services Agency.

Sec. 40-11. Inspection and enforcement responsibilities.

The Code Enforcement Division of the Planning and Building Agency may enter and inspect the location of any commercial cannabis business between the hours of 7:00 a.m. and 10:00 p.m., or at any reasonable time, to ensure compliance with this article. In addition, any police officer may enter and inspect the location of any commercial cannabis business and the recordings and records maintained as required by this article, except that the inspection and copying of private medical records shall be made available to the police department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any owner, responsible person, landlord, lessee, member including, but not limited to, a member engaged in the management), or any other person having any responsibility over the operation of the commercial cannabis business to refuse to allow, impede, obstruct or interfere with an inspection, review or copying of records and closed-circuit monitoring authorized and required under this article, including, but not limited to, the concealment, destruction, and falsification of any recordings, records, or monitoring.

Sec. 40-12. Violation and enforcement.

1. *Violation/enforcement.* Each and every violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by this Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the commercial cannabis business Regulatory Safety Permit, revocation of the certificate of occupancy for the location, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the commercial cannabis business and persons related or associated with the business.
2. *Suspension or revocation.* When an authorized City of Santa Ana representative finds that any person holding a Regulatory Safety Permit under the provisions of Chapter 40 has violated the provisions of this chapter or is found guilty of conduct which would form the basis of denial of the Regulatory Safety Permit as set forth in ~~Article XIII of this Chapter 48~~, s/he may revoke or suspend the permit. No such revocation shall become effective until the Regulatory Safety Permit holder has been notified in writing by certified mail of the right to appeal the revocation decision pursuant to the provisions or Chapter 3 of this Code. If a timely appeal is filed, the revocation shall be effective only upon decision of a hearing officer as provided for in Chapter 3 of the Santa Ana Municipal Code. Otherwise, the revocation shall become effective after the timely appeal period has passed.
3. *State License Suspension/Revocation.* Revocation or suspension of a Licensee's State issued commercial cannabis business permit or license by the State shall constitute a violation of this article and result in revocation of the Licensee's RSP.

Sec. 40-13. Transfer of ownership.

1. Upon the transfer of any interest in a commercial cannabis business, the Regulatory Safety Permit shall be null and void. Any person, firm or entity desiring to own and operate the commercial cannabis business shall make a new Regulatory Safety Permit application. Prior to or concurrent with the submission of said application the transferee shall obtain all required business licenses, post all required security deposits, acquire all necessary, certificates, permits or other licenses allowing the doing of any act which the person paying or holding the same would not otherwise be entitled to do; and any permit, license, variance or other instrument of approval or evidence that any conditions exist as required by any other section of this Code or by any statute or code provisions of the state must first be obtained or complied with before the doing of any act or thing for which it is required. A fee as established by resolution of the City Council shall be payable for each such application involving transfer of any interest in an existing commercial cannabis retail business. The

provisions of this section shall apply to any person, firm, or entity applying for a Regulatory Safety Permit for premises previously used as such establishment.

2. Any such transfer of any interest in an existing commercial cannabis business or any application for an extension or expansion of the building or other place of business of the commercial cannabis retail business shall require inspection and compliance with section 40-11 of this article.
3. The owner or operator of a commercial cannabis business shall be responsible for notifying the City of any intention to rename, change management, or convey the business to another person/entity. Notification to the City must be made a minimum of sixty (60) days prior to such transfer.

Sec. 40-14. Limitations on the city's liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Regulatory Safety Permits pursuant to this article or the operation of any commercial cannabis business approved pursuant to this chapter. As a condition of approval of a Regulatory Safety Permit as provided in this chapter, the applicant or its legal representative shall:

1. Execute an agreement indemnifying the City from any claims, damages, injuries or liabilities of any kind associated with the registration or operation of the commercial cannabis business or the prosecution of the applicant or business or its members for violation of federal or State laws;
2. Maintain insurance in the amounts and types that are acceptable to the City Attorney or his or her designee;
3. Name the City as an additionally insured on all City required insurance policies;
4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a Regulatory Safety Permit; and,
5. Agree to indemnify and reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to this ordinance and/or the City's approval of a Regulatory Safety Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

Sec. 40-15. Fees and taxes.

All commercial cannabis businesses shall pay applicable fees and taxes, which shall include one (1) or more of the following:

1. Application Fees. The business owner shall submit a non-refundable fee to cover the cost of processing an application for the commercial cannabis business. These fees

may be divided into two (2) fees according to Registration Application Fee (Phase 1) and RSP Application Fee (Phase 2).

2. Regulatory Safety Permit Renewal Fees. The business owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.
3. Business License Taxes. The business owner shall at all times maintain a current and valid City of Santa Ana business license and shall pay all business license taxes, deposits, charges, fees, deficiencies, penalties, interest, and other associated assessments as may be required pursuant to ordinances of the City of Santa Ana and/or the Santa Ana Municipal Code.
4. Operating Agreement Fees.
5. Additional cannabis-specific gross receipts, excise taxes, or other municipal tax approved by the voters of the City of Santa Ana.
6. All required state taxes including sales and use taxes, business/franchise or income taxes, payroll taxes, etc.
7. All required federal taxes.

Section 7. Article XIII of Chapter 18 of the Santa Ana Municipal Code (Medicinal Marijuana Collectives/Cooperatives) is hereby deleted in its entirety, renamed "Reserved," and re-adopted and amended as Article II of Chapter 40 of the Santa Ana Municipal Code to read as "Regulation of Commercial Cannabis Medicinal Retail Activities" as follows:

ARTICLE II. – REGULATION OF COMMERCIAL CANNABIS MEDICINAL RETAIL ACTIVITIES

Sec. 40-100. Purposes and intent.

It is the purpose and intent of this article to regulate the collective distribution of medical marijuana at a commercial cannabis retail business in order to ensure the health, safety and welfare of the residents of the City of Santa Ana. The regulations in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may cultivate medical marijuana collectively. Businesses operating as medical marijuana collectives shall comply with all provisions of the Santa Ana Municipal Code, State Law, the 2008 California Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, and all other applicable local laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law.

Sec. 40-101. Definitions.

- (a) "Medical marijuana collective" or "cooperative" or "collective" means any facility otherwise known as a commercial cannabis medicinal retail or retailer, or location where medical marijuana is made available and/or distributed by or to one (1) or more of the following: a primary caregiver, a qualified patient or a person with an identification card in strict accordance with California Health and Safety Code § 11362.5 et seq., as sometimes amended. This term shall include any legal form of business recognized in the State of California. A "medical marijuana collective" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, 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, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.
- (b) "Identification card" shall have the same definition as that contained in Health and Safety Code § 11362.7 et seq., as sometimes amended.
- (c) "Manager" means any person responsible for the establishment, organization, supervision, or oversight of the operation of a Collective, including, but not limited to, members who perform the functions of president, vice-president, director, operating officer, financial officer, secretary, or treasurer. Ability to control one (1) or more of the following functions shall be prima facie evidence that such person is a manager:
- (1) To hire, select, or separate employees or staff, including volunteers;
 - (2) To acquire facilities, furniture, equipment or supplies other than occasional replenishment of stock;
 - (3) To disburse funds of the business other than occasional expenditures for replenishment of stock; or
 - (4) To make, or participate in making, policy decisions relative to the operations of the business.
- (d) "Marijuana" shall have the same definition as that contained in Health and Safety Code § 11018 as sometimes amended.
- (e) "Medical marijuana" shall have the same definition as that contained in Health and Safety Code § 11362.5 et seq., as sometimes amended.

- (f) "Primary caregiver" shall have the same definition as that contained in Health and Safety Code §§ 11362.5 and 11362.7, as sometimes amended.
- (g) "Qualified patient" shall have the same definition as that contained in Health and Safety Code § 11362.5 as sometimes amended.
- (h) "Private Residence" shall have the same definition as that contained in Health and Safety Code §§ 11362.2(5) and 17922. A recreational vehicle does not constitute a lawfully established structure for the purposes of this article.
- (i) "Premises" means a single, legal parcel of property. Where contiguous legal parcels under common ownership or control, such contiguous legal parcels shall constitute a single "premises" for purposes of this chapter.
- (j) "Marijuana Products" shall have the same definition as that contained in Health and Safety Code § 11018.1.
- (k) "Marijuana Accessories" shall have the same definition as that contained in Health and Safety Code § 11018.2.
- (l) "Personal Cultivation" shall mean the planting, growing, harvesting, drying, curing, grading or trimming of marijuana plants for personal use within a private residence or accessory structure to a private residence.
- (m) "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one (1) or more lockable doors.
- (n) "Dispensary" means a premises where medical cannabis or medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Business and Professions Code § 19340, medical cannabis and medical cannabis products as part of a retail sale.

Sec. 40-102. Scope of article.

The operating standards established in this article apply to any site, facility, location, use, cooperative or business currently operating in the City of Santa Ana, or which commences operations after the effective date of this article, that distributes, dispenses, stores, sells, exchanges, processes, delivers, or gives away, medical marijuana to qualified patients, health care providers, patients' primary caregivers, or physicians, pursuant to Health & Safety Code § 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any state regulations adopted in furtherance thereof. Any collective in the City of Santa Ana shall operate in conformance with the operating standards set forth in this

Code to assure that the operations of the collective are in compliance with California law and to mitigate the adverse secondary effects from operations of dispensaries.

Sec. 40-103. Operating Standards.

- (a) No recommendations from a doctor for medical marijuana shall be issued on-site.
- (b) A collective shall only dispense medical marijuana to qualified patients and their caregivers as defined by California Health and Safety Code § 11362.5 (Proposition 215). This shall include possession of an original valid doctor's recommendation, not more than one (1) year old, for medical marijuana use by the patient.
- (c) A collective shall notify patrons of the following through posting of a sign in a conspicuous location:

 - (1) Use of medical marijuana shall be limited to the patient identified on the doctor's recommendation. Secondary sale, barter or distribution of medical marijuana is a crime and can lead to arrest.
 - (2) That loitering on and around the collective site is prohibited by California Penal Code § 647(e) and that patrons must immediately leave the site and not consume medical marijuana in the vicinity of the collective or on the property or in the parking lot.
 - (3) Forgery of medical documents is a felony crime.
 - (4) A warning that patrons may be subject to prosecution under federal marijuana laws.
 - (5) That the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery.
- (d) A collective shall not provide marijuana to any individual in an amount not consistent with personal medical use
- (e) Marijuana shall not be grown or cultivated at collective sites, except that cuttings of the marijuana plant may be kept or maintained on-site for distribution to qualified patients and primary caregivers as follows:

 - (1) The cuttings shall not be utilized by a collective as a source for the provision of marijuana for consumption on-site, however, upon provision to a qualified patient or primary caregiver, that person may use the cuttings to cultivate marijuana plants off-site for their own use and they may also return marijuana from the resulting mature plant for distribution by the collective.
 - (2) For the purposes of this paragraph, the term "cutting" shall mean a rootless piece cut from a marijuana plant, which is no more than six (6) inches in length, and which can be used to grow another plant in a different location.

- (f) A collective shall comply with applicable provisions of the California Health and Safety Code §§ 11362.5 through 11362.83, inclusive.

Sec. 40-104 Medical Marijuana Waitlist and Waitlist Termination.

- (a) Pursuant to Ordinance No. NS-2864, adopted December 9, 2014, the Director of Planning and Building shall prepare Cooperative/Collective registration application forms and a related administrative policy. Each collective interested in operating pursuant to this article may submit an application together with a non-refundable processing fee in an amount established by the City Council. Within 60 days after the adoption of Ordinance No. NS-2864, the Director shall stop accepting applications and process all applications received.
- (b) The Director or his or her designee shall have determined whether each application demonstrates compliance with this article. Each application that is in compliance with this article shall be placed on the "Qualified Registration Applicant List" and the Director shall notify the applicant in writing that it is a "Qualified Registration Applicant."
- (c) Once all applications are processed, the Director shall have held an independent selection process ("lottery") in an open and public location and select 20 applications. The 20 applications chosen through the independent selection process (lottery) will be placed on the "Regulatory Safety Permit ("RSP") Eligibility List." Each applicant on the RSP Eligibility List may then choose to file an application for a RSP pursuant to section 40-9. All applicants identified on the RSP Eligibility List following the February 5, 2015 independent selection process (lottery) shall be required to concurrently: (1) File an application for an RSP and (2) Submit all required construction plans for plan check by the City by March 30, 2023, subject to the requirements of this Chapter and other applicable chapters of the Santa Ana Municipal Code, and be operational with sustained business activity within 180 days of construction permit issuance. An extension may be issued for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director of Planning and Building or his or her designee. Failure to satisfy these requirements by that deadline will disqualify the applicant from the RSP Eligibility List and the Waitlist described in subsection (d). Relocation is permitted pursuant to Section 40-7 of this Chapter.
- (d) Qualified Registration Applicants will appear on the "Qualified Registration Applicant List" in the order that they are selected during the independent selection process (lottery). This list is the Waitlist. The Waitlist will become active if (1) an applicant on the RSP Eligibility List is disqualified from that List; (2) a location appearing on the RSP Eligibility List becomes available; or (3) a location not appearing on the RSP eligibility list becomes available. A Qualified Registration Applicant's ability to move from the Waitlist to the RSP Eligibility List is determined by the applicant's proposed medical marijuana collective location and the applicant's position on the Waitlist.

- (e) A Qualified Registration Applicant that moves from the Waitlist to the RSP Eligibility List must submit a completed RSP application within three (3) months following issuance of a written notice advising the applicant of that opportunity. Failure to submit a completed RSP application by that deadline will disqualify the applicant from the RSP Eligibility List and the Waitlist.
- (f) The Director shall maintain the Waitlist and update it on an annual basis unless terminated pursuant to subsection 40-104 (g) through (j). A Qualified Registration Applicants on that Waitlist must submit a written request each year to maintain its status on the waitlist.
- (g) Upon the effective date of this Ordinance on January 1, 2023, the City shall no longer maintain any eligibility or Waitlist and shall terminate the Waitlist and provide written notice to all individuals and/or entities on the Waitlist at least 180 calendar days in advance of the Waitlist's termination. The notice shall contain details about each individual's and/or entity's position on the Waitlist and information about any upcoming applications being accepted for new commercial cannabis adult-use or medicinal retail selection processes as per the process outlined in Section 40-9, subject to the processes and procedures promulgated in Article I of this Chapter. No new medicinal retail applications shall be accepted following termination of the Waitlist.
- (h) In no event shall the City begin accepting applications for new commercial cannabis retail businesses before the 180-day written notification to all affected individuals and/or entities on the Waitlist.
- (i) Upon termination of the Waitlist, any operating adult-use commercial cannabis retailer with a valid RSP may also sell medicinal retail cannabis in full accordance with any State licensing requirements.
- (j) Relocation of an existing and licensed medical marijuana collective or medical marijuana cooperative as defined in Article II of this Chapter that is operating in full compliance with the provisions of this Article is permitted subject to Section 40-7 of this Chapter.

Sec. 40-105. Maintenance of records.

A medical marijuana collective shall maintain records at the location accurately and truthfully documenting:

- (a) The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the location;
- (b) The full name, address, and telephone number(s) of all members who are engaged in the management of the collective and the exact nature of each member's participation in the management of the collective;

- (c) The full name, address, and telephone number(s) of all patient members to whom the collective provides medical marijuana, a copy of a government-issued identification card for all patient members;
- (d) The full name, address, and telephone number(s) of all primary caregiver members to whom the collective provides medical;
- (e) All receipts of the collective, including but not limited to all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the collective for the cultivation of medical marijuana; and
- (f) Proof of compliance with the California Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use.

These records shall be maintained by the collective for a period of five (5) years and shall be made available by the collective to the police department and/or community preservation division upon request. If they are not produced as requested the city may seek a search warrant, subpoena, or court order. In addition to all other formats that the collective may maintain, these records shall be stored by the collective at the location in a printed format in its fireproof safe. Any loss, damage or destruction of the records shall be reported to the police department within twenty-four (24) hours of the loss, destruction or damage.

Sec. 40-106. Audits – Cooperatives/Collectives.

Annual audits. No later than September 30 of every year, each licensed medical marijuana collective shall be liable to file with the city an independent audit or financial review of its operations of the previous calendar year. Provided, however, that licensed collectives which operate on a vertically or horizontally integrated basis as established in Chapter 21, Article XII of this Code, or that are co-located on shared premises may file a consolidated audit or independent financial review. The form and contents of the document shall be specified by the executive director of finance and management services, or his/her designee(s). The Executive Director of Finance and Management Services, or his or her designee(s) may waive this requirement for certain licensed collectives in accordance with guidelines established by the Finance and Management Services Agency.

Sec. 40-107. Applicability to existing medical marijuana operations.

Any existing medical marijuana collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this article must immediately cease operation until such time, if any, when it complies fully with the requirements of this article. No medical marijuana collective, dispensary, operator, establishment, or provider that existed prior to the enactment of this article shall be deemed to be a legally established use under the provisions of this article, and such medical marijuana collective,

dispensary, operator, establishment, or provider shall not be entitled to claim legal nonconforming status.

Sec. 40-108. Compliance with this article and state law.

(a) It is unlawful for any person to:

- i. Cause, permit or engage in the giving away of marijuana, or
- ii. Own, establish, operate, use or permit the establishment or operation of a medical marijuana collective or cooperative, or to participate as an employee, contractor, agent, responsible person or volunteer of a collective or cooperative, except as provided in this article, and pursuant to any and all other applicable local and state laws.
- iii. The prohibition in subsection (ii) above includes, renting, leasing, or otherwise permitting a medical marijuana business to occupy or use a location, vehicle, or other mode of transportation.

(b) It is unlawful for any person to cause, permit or engage in any activity related to medical marijuana except as provided in Health and Safety Code § 11362.5 et seq., and pursuant to any and all other applicable local and state laws.

(c) It is unlawful for any person to knowingly make any false, misleading or inaccurate statements or representations in any forms, records, filings or documentation required to be maintained, filed or provided to the City under this article, or to any other local, state or federal government agency having jurisdiction over any of the activities of collectives.

(d) It shall be the sole responsibility of the members engaged in the management of the collective to ensure that the collective is at all times operating in a manner compliant with all applicable state laws and this article. Nothing in this article shall be construed as authorizing any actions which violate state law with regard to the cultivation, transportation, provision, and sale of medical marijuana.

(e) Cultivation of Marijuana.

(1) *Personal Cultivation.* Individuals twenty-one (21) years of age or older may plant, cultivate, harvest, dry, or process up to six (6) living marijuana plants for personal (non-commercial) use in a private residence or accessory structure to a single private residence in the City of Santa Ana and must comply with the following requirements:

- i. The marijuana cultivation area shall be located indoors within a private residence or accessory structure on a single parcel of property;
- ii. No more than six (6) living marijuana plants is permitted for indoor personal cultivation;

- iii. Marijuana in excess of twenty-eight and one-half (28.5) grams produced by plants kept for indoor personal cultivation must be kept in a locked space on the grounds of the private residence not visible from the public right-of way.
 - iv. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence from the public right-of-way, including but not limited to any marijuana plants, equipment used in the growing and cultivation operation, or any light emanating from the cultivation; or
 - v. The cultivation may not violate any California Building, Electrical or Fire Codes or any other health and safety standards.
- (2) Commercial Cultivation. Commercial cultivation of marijuana or cannabis is prohibited anywhere in the City except as allowed and regulated in Article I of this Chapter.
- (3) Outdoor Cultivation. Outdoor commercial cultivation of marijuana or medical marijuana is prohibited anywhere in the City. No person, including a qualified patient or primary caregiver, shall engage, permit, or participate in the outdoor commercial cultivation of marijuana in the City.
- (4) Public Nuisance Prohibited.
- (i) It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor, except as allowed and regulated in Chapter 40 of the Santa Ana Municipal Code. A public nuisance may be deemed to exist, if such activity produces:
 - (1) Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public;
 - (2) Repeated responses to the parcel by law enforcement personnel;
 - (3) A repeated disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public;
 - (4) Any other impacts on the neighborhood which are disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling, excessive vehicular traffic or parking occurring at or near the dwelling, and excessive noise emanating from the dwelling.
 - (5) Outdoor and Commercial growing and cultivation of marijuana, except as allowed and regulated in Chapter 40 of the Santa Ana Municipal Code.

- (f) A permitted medical marijuana dispensary may deliver medical marijuana only to a qualified patient or caregiver. Medical marijuana delivery services by dispensaries possessing regulatory safety permits must comply with Business and Professions Code §19340. Delivery of cannabis from a dispensary permitted pursuant to this Chapter can only be made in a city or county that does not expressly prohibit it by ordinance. Delivery services by dispensaries not in possession of regulatory safety permits is expressly prohibited.
- (g) Non-Retail Commercial Cannabis Businesses for Medicinal and Adult-Use Cannabis as defined in Article I of Chapter 40 of the Santa Ana Municipal Code (SAMC) are permitted subject to the regulations and standards contained within Chapter 40 of the SAMC.

Section 8. Section 21-127 of Article XII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-127. - Marijuana collectives/cooperatives—Annual business license tax assessment.

(a) Annual business license tax assessment for marijuana collectives/cooperatives.

- (1) Every collective/cooperative whether it is organized or conducted as a "not for profit" business, a "non-profit" business, or a "for-profit" business, shall pay an annual business license tax in accordance with Chapter 21 and the sections and subsections hereunder.
- (2) For the purposes of this article, a marijuana collective/cooperative is defined in section ~~18-611~~ 40-101(b) and is considered to be a business as that term is defined in section 21-3.
- (3) For the purposes of this article, a collective/cooperative is not considered to be a religious or charitable organization.
- (4) "Medical marijuana collective/cooperative" or "collective/cooperative" shall mean any activity regulated or permitted by chapter ~~18~~ 40.
- (5) For the purposes of this article, a marijuana collective/cooperative is not considered to be a business or person having a "specified exemption" or "specified exclusion" from business license taxation as set forth in sections 21-48 and 21-49.
- (6) For the purposes of this article, a "nonprofit organization" shall mean any institution or organization that is exempted from taxes measured by income or gross receipts pursuant to Article XIII, Section 26 of the California Constitution as codified under Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code and Section 37101 (c) of the Government Code or Sub-Chapter F (commencing with

Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986. An institution or organization operating as a collective/cooperative and claiming a gross receipts assessment business license tax exemption under this section shall have the burden of furnishing to the collector such information as the collector may require to validate the claim of exemption including but not limited to such a determination by the California Franchise Tax Board or any other information requested by the collector.

- (7) For the purposes of this article, "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 provided by members, regardless of form, or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation or provision of marijuana or any transaction related thereto. "Gross receipts" shall also include without limitation anything else of value obtained by a collective/cooperative. 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 also include the amount of any federal, manufacturer's or importer's excise tax included in the price of property sold, even though the manufacturer or importer is also the retailer thereof and whether or not the amount of such tax is stated as a separate charge. "Gross receipts" shall not include the amount of any federal tax imposed on or with respect to retail sales whether or not the amount of such tax is stated as a separate charge. "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:

- (i) The cost of tangible property sold or bartered;
- (ii) The cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or
- (iii) The cost of transportation of the marijuana, or other property or product.

(b) Business license tax rates for marijuana collectives/cooperatives.

- (1) Every collective/cooperative, excepting a qualified "nonprofit organization," whether it is organized or conducted as a "not for profit" business, a "non-profit" business, or a "for-profit" business, shall pay a separate business license tax at a rate of up to ten (10) percent of the gross receipts generated or otherwise received for each branch establishment or separate property location of the business. The gross receipts tax shall be initially set at a rate of five (5) percent. The maximum tax rate shall not exceed ten (10) percent of gross receipts. This tax shall not be adjusted for inflation pursuant to section 21-121.
- (2) Notwithstanding the maximum tax rate of ten (10) percent of gross receipts imposed under subsection (b)(1), the city council may in its discretion at any time by ordinance implement a lower gross receipts tax rate for all marijuana collectives/cooperatives, as defined in such ordinance, subject to the maximum rate of ten (10) percent of gross receipts. The city council may by ordinance increase any such gross receipts tax rate from time to time, not to exceed the maximum gross receipts tax rate established under subsection (b)(1).
- (3) Effective January 1, 2018, the gross receipts tax initially set at a rate of five (5) percent pursuant to subsection (b)(1), shall be increased to a rate of six (6) percent. The maximum tax rate shall not exceed ten (10) percent of gross receipts. This tax rate shall not be adjusted for inflation pursuant to section 21-121.
- (4) As part of the gross receipts tax imposed by this article, each collective/cooperative shall pay a minimum basic rate of two thousand dollars (\$2,000.00) annually for each separate branch location or separate property location of the business.

(c) Modification, repeal or amendment. The city council may repeal the ordinance codified in this article, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. The city council may likewise

by ordinance adopt and add additional provisions to any other article of this chapter and relate them to this article, or amend any existing provisions of any article of this chapter as they may already relate to this article in any 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 article, 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 imposed herein.

(d) *Administration—Rules, regulations, and guidelines; interpretation/clarification.* In order to aid in the city's collection of taxes due under this article and to ensure that all marijuana collectives/cooperatives are taxed consistently to the best of the city's ability, the collector, with the concurrence of the city attorney, may promulgate rules, regulations, and guidelines, to implement and administer this article including, but not limited to rules, regulations, and guidelines harmonizing other provisions of this chapter with the provisions of this article in any manner not inconsistent with the intent of this article and which does not result in an increase in the tax or taxes imposed herein. The collector may also, with the concurrence of the city attorney, interpret or clarify the methodology of the tax, or any definition applicable to the tax, so long as such interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this article.

(e) *Occasional transactions—Exemptions.*

(1) The provisions of this article shall not apply to persons having no fixed place of business within the city who come into the city for the purpose of transacting a specific item of marijuana collective/cooperative business at the request of a specific patient, client or customer, provided that such person does not come into the city for the purpose of transacting business on more than five (5) days during any calendar year.

(2) For any person not having a fixed place of business within the city who comes into the city for the purpose of transacting collective/cooperative activities, the business tax payable by such person may be apportioned by the collector in accordance with this chapter.

(f) *Reporting and remittance.* Beginning as set forth in subsection (k) below, and monthly thereafter, each marijuana collective/cooperative (except qualified nonprofit organizations exempt from taxes measured by income or gross receipts) required to pay a tax based on gross receipts under this article, shall report to the city any gross receipts received during the preceding monthly reporting period and shall likewise remit to the city the taxes due and owing during said period. For purposes of this section, month shall mean calendar month, and 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 collective/cooperative.

The payment of the two thousand dollars (\$2,000.00) minimum basic rate gross receipts tax required annually for each separate branch location or separate property location of the business in accordance subsection (b)(3), shall be made annually prior to the beginning of the fiscal year beginning April first of the current year and expiring on the 31st day of March of the following year. In the case of a new collective/cooperative the minimum basic rate gross receipts tax shall be paid in advance prior to any new business activity being undertaken. Every new licensee shall pay in advance an amount equal to one-quarter ($\frac{1}{4}$) of the annual minimum basic rate gross receipts tax, for each quarter and fraction of a quarter remaining during the period for which the new license is issued.

(g) *Delinquent date—Penalty.* Any individual or entity who fails to pay the taxes required by this article when due shall be subject to penalties and interest as set forth in accordance with this chapter. The collector 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.

(h) *Payment of tax does not authorize unlawful business.*

(1) The payment of a business tax required by this article, and its acceptance by the city, shall not entitle any person to carry on any collective/cooperative unless the person has complied with all of the requirements of this Code and all other applicable laws, nor to carry on any collective/cooperative in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such collective/cooperative is in violation of any law.

(2) No tax paid under the provisions of this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any legal business in an illegal manner, or any business in violation of any ordinance of the city. Nothing in this article implies or authorizes that any activity connected with the distribution or possession of marijuana 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.

(i) *Business license tax certificate—Required.* There are imposed upon all persons engaged in transacting and carrying on any collective/cooperative business activity in the city taxes in the amounts prescribed in this article. It shall be unlawful for any person, either for him or herself or for any other person, to commence, transact or carry on any business in the city without first having procured a business license from the city under this chapter and having paid the taxes set forth in this article, and without complying with any and all applicable provisions contained in this chapter. The carrying on of any collective/cooperative without complying with all the provisions of

this article shall constitute a separate violation of this chapter for each and every day that such collective/cooperative is so carried on.

- (j) *Classification of business license assessment type—Term and renewal.* The business license issued to marijuana collectives/cooperatives shall be classed as a gross receipts assessment type, issued for the same term of license as set forth in subsection 21-71(c) and shall be subject to renewal in accordance with sections 21-72(c), 21-73(c), and 21-77.
- (k) *Operative date.* Upon the approval by the majority of the voters of the city at the November 4, 2014 general election, the taxes imposed by this article shall become operative and shall be applied by the collector upon all marijuana collectives/cooperatives.
- (l) *Operative date of increased or decreased gross receipts tax rate.* The gross receipts tax set initially at a rate of five (5) percent pursuant to subsection (b)(1) [(Ordinance No. NS-2864, Section 5, adopted 12-9-14)] shall be increased to a rate of six (6) percent effective January 1, 2018, pursuant to subsection (b)(3) [(Ordinance No. NS-2930, Section 8, adopted 11-21-17)].

Section 9. Section 21-133 of Article XIII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-133. Commercial cannabis businesses—Annual business license tax assessment.

Every person engaged in a “commercial cannabis business” or “commercial cannabis activity” shall pay an annual business license tax as outlined below. This Article shall not apply, except with respect to medical marijuana cooperatives/collectives (also referred to as medicinal cannabis retail businesses) which are vertically and/or horizontally integrated with commercial cannabis businesses, to medical marijuana cooperatives/collectives which are governed by Article XII of this Chapter, or to personal cultivation as defined in section ~~18-611(n)~~ 40-101(b) of this Code.

- (a) For each branch establishment or separate property location of a commercial cannabis business transacted and carried on in the city, and for each separate type of commercial cannabis business conducted at the same location, the higher of the two (2) following tax rates shall be due to the City for each monthly reporting period:
 - (1) Up to ten percent (10%) of each dollar of gross receipts received or generated for each monthly reporting period.
 - (2) Up to \$35.00 per square foot (annual tax rate) prorated monthly to one-twelfth (1/12th) of the annual tax rate amount.

- (b) These tax rates shall not be adjusted for inflation pursuant to section 21-121 of this Chapter.
- (c) Notwithstanding the tax rates imposed herein under subsection (a), the City Council may, in its discretion, at any time by resolution, implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rates established by subsection (a).
- (d) As of the operative date of this Article, the business license gross receipts tax rates and square footage tax rates application to specific commercial cannabis business activities ~~shall be~~ have been established as follows: by city ordinance [(Ordinance No. NS-2962, Section 2 (Exhibit A-1), adopted 11-6-18; and Ordinance No. NS-2972, Section 7, adopted 9-3-19)] and by the following resolutions as referenced hereinbelow in subsections (s), (t), and (u).

| Commercial Cannabis Business Activity | Gross Receipts Tax Rate | Gross Square Footage Tax Rate |
|--|-------------------------|-------------------------------|
| Adult-use Cannabis Retail Business (including Delivery) | 8% | \$25.00 |
| Cultivation | 6% | \$10.00 |
| Distribution | 6% | \$4.00 |
| Manufacturing | 6% | \$10.00 |
| Testing Facility or Testing Laboratory (effective December 21, 2018 through June 30, 2019) | 5% | \$ 1.50 |
| Testing Facility or Testing Laboratory (effective beginning July 1, 2019) | 1% | \$ 1.50 |

With respect to ~~G~~commercial cannabis businesses not having a fixed place of business within the city but conducting regular, non-incidental commercial cannabis business activities within the city, such businesses shall be subject to the gross receipts tax rate(s) ~~as set out in the table above~~ pursuant to this Article based on the category/categories of commercial cannabis activity conducted. However, such out-of-town commercial cannabis businesses shall not be subject to any gross square footage tax rate(s).

- (e) As part of the annual gross receipts/square footage tax(es) imposed by this Article, each commercial cannabis business located within the city shall pay a minimum basic rate of two thousand dollars (\$2,000.00) annually for each branch establishment or separate property location of the commercial cannabis business transacted and carried on in the city, and for each separate type of commercial

cannabis business conducted at the same location. Commercial cannabis businesses having no fixed place of business within the city shall be exempted from this requirement. Provided that commercial cannabis microbusinesses shall pay a minimum basic rate of two thousand dollars (\$2,000.00) annually for each branch establishment or separate property location of the commercial cannabis business transacted and carried on in the city, but not for each separate type of commercial cannabis business conducted at the same location.

- (f) In the event the City should in the future permit additional categories of commercial cannabis business activity, as may from time to time be licensed by the State of California, such categories of commercial cannabis activities shall be subject to the same maximum tax rates as imposed herein. The City may by ordinance of the City Council initially set the required gross receipts/gross square footage tax rates based on category of cannabis business activity at lesser rates as may be deemed appropriate by the City Council.
- (g) For purposes of this Article, a commercial cannabis business is not considered to be a business or person having a “specified exemption” or “specified exclusion” from business license taxation as set forth in sections 21-48 and 21-49 of this Chapter.
- (h) For purposes of this Article any person claiming an exemption from the gross receipts tax rate component of the combined gross receipts/square footage tax imposed under this Article on the basis of a claim of being a qualified "nonprofit organization" shall have the burden of substantiating their claim to the same extent and in the same manner as a marijuana collective/cooperative in accordance with section 21-127(a)(6) of this Chapter.
- (i) Cannabis businesses shall not pass the taxes imposed by this Article through to an adult-use cannabis retail business customer or commercial cannabis business customer in any fashion except as part of the basic product sales and/or service price.
- (j) *Definitions.* For purposes of this Article, the following terms have the following meanings:
 - (1) “Adult-Use cannabis retail business” as defined in section 40-2(4) of this Code.
 - (2) “Commercial Cannabis Activity” as defined in section 40-2(9) of this Code.
 - (3) “Commercial cannabis business” as defined in section 40-2(10) of this Code excluding medical marijuana collectives/cooperatives also referred to as medicinal cannabis retail sales.
 - (4) “Cultivation” as defined in section 40-2(11) of this Code.
 - (5) “Delivery” as defined in section 40-2(13) of this Code.

- (6) "Distribution" as defined in section 40-2(16) of this Code.
- (7) "Gross receipts" – section 21-3 of this Chapter notwithstanding, "gross receipts" for the purposes of this Article shall mean:
 - (A) 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 cannabis, including, but not limited to, membership dues, reimbursements provided by members, regardless of form, or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation, manufacturing, distribution, testing, or provision of cannabis or any transaction related thereto.
 - (B) Anything else of value obtained by an a cannabis business;
 - (C) The total amount of the sale price of all sales and services;
 - (D) 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, or merchandise (whether at wholesale or retail), for which a charge is made or credit allowed, including all refunds, cash credits and properties of any amount or nature;
 - (E) 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;
 - (F) The amount of any federal manufacturer's or importer's excise tax included in the price of property sold, even though the manufacturer or importer is also the retailer thereof;
 - (G) The amount of any California state cannabis excise tax or state cannabis cultivation tax included in the price of the product;
 - (H) "Gross receipts" shall not include the following:
 - i. The amount of any federal tax imposed on or with respect to retail or wholesale sales or the sale of services whether imposed upon the cannabis business or the consumer whenever the amount of federal tax is authorized by law to be stated and passed through to customers as a separate charge.

- ii. Any California state, county, or city sales or use tax, including any add-on, district, or transaction and 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; or
 - iii. The amount of the sale price of business personal property (all property owned or leased by a cannabis business operator used in the operation cannabis business activities, including but not limited to: furniture, fixtures, and business equipment); real property, including land, buildings and other improvements.
 - iv. The amount of equity contributions, investments, and/or loan proceeds to cannabis business' operation, and/or proceeds from the sale or transfer of cannabis business' retail or commercial cannabis business.
 - v. The amount of interparty sales and/or transfers of goods within a single vertically and/or horizontally integrated cannabis business, where the sales or transfers goods are between two or more commercial cannabis business licensees (excluding testing facilities or testing laboratories), or one or more said commercial cannabis business licensee(s) and one or more medicinal cannabis retail business licensee(s), as set forth in accordance with section 21-131.2 and/or section 21-142.
- (l) "Gross receipts" shall be calculated without any deduction on account of any of the following:
- i. The cost of tangible or intangible property sold or bartered;
 - ii. The cost of materials or products used, labor or service cost, interest paid, losses, or other expense;
 - iii. The cost of transportation of cannabis, or other property or product;
 - iv. The amount of any federal or state income or franchise taxes; and
 - v. Any other business costs or expenses, unless otherwise specifically exempted.

(8) “Gross Square foot” or “gross square footage” for the purposes of this Article shall mean:

- (A) In the case of commercial cannabis businesses licensed by the state to engage in an adult-use cannabis retail business, the gross number of square feet comprising the adult-use cannabis retail property location as confirmed by the corresponding “approved building set” or “approved certificate of occupancy” on file with the City of Santa Ana Planning and Building Agency, whichever is the greater of any square footage indicated, whether such adult-use cannabis retail business is part of an on-site vertically or horizontally integrated cannabis business or not.
- (B) In the case of commercial cannabis businesses licensed by the state to engage in cultivation, the aggregate number of square feet comprising all areas of the premises under “canopy”, whether such sum is greater or lesser than the gross square footage as stated in the “approved building set” or “approved certificate of occupancy”, and whether such commercial cannabis cultivation business is part of an on-site vertically integrated cannabis business or not.

“Canopy” shall mean the designated area(s) of a premise that will contain mature plants at any point in time. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries. Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary which includes interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and if mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

Canopy shall be subject to independent measurement and calculation by duly authorized employees or agents of the City at the time of application for a Santa Ana Business License and annually thereafter at the time of the renewal of such license, or more often as may be deemed necessary in the discretion of the collector. Whenever an independent canopy measurement and calculation is required under the terms of this Article or whenever the collector in his or her discretion determines that the independent measurement and calculation of a licensee’s canopy is desirable to effectuate the proper assessment or collection of the business license taxes

required to be paid under the terms of this Chapter, or for any other purposes related to the express aims of this Article then a canopy measurement shall be performed and a corresponding service fee shall be applicable in the amount as specified by resolution of the City Council.

- (C) In the case of commercial cannabis businesses licensed by the state to engage in distribution or manufacturing and that are not occupying the same premises with another cannabis business, the gross number of square feet as confirmed by the corresponding “approved building set” or “approved certificate of occupancy” on file with the City of Santa Ana Planning and Building Agency, whichever is the greater of any square footage indicated.
- (D) In the case of commercial cannabis businesses licensed by the state to engage in distribution or manufacturing and occupying the same premises with another cannabis business, the gross number of square feet allocated by the commercial cannabis business owner/operator respectively for either distribution use or for manufacturing use, whether the combined sum of all uses is less than, equal to, or greater than the gross square footage as stated in the “approved building set” or “approved certificate of occupancy”.

The number of square feet allocated (“Allocated Square Footage”) shall be subject to independent measurement and calculation by duly authorized employees or agents of the City at the time of application for a Santa Ana Business License and annually thereafter at the time of the renewal of such license, or more often as may be deemed necessary in the discretion of the collector. Whenever an independent allocated square footage measurement and calculation is required under the terms of this Article or whenever the collector in his or her discretion determines that the independent measurement and calculation of a licensee’s allocated square footage is desirable to effectuate the proper assessment or collection of the business license taxes required to be paid under the terms of this Chapter, or for any other purposes related to the express aims of this Article then an Allocated Square Footage measurement shall be performed and a corresponding service fee shall be applicable in the amount as specified by resolution of the City Council.

- (E) In the case of commercial cannabis businesses licensed by the state to engage in testing facilities or testing laboratory businesses, the gross number of square feet comprising such commercial cannabis business’ property location as confirmed by the corresponding

“approved building set” or “approved certificate of occupancy” on file with the City of Santa Ana Planning and Building Agency, whichever is the greater.

- (9) “Manufacturing” as defined in section 40-2(22) of this Code.
 - (10) “Microbusiness” as defined in section 40-2(24) of this Code.
 - (11) “Consumption Lounge” as defined in section 40-2(39.1) of this Code.
 - (1240) “Retail businesses” as defined in section 40-2(40) of this Code.
 - (13) “Shared manufacturing” as defined in section 40-2(22.5) of this Code.
 - (14) “Temporary Consumption Event” and “Temporary Consumption Festival” as defined in section 40-2(39.2 and 39.3) of this Code.
 - (1544) “Testing Facility” or “Testing Laboratory” as defined in section 40-2(44) of this Code.
 - (1642) “Wholesale” as defined in section 40-(46) of this Code.
- (k) *Modification, repeal or amendment.* The City Council may repeal the ordinance codified in this Article, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. The City Council may likewise by ordinance adopt and add additional provisions to any other Article of this Chapter and relate them to this Article, or amend any existing provisions of any Article of this Chapter as they may already relate to this Article in any 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 Article, 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 imposed herein.
- (l) *Administration—Rules, regulations and guidelines.* In order to aid in the city's collection of taxes due under this Article and to ensure that all commercial cannabis businesses are taxed consistently to the best of the city's ability, the collector, with the concurrence of the city attorney, may promulgate rules, regulations, and guidelines, to implement and administer this Article including, but not limited to rules, regulations, and guidelines harmonizing other provisions of this Chapter with the provisions of this Article in any manner not inconsistent with the intent of this Article and which does not result in an increase in the tax or taxes imposed herein. The collector may also, with the concurrence of the city attorney, interpret or clarify the methodology of the tax, or any definition applicable to the tax, so long as such

interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Article.

(m) *Occasional transactions—Exemptions.*

- (1) The provisions of this Article shall not apply to persons having no fixed place of business within the city who come into the city for the purpose of transacting a specific item of commercial cannabis business at the request of a specific client or customer, incidental to a commercial cannabis business principally established elsewhere, provided that such person does not come into the city for the purpose of transacting such business on more than three (3) days during any calendar year.
- (2) For any person not having a fixed place of business within the city who comes into the city for the purpose of transacting commercial cannabis business activities, the business license tax(es) payable by such person may be apportioned by the collector in accordance with this Chapter.

(n) *Reporting and remittance.*

- (1) Beginning as set forth in subsection (r) below, and monthly thereafter, each commercial cannabis business required to pay a tax or taxes based on gross receipts under this Article (except qualified nonprofit organizations exempt from taxes measured by income or gross receipts), shall report to the city any gross receipts received during the preceding monthly reporting period. In addition, each cannabis business (including qualified nonprofit organizations) required to pay a tax or taxes based on square footage shall report to the city the gross square footage of the cannabis business' property location. Every cannabis business shall then compute the business license taxes at both the gross receipts rate and the gross square footage rate - prorated monthly to one-twelfth (1/12th) of the annual tax rate amount - and shall then remit to the city the amount of the higher of the two tax calculations due and owing during said period in accordance with section 21-133, subsection (d). In the case of a qualified nonprofit organization only the gross square footage computation shall be made and the amount of such calculation shall represent the amount due and owing during said period. All reporting and remitting made shall be done in accordance with instructions from the collector and shall be made using forms provided or approved by the collector.
- (2) For purposes of this section, month shall mean calendar month and shall include any fraction of a month. Taxes shall begin to accrue on the date that a person or entity first receives a business license or other city permit to operate as a commercial cannabis business or upon the operative date of this Article should a person or entity already possess a commercial

cannabis business license or other city permit to operate as a commercial cannabis business.

- (3) The payment of the two thousand dollars (\$2,000.00) minimum basic rate gross receipts tax required annually for each separate branch location or separate property location of the business in accordance with this section, shall be made annually prior to the beginning of the fiscal year beginning April first of the current year and expiring on the 31st day of March of the following year. In the case of a new commercial cannabis business the minimum basic rate gross receipts tax shall be paid in advance prior to any new business activity being undertaken. Every new licensee shall pay in advance an amount equal to one-quarter ($\frac{1}{4}$) of the annual minimum basic rate gross receipts tax, for each quarter and fraction of a quarter remaining during the period for which the new license is issued.
- (o) *Delinquent date—Penalty.* Any individual or entity who fails to pay the taxes required by this Article when due shall be subject to penalties and interest as set forth in accordance with this Chapter. The collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Article and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Article.
- (p) *Business license tax certificate/receipt—Required.* There are imposed upon all persons engaged in transacting and carrying on any commercial cannabis business activity in the city taxes in the amounts prescribed in this Article. It shall be unlawful for any person, either for him or herself or for any other person, to commence, transact or carry on any business in the city without first having procured a business license from the city under this Chapter and having paid the taxes set forth in this Article, and without complying with any and all applicable provisions contained in this Chapter. The carrying on of any commercial cannabis business activity without complying with all the provisions of this Article shall constitute a separate violation of this Chapter for each and every day that such commercial cannabis activity is so carried on.
- (q) *Classification of business license assessment type—Term and renewal.* The business license issued to commercial cannabis businesses shall be classed as a gross receipts assessment type, issued for the same term of license as set forth in subsection 21-71(c) of this Chapter and shall be subject to renewal in accordance with sections 21-72(c), 21-73(c), and 21-77.
- (r) *Operative date.* Upon the approval by the majority of the voters of the city at the November 6, 2018 general election, the taxes imposed by this Article shall become operative and shall be applied by the collector upon all commercial cannabis businesses.

- (s) *Operative date of decreased gross receipts tax rate.* The gross receipts tax set initially at a rate of five (5%) percent for testing facilities or testing laboratories pursuant to subsection (d) above shall be decreased to a rate of one (1%) percent by resolution of the City Council [Santa Ana City Council Resolution No, 2019-068 as hereinabove provided for in accordance with subsection (c), which reduced rate, under the terms of said City Council resolution, shall become retroactively effective July 1, 2019.
- (t) *Operative date of decreased gross receipts tax rate.* The gross receipts tax set initially at a rate of six (6%) percent for cultivation, manufacturing, and distribution pursuant to subsection (d) above shall be decreased to a rate of one (1%) percent by resolution of the City Council [Santa Ana City Council Resolution No, 2022-XXX] as hereinabove provided for in accordance with subsection (c), which reduced rate, under the terms of said City Council resolution, shall become effective January 1, 2023.
- (u) *Operative date of decreased square footage tax rate.* The square footage tax set initially at a rate of ten (\$10) dollars per square foot for cultivation and manufacturing, and four (\$4) dollars per square foot for distribution pursuant to subsection (d) above shall be decreased to a rate of seven (\$7) dollars per square foot for cultivation, three (\$3) dollars per square foot for manufacturing, three (\$3) dollars per square foot for distribution, (\$1.50) per square foot for testing, and to a rate of zero (\$0) dollars per square foot for shared manufacturing by resolution of the City Council [Santa Ana City Council Resolution No, 2022-XXX] as hereinabove provided for in accordance with subsection (c), which reduced rates, under the terms of said City Council resolution, shall become effective January 1, 2023.

Section 10. Section 21-135 of Article XIII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-135. - Single property location; multiple state licenses; separate city business licenses.

Sections 21-7, 21-8, and 21-9 of this chapter notwithstanding, separate city business licenses, issuable to commercial cannabis businesses pursuant to this article, shall be required for each separate type of commercial cannabis business activity transacted and carried on at a single city property location for which a commercial cannabis business may seek licensure by the state, or for which a state license has been approved or issued. Provided, however, that commercial cannabis business activity transacted and carried on at a single city property location for which a commercial cannabis business may seek licensure by the state as a microbusiness, or for which a state license has been approved or issued as a microbusiness, shall in such case be required to obtain a separate city

business license business for each of the commercial cannabis activities transacted and carried on.

Section 11. If any section, subsection, sentence, clause, phrase 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 City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 12. This Ordinance shall become effective January 1, 2023.

Section 13. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

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 attest to and certify that the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, 2022 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana