

Stacy Silva
1346 South Nutwood Street
Anaheim, CA 92804

October 14, 2021

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OFFICE OF CITY CLERK
CITY OF ANAHEIM

Theresa Bass, CMC
City of Anaheim
Office of the City Clerk
200 S. Anaheim Boulevard
2nd Floor, Room 217
Anaheim, CA 92805

RE: Request for Title and Summary

Dear Ms. Bass:

I hereby give notice of my intention to circulate a petition within the City of Anaheim for the purpose of amending the Municipal Code of the City of Anaheim.

Enclosed are the \$200 filing fee, the Notice of Intent (and Statement of Reasons), the full text of the proposed initiative (which is entitled "The Anaheim Cannabis Regulation and Land Use Measure"), and the statement required by California Elections Code section 9608.

Pursuant to California Elections Code sections 9202 and 9203, I request that the Anaheim City Attorney timely prepare a Title and Summary of the proposed initiative, so that I may comply with the publication requirements and begin circulating the petition.

Please send all correspondence related to this initiative to my attorney at the following office address and email address:

Bradley W. Hertz, Esq.
The Sutton Law Firm
22815 Ventura Blvd., # 405
Los Angeles, CA 91364
(bhertz@campaignlawyers.com)
Telephone: (818) 593-2949

Thank you for your assistance with this matter.

Sincerely,



Stacy Silva

Enclosures: (1) \$200 Filing Fee; (2) Notice of Intent (and Statement of Reasons); (3) Text of the Proposed Measure; and (4) Elections Code section 9608 Statement

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the person whose name appears hereon of her intention to circulate the petition within the City of Anaheim for the purpose of amending the Anaheim Municipal Code to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes, as advised and recommended by their health care provider(s), and adults over the age of twenty-one (21).

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

This petition is to implement State of California ("State") law, which includes, but is not limited to the provisions of the Medicinal & Adult-Use Cannabis Regulation & Safety Act, as may be amended and augmented under State law, while imposing regulations on the conduct of business and use of land to protect the City of Anaheim's (the "City") neighborhoods, residents, and businesses from negative impacts.

It is a further purpose and intent of this Measure to regulate the cultivation, manufacturing, processing, testing, distribution, and retail sale and delivery of cannabis and cannabis products in a manner which is responsible, which protects the health, safety, and welfare of the residents of the City, and which enforces rules and regulations consistent with State law.

In part to meet these objectives, a commercial cannabis business permit shall be required to own or to operate a cannabis business within the City. Further, this Measure's requirement for a cannabis business to possess commercial cannabis business permit is in addition to any other permits, licenses, and approvals which may be required to conduct business in the City, and is in addition to any permits, licenses, and approvals required under State or County of Orange ("County") law.

By signing this petition, you will empower Anaheim's voters with the right to have a say on the structure of the cannabis licensing scheme in the City.



Stacy Silva

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October 14, 2021

Theresa Bass, CMC
City of Anaheim
Office of the City Clerk
200 S. Anaheim Boulevard
2nd Floor, Room 217
Anaheim, CA 92805

RE: Proponent's Signed Statement Pursuant to
California Elections Code Section 9608

Dear Ms. Bass:

Pursuant to California Elections Code section 9608, I hereby submit the following signed statement regarding "The Anaheim Cannabis Regulation and Land Use Measure," of which I am the proponent, as follows:

I, Stacy Silva, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.


Stacy Silva

Dated this 14th day of October, 2021

The Anaheim Cannabis Regulation and Land Use Measure
(as of October 10, 2021)

THE PEOPLE OF THE CITY OF ANAHEIM DO ORDAIN AS FOLLOWS:

SECTION 1. Title. This measure shall be known and may be cited as the Anaheim Cannabis Regulation and Land Use Measure (the "Measure").

SECTION 2. Purpose and Intent. The purpose and intent of this Measure is to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes, as advised and recommended by their health care provider(s), and adults over the age of twenty-one (21), and to implement State of California ("State") law, which includes, but is not limited to the provisions of the Medicinal & Adult-Use Cannabis Regulation & Safety Act (hereinafter, "MAUCRSA"), as may be amended and augmented under State law, while imposing regulations on the conduct of business and use of land to protect the City of Anaheim's (the "City") neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Measure to regulate the cultivation, manufacturing, processing, testing, distribution, and retail sale and delivery of cannabis and cannabis products in a manner which is responsible, which protects the health, safety, and welfare of the residents of the City, and which enforces rules and regulations consistent with State law. In part to meet these objectives, a commercial cannabis business permit shall be required to own or to operate a cannabis business within the City. Further, this Measure's requirement for a cannabis business to possess commercial cannabis business permit is in addition to any other permits, licenses, and approvals which may be required to conduct business in the City, and is in addition to any permits, licenses, and approvals required under State or County of Orange ("County") law.

SECTION 3. Legal Authority. Pursuant to Section 7 of Article XI of the California Constitution (which pertains to city ordinances and regulations), and the provisions of the MAUCRSA, as may be amended and augmented under State law and any subsequent State legislation regarding the same, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Except as otherwise provided in this Measure, any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State, or any of its departments or divisions, shall be the minimum standards applicable to commercial cannabis activity in the City.

SECTION 4. Repeal of Chapters 4.19, 4.20, 4.21 & 4.100.

A. Chapter 4.19 (Medical Marijuana Cultivation and Processing), which provides as follows, is hereby repealed in its entirety:

~~4.19.010 PURPOSE AND FINDINGS.~~

~~—The City Council finds that federal and state laws prohibiting the possession, distribution, cultivation and processing of marijuana preclude the establishment or operation of City-sanctioned or permitted Medical Marijuana Cultivation or Medical Marijuana Processing facilities or activities. In order to promote and ensure the health, safety and welfare of the City and its residents, the declared purpose of this chapter is to prohibit Medical Marijuana Cultivation and~~

Medical Marijuana Processing activities, operations or facilities as provided in this chapter. (Ord. 6354 § 1 (part); January 12, 2016.)

~~4.19.020 DEFINITIONS.~~

~~For purposes of this chapter, the following definitions shall apply:~~

~~.010 "Medical Marijuana Cultivation" means any activity involving the growing, planting, harvesting, farming, drying, curing, grading, or trimming of medical marijuana or medical cannabis.~~

~~.020 "Medical Marijuana Processing" means any method or activity used to prepare medical marijuana or medical cannabis or their by-products for commercial retail and/or wholesale use, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana-related products and concentrates. (Ord. 6354 § 1 (part); January 12, 2016.)~~

~~4.19.030 MEDICAL MARIJUANA CULTIVATION AND PROCESSING PROHIBITED.~~

~~Notwithstanding any other provision of this Code to the contrary (including but not limited to any definitional sections), Medical Marijuana Cultivation and/or Medical Marijuana Processing shall be prohibited in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of Medical Marijuana Cultivation or Medical Marijuana Processing, and no person shall otherwise establish or conduct such activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought. (Ord. 6354 § 1 (part); January 12, 2016.)~~

~~4.19.040 USE OR ACTIVITY PROHIBITED BY STATE OR FEDERAL LAW.~~

~~Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law. (Ord. 6354 § 1 (part); January 12, 2016.)~~

~~4.19.050 PUBLIC NUISANCE DECLARED.~~

~~Medical Marijuana Cultivation or Medical Marijuana Processing within the City of Anaheim in violation of the provisions of this chapter is hereby declared a public nuisance and may be abated by all available means. (Ord. 6354 § 1 (part); January 12, 2016.)~~

B. Chapter 4.20 (Medical Marijuana Dispensaries), which provides as follows, is hereby repealed in its entirety:

~~4.20.010 PURPOSE AND FINDINGS.~~

~~The City Council finds that federal and state laws prohibiting the possession, sale and distribution of marijuana would preclude the opening of medical marijuana dispensaries sanctioned by the City of Anaheim, and in order to serve public health, safety, and welfare of the residents and businesses within the City, the declared purpose of this chapter is to prohibit medical marijuana dispensaries as stated in this chapter.~~

~~(Ord. 6067 § 1; August 7, 2007.)~~

~~4.20.020 DEFINITIONS.~~

~~The following terms and phrases, whenever used in this chapter, shall be construed as defined in this section:~~

~~.010 "Identification card" is a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.~~

~~—.020 “Medical marijuana” is marijuana used for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other serious medical condition for which marijuana is deemed to provide relief as defined in subsection (h) of Health and Safety Code Section 11362.7.~~

~~—.030 “Medical marijuana dispensary or dispensary” is any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the following: a qualified patient, a person with an identification card, or a primary caregiver. Each of these terms is defined herein and shall be interpreted in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time.~~

~~—.040 “Primary caregiver” is the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.~~

~~—.050 “Physician” is an individual who possesses a recognition in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient’s medical record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.~~

~~—.060 “Qualified patient” is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.~~

~~(Ord. 6067 § 1; August 7, 2007.)~~

~~4.20.030 MEDICAL MARIJUANA DISPENSARY PROHIBITED.~~

~~—Medical Marijuana Dispensaries are prohibited in the City of Anaheim. It shall be unlawful for any person or entity to own, manage, conduct, or operate, or as a landlord or land owner (or as such landlord or land owner’s agent, property manager or similar person having control over real property on behalf of its owner) allow or permit to exist, or be established, conducted, operated, owned or managed on or within any real property owned or controlled by such person, any Medical Marijuana Dispensary or to participate as a landlord, lessor, land owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any Medical Marijuana Dispensary in the City of Anaheim.~~

~~(Ord. 6067 § 1; August 7, 2007; Ord. 6315 § 1; February 24, 2015.)~~

~~4.20.040 USE OR ACTIVITY PROHIBITED BY STATE OR FEDERAL LAW.~~

~~—Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.~~

~~(Ord. 6067 § 1; August 7, 2007.)~~

~~4.20.050 PUBLIC NUISANCE DECLARED.~~

~~—Operation of any Medical Marijuana Dispensary within the City of Anaheim in violation of the provisions of this chapter is hereby declared a public nuisance and may be abated by all available means.~~

~~(Ord. 6315 § 2; February 24, 2015.)~~

C. Chapter 4.21 (Mobile Medical Marijuana Dispensaries), which provides as follows, is hereby repealed in its entirety:

~~4.21.010 PURPOSE AND FINDINGS.~~

~~—The City Council finds that federal and state laws prohibiting the possession, sale and distribution of marijuana preclude the establishment or operation of City sanctioned or permitted Mobile Medical Marijuana Dispensaries within the City of Anaheim. In order to promote and ensure the health, safety and welfare of the City and its residents, the declared purpose of this chapter is to prohibit Mobile Medical Marijuana Dispensaries as provided in this chapter. (Ord. 6281 § 1 (part); July 23, 2013.)~~

~~4.21.020 MOBILE MEDICAL MARIJUANA DISPENSARY DEFINED.~~

~~—“Mobile Medical Marijuana Dispensary” means any facility, location, clinic, cooperative, collective, club, individual, business or group that transports, delivers, or arranges the transportation or delivery of, medical marijuana to a “qualified patient,” a person with an “identification card” or a “primary caregiver,” as those terms are defined in Section 4.20.020 of this Code. All other terms applicable to this Chapter 4.21 shall be defined as set forth in Chapter 4.20 of this Code, unless otherwise defined differently in this Chapter 4.21. (Ord. 6281 § 1 (part); July 23, 2013.)~~

~~4.21.030 MOBILE MEDICAL MARIJUANA DISPENSARIES PROHIBITED.~~

~~—Mobile Medical Marijuana Dispensaries are prohibited in the City of Anaheim. It shall be unlawful for any person or entity to own, manage, conduct or operate, or as a landlord or land owner (or as such landlord or land owner’s agent, property manager or similar person having control over real property on behalf of it owner) allow or permit to exist, or be established, conducted, operated, owned or managed on or within any real property owned or controlled by such person, any Mobile Medical Marijuana Dispensary, or to participate as a landlord, lessor, land owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any Mobile Medical Marijuana Dispensary in the City of Anaheim. Each day a violation of any provision of this chapter is committed, or permitted to continue, shall constitute a separate offense. (Ord. 6281 § 1 (part); July 23, 2013; Ord. 6315 § 3, February 24, 2015.)~~

~~4.21.040 MARIJUANA DELIVERY PROHIBITED.~~

~~—.010 No person shall deliver marijuana to any location within the City of Anaheim from a Mobile Medical Marijuana Dispensary, regardless of where the Mobile Medical Marijuana Dispensary is located, or engage in any action or operation in furtherance of this purpose.~~

~~—.020 No person shall deliver any marijuana-infused product, such as tinctures, baked goods or other consumable products, to any location within the City of Anaheim from a Mobile Medical Marijuana Dispensary, regardless of where the Mobile Medical Marijuana Dispensary is located, or engage in any action or operation in furtherance of this purpose. (Ord. 6281 § 1 (part); July 23, 2013.)~~

~~4.21.050 PUBLIC NUISANCE DECLARED.~~

~~—Operation of any Mobile Medical Marijuana Dispensary within the City of Anaheim in violation of the provisions of this chapter is hereby declared a public nuisance and may be abated by all available means. (Ord. 6281 § 1 (part); July 23, 2013.)~~

~~4.21.060 USE OR ACTIVITY PROHIBITED BY STATE OR FEDERAL LAW.~~

~~—Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law. (Ord. 6281 § 1 (part); July 23, 2013.)~~

D. Chapter 4.100 (Commercial Marijuana Activities and Outdoor Cultivation of Marijuana), which provides as follows, is hereby repealed in its entirety:

~~4.100.010 PURPOSE AND FINDINGS.~~

~~The City Council finds that purpose and intent of this Chapter is to prohibit commercial activities involving nonmedical marijuana and marijuana products and to ban the outdoor cultivation of marijuana in order to protect the health, safety and welfare of the community. (Ord. 6409 § 1 (part); May 9, 2017.)~~

~~4.100.020 DEFINITIONS.~~

~~For purposes of this chapter, the following definitions shall apply:~~

~~.010 "Marijuana" mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code as the same may be amended from time to time. "Marijuana" does not include medical marijuana defined in Chapter 4.20.~~

~~.015 "Commercial marijuana activities" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery, trade or sale of marijuana and marijuana products by any person, entity, commercial or business enterprise, whether for-profit or nonprofit.~~

~~.020 "Delivery" means the transfer of marijuana or marijuana products to a location within the City of Anaheim.~~

~~.025 "Fully enclosed and secure structure" means a code compliant 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 or more locking doors.~~

~~.030 "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible, ingestible or topical product containing marijuana or concentrated cannabis and other ingredients.~~

~~.035 "Outdoor cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana that is not within a fully enclosed and secure structure. (Ord. 6409 § 1 (part); May 9, 2017.)~~

~~4.100.030 COMMERCIAL MARIJUANA ACTIVITIES PROHIBITED.~~

~~Commercial marijuana activities are prohibited in the City of Anaheim. No use permit, variance, building permit, or any other entitlement, license or permit, whether administrative or discretionary, shall be approved or issued for commercial marijuana activities. It shall be unlawful for any person or entity to own, manage, conduct, or operate, or as a landlord or land owner (or as such landlord or land owner's agent, property manager or similar person having control over real property on behalf of its owner) to allow or permit to exist, or be established, conducted, operated, owned or managed on or within real property owned or controlled by such person, any commercial marijuana activity or to participate as a landlord, lessor, land owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity. Each day a violation of this provision of this chapter is committed, or permitted to continue, shall constitute a separate offense. (Ord. 6409 § 1 (part); May 9, 2017.)~~

~~4.100.035 OUTDOOR CULTIVATION OF MARIJUANA PROHIBITED.~~

~~Outdoor cultivation of marijuana by any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city is prohibited. It shall be unlawful for any person or entity to own, manage, conduct, or operate, or as a landlord or land owner (or as such landlord or land owner's agent, property manager or similar person having control over real property on behalf of its owner) to allow or permit to exist, or be established, conducted, operated,~~

~~owned or managed on or within real property owned or controlled by such person, the outdoor cultivation of marijuana or to participate as a landlord, lessor, land owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in the outdoor cultivation of marijuana. Each day a violation of this provision of this chapter is committed, or permitted to continue, shall constitute a separate offense. (Ord. 6409 § 1 (part); May 9, 2017.)~~

~~4.100.040 DELIVERY OF MARIJUANA AND MARIJUANA PRODUCTS PROHIBITED.~~

~~—Delivery of marijuana or marijuana products is prohibited within the City of Anaheim. (Ord. 6409 § 1 (part); May 9, 2017.)~~

~~4.100.045 PROHIBITED COMMERCIAL MARIJUANA ACTIVITIES AND OUTDOOR CULTIVATION DECLARED A PUBLIC NUISANCE.~~

~~—The establishment, maintenance, or operation of any commercial marijuana activity or outdoor cultivation of marijuana in violation of this Chapter within the City is hereby declared to be a public nuisance and may be abated by all available means. (Ord. 6409 § 1 (part); May 9, 2017.)~~

~~4.100.050 USE OR ACTIVITY PROHIBITED BY STATE OR FEDERAL LAW.~~

~~—Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law. (Ord. 6409 § 1 (part); May 9, 2017.)~~

SECTION 5. Enactment of Chapter 4.110 (Commercial Cannabis Facilities). Title 4 (Business Regulation) of the Anaheim Municipal Code is hereby amended to add Chapter 4.110 (Commercial Cannabis Facilities) to read as follows:

Chapter 4.110 COMMERCIAL CANNABIS FACILITIES

4.110.010. Purpose and Intent.

It is the purpose and intent of this Chapter 4.110 to implement State Law, which includes, but is not limited to, the provisions of the Medicinal Adult-Use Cannabis Recreation and Safety Act, Business and Professions Code §§ 26000, et seq., as it may be augmented and amended from time to time (hereinafter, "MAUCRSA"), while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter 4.110 to regulate the indoor cultivation, retail sale, delivery, manufacturing, processing, testing, and distribution of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Anaheim, and which is consistent with the rules and regulations imposed by State Law. Nothing in this Chapter 4.110 is intended to authorize the possession, use, sale, or provision of cannabis for purposes which violate State Law. In addition, nothing in this Chapter 4.110 is intended to allow persons to engage in conduct that endangers others or constitutes a public nuisance. The requirements of this Chapter 4.110 are in addition to any other permits, licenses, or approvals required to conduct business in Anaheim or under State, County, or other law. Nothing in this Chapter shall be interpreted to allow Commercial Cannabis Uses other than those that strictly comply with the provisions contained herein. Operation of a Commercial Cannabis Facility without obtaining a Permit and complying with State Law and all of the provisions of this Chapter is strictly prohibited.

4.110.020. Fees and Taxes.

All Commercial Cannabis Facilities shall pay all applicable fees and taxes established by the City Council by resolution, which shall include one (1) or more of the following:

- a. Commercial Cannabis Facility Permit Application Fees. Applicants shall submit a non-refundable fee to cover the cost of processing an application or amended application for a Commercial Cannabis Facility Permit.
- b. Commercial Cannabis Facility Permit Renewal Fees. Applicants for renewal permits shall submit a non-refundable fee to cover the cost of processing an application or amended application for annual renewal of the Commercial Cannabis Facility Permit.
- c. Business License Taxes. A Commercial Cannabis Facility shall at all times maintain a current and valid City of Anaheim business license and shall pay all business license taxes, deposits, charges, fees, deficiencies, penalties, interest, and other associated assessments as may be required by the Anaheim Municipal Code or other City rule or regulation.
- d. Commercial Cannabis Operating Agreement Fees. Prior to commencing operations, a Commercial Cannabis Facility shall enter into an agreement with the City that includes the payment of fees and other charges to compensate the City for impacts on City services.
- e. Cannabis-specific gross receipts, excise taxes, or other municipal tax approved by the voters of the City of Anaheim.
- f. All required state taxes, including sales and use taxes, business/franchise or income taxes, payroll taxes, etc.
- g. All required federal taxes.
- h. All required transfer taxes and/or fees.

4.110.030. Commercial Cannabis Authorization and Restrictions.

.010. Minimum Standards Applicable to Commercial Cannabis Activity.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution (which pertain to city charters, ordinances, and regulations), the provisions of the MAUCRSA, and any subsequent state legislation and/or regulations regarding the MAUCRSA, the City of Anaheim is authorized to adopt ordinances that establish standards, requirements, and regulations for the licensing and permitting of Commercial Cannabis Activities. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Anaheim to all Commercial Cannabis Activity.

.020. Unauthorized Commercial Cannabis Activities Prohibited.

Except as specifically authorized in this Chapter, the commercial cultivation, dispensing, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code section 26090(e), which provides that "A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Bus. &

Prof. Code Section 26200”) of cannabis or cannabis products is expressly prohibited in the City of Anaheim.

.030. Compliance with Laws.

Nothing in this Chapter shall be construed as authorizing any actions that violate state or local law with respect to the operation of a Commercial Cannabis Facility. It shall be the responsibility of the owner(s) and/or operator(s) of a Commercial Cannabis Facility to ensure that the Facility is, at all times, operating in a manner compliant with all applicable state and local laws, as they may be augmented or amended from time to time, including for as long as applicable, the Compassionate Use Act (“Prop. 215”), the Medical Cannabis Program Act (“MMPA”), the 2008 Attorney General Guidelines for the Security and Non-Diversion of Cannabis for Medical Purposes (“AG Guidelines”), the Medical Marijuana Regulation and Safety Act (“MMRSA”), the Adult Use of Marijuana Act (“AUMA” or “Prop. 64”), MAUCRSA, and any subsequently enacted state law or regulatory, licensing, or certification requirement (collectively “State Law”), as well as any specific, additional operating procedures or requirements that may be imposed as conditions of approval of a Commercial Cannabis Facility Permit.

4.110.040. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision. The definitions of terms below shall be consistent with the definitions contained in the MAUCRSA. Any term used in this Chapter that is not defined below shall have the same meaning contained in the MAUCRSA.

- a. *Applicant:* shall mean a person or entity applying for a Commercial Cannabis Facility Permit. In the context of an annual renewal, Applicant shall mean a person or entity applying to renew a Permit.

- b. *Cannabis:* shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means “marijuana” as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972 (“all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin”). The term “Cannabis” shall also have the same meaning as set forth in Business & Professions Code § 26001 (e), as it may be amended from time to time. “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 defined by Section 81000 of the Food and Agricultural Code (“an agricultural product, whether growing or not, that

is limited to types of the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis”) or Section 11018.5 of the Health and Safety Code (“a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom”).

- c. *Certificate of Accreditation*: shall mean a document issued by an accreditation body that attests to a laboratory’s competence to carry out specific testing analysis and is required for issuance of a state license pursuant to 16 Cal. Code Regs. § 5702.
- d. *City*: shall mean the City of Anaheim.
- e. *City Cannabis Regulations*: shall mean and refer to the regulations issued by the City Manager or his or her designee relating to the application for or renewal of a Commercial Cannabis Facility Permit and/or the oversight and operation of Commercial Cannabis Facilities in the City.
- f. *City Manager*: shall mean the City Manager of the City of Anaheim or his or her designee.
- g. *Collective Bargaining Agreement*: shall mean the contractual agreement between an employer and a Labor Union that governs wages, hours, and working conditions for employees and which can be enforced against both the employer and the union for failure to comply with its terms.
- h. *Commercial Cannabis Activity*: shall have the same meaning as set forth in Business and Professions Code § 26001(j), as it may be amended from time to time: Commercial Cannabis Activity includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products, or acting as a cannabis event organizer for temporary cannabis events.
- i. *Commercial Cannabis Facility*: shall mean a business that has obtained a Commercial Cannabis Facility Permit from the City of Anaheim in order to conduct a Commercial Cannabis Activity, and which is subject to the regulations set forth in State Law and this Chapter.
- j. *Commercial Cannabis Facility Permit or Permit*: shall mean a regulatory permit issued by the City of Anaheim pursuant to this Chapter to a Commercial Cannabis Facility, and which is required before any Commercial Cannabis Activity may be conducted in the City. The initial permit and annual renewal of a Commercial Cannabis Facility Permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the Commercial Cannabis Activity at issue.

- k. Commercial Cannabis Operating Agreement: shall mean an agreement entered into by and between the City and a Commercial Cannabis Facility governing the operation of the Facility which shall, among other things, specify terms for local hiring and sourcing, community benefits, public safety, public outreach and education, community services, and payment of fees and other charges to compensate the City for impacts on City services.
- l. Cultivation or Cultivator: shall mean a Licensee engaged in activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.
- m. Cultivation – Indoor: shall mean the Cultivation of Cannabis inside a permanent enclosed building or structure.
- n. Cultivation – Outdoor: shall mean the Cultivation of Cannabis outside a permanent enclosed building or structure.
- o. Delivery: shall mean the commercial transfer of Cannabis or Cannabis products to a customer located at a physical address. “Delivery” also includes the use by a Retailer of any technology platform used to transfer or sell Cannabis other than at the Retail Facility.
- p. Distribution or Distributor: shall mean a Licensee that engages in the procurement, sale, and transport of cannabis and cannabis products between other Licensees.
- q. Hearing Officer: shall have the meaning set forth in Section 1.12.110.0101 of this Code (“the person appointed by Resolution of the City Council to conduct hearings, receive evidence, and, in specified circumstances, make final decisions on behalf of the City”).
- r. Labor Peace Agreement: means a written agreement, as defined by California Business and Professions Code § 26001(y), between an Owner and any bona fide labor organization that, at a minimum, prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the Owner’s business and contains an agreement by the Owner not to disrupt efforts by the bona fide labor organizer to communicate with, and attempt to organize and represent the Owner’s employees.
- s. License or State License: shall mean a license issued by the State of California or one of its departments or divisions under the MAUCRSA or any subsequent State of California legislation relating to Commercial Cannabis Activity.
- t. Licensee: shall mean an individual or entity that has obtained a State License.
- u. Manufacture or Manufacturer: shall mean a Licensee that engages in 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 their containers.

- v. Owner: shall have the same meaning as set forth in Business and Professions Code section 26001(am)(1), as it may be amended from time to time, and shall generally mean an individual or entity with at least a twenty percent (20%) ownership interest in a business engaged in Commercial Cannabis Activity.
- w. Permittee: shall mean an individual or entity that has obtained a Commercial Cannabis Facility Permit.
- x. Person: shall have the meaning set forth in Section 1.01.240 of this Code (“any person, firm, association, organization, partnership, business trust, company or corporation”).
- y. Retail, Retailer, or Retail Facility: shall mean a licensed 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.
- z. State: shall mean the State of California or any departments or divisions thereof.
- aa. State Law: shall have the meaning set forth in Section 4.110.030 of this Chapter.
- bb. Testing Laboratory: 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: (1) accredited by an accrediting body that is independent from all other persons involved in Commercial Cannabis Activity in the State; and (2) licensed by the Bureau of Cannabis Control.

4.110.050. Procedures.

.010. Commercial Cannabis Facility Permit Required.

No person shall engage in Commercial Cannabis Activity in Anaheim unless: (1) the person has obtained a valid Commercial Cannabis Facility Permit issued by the City of Anaheim; (2) the person has obtained a valid Cannabis License issued by the State of California; and (3) the Facility is operated in compliance with all applicable State and local laws and regulations pertaining to its Commercial Cannabis Activity, including but not limited to the provisions of this Chapter and the City’s Cannabis Regulations. Any person who is an employee or who otherwise works within a Commercial Cannabis Facility must be legally authorized to do so under applicable State Law.

.020. Commercial Cannabis Operating Agreement Required.

Prior to commencing operations, an Applicant for a Commercial Cannabis Facility Permit shall be required to enter into a Commercial Cannabis Operating Agreement with the City setting forth the terms and conditions under which the Commercial Cannabis Facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, terms for local hiring and sourcing, community benefits, public safety (including both police and fire services), public outreach and education, community services, payment of fees and other charges as mutually

agreed, and such other terms and conditions as will protect and promote the public health, safety, and welfare.

.030. Application Process and Requirements.

- a. The City Manager is authorized to prepare and promulgate Commercial Cannabis Facility Permit application form(s), and to modify those forms as the need arises. Any individual or entity that seeks to operate a Commercial Cannabis Facility shall submit an application on a form prepared by the City Manager together with a non-refundable processing fee.
- b. Commercial Cannabis Facility Permit application requirements, processes and procedures shall be set forth in the City's Cannabis Regulations. Failure to disclose information fully and accurately in an application form may lead to denial or revocation of, or failure to renew, a Permit.
- c. Within ten (10) calendar days of any change in the information provided in a Commercial Cannabis Facility Permit application form or any change in status of compliance with the provisions of this Chapter, an Applicant shall file an updated application form for review along with an application amendment fee.
- d. Applications shall be reviewed by the City Manager in accordance with the standards and criteria set forth in the City's Cannabis Regulations. Such review shall incorporate a merit-based scoring or ranking system that takes into account prior successful experience operating a commercial cannabis business, the similarity and location of any prior cannabis business, ownership or control of the site upon which the business is to operate, the Applicant's operational and security plan for the Commercial Cannabis Facility, and the Applicant's proposed community, charitable and local hire programs. At the completion of the application process, Applicants shall be ranked from the most points to the least points in each Commercial Cannabis Activity category. The City Manager shall award Commercial Cannabis Facility Permits to the top Applicant(s) for each Commercial Cannabis Activity category, up to the maximum number of Permits allowed in this Chapter.

.040. City Manager Authority to Approve or Deny Permit.

The City Manager shall either deny, approve, or conditionally approve an application for a Commercial Cannabis Facility Permit. The City Manager's decision shall be final. The City Manager shall provide the Applicant with written notice of his/her decision.

- a. If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
- b. If a Commercial Cannabis Facility Permit is approved or conditionally approved, it shall only be valid for a term of twelve (12) months from the date it is issued, and shall expire at the end of the twelve (12) month period unless it is renewed as provided in this Chapter. A Commercial Cannabis Facility Permit does not confer any property interest, entitlement or vested right and shall not run with the land. Permits issued pursuant to this Chapter are not transferable to any other individual, entity, premises or location, except as set forth in this Chapter.

- c. The City Manager retains full authority to deny an application and/or reduce points awarded for a Commercial Cannabis Facility Permit in the event that he/she determines any of the following:
1. The Applicant has not provided the information required on the application form.
 2. The Applicant has falsified or made misrepresentations in the application.
 3. The Applicant has previously failed to comply with any of the requirements set forth in this Chapter.
 4. The Applicant has failed to comply with State Law and/or remit taxes as required by the Revenue and Taxation Code.
 5. The Applicant has denied the City or the State access to the licensed premises.
 6. The Applicant has previously operated an illegal cannabis dispensary or business.
 7. The approval could result in harm to the public health, safety, or welfare.

.050. Amendment to Cannabis Facility Permit.

No Commercial Cannabis Facility Permit shall be amended without the prior written approval of the City.

.060. Renewal Process and Requirements.

- a. An application for renewal of a Commercial Cannabis Facility Permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current Permit on an application renewal form prepared by the City Manager. The City's Cannabis Regulations shall set forth the renewal application process, including the applicable deadlines and renewal requirements. The renewal application shall generally request or require confirmation of information required for new applications, and may be subject to the same site inspection and City staff approvals required for new applications.
- b. The Applicant shall pay a fee in an amount to be set by the City Council to offset the cost of processing a renewal application, together with any costs incurred by the City to administer the program created under this Chapter. The City Council shall establish the renewal fee by resolution.
- c. An application for renewal of a Commercial Cannabis Facility Permit may be denied for any of the following reasons:
1. The application was filed less than sixty (60) days before expiration of the Permit.
 2. The Commercial Cannabis Facility Permit or State License has been suspended or revoked at the time of the application.

3. The Commercial Cannabis Facility has not been in regular and continuous operation in the ninety (90) days prior to the renewal application.
 4. The Commercial Cannabis Facility has failed to conform to the requirements of this Chapter, the City's Cannabis Regulations, its Commercial Cannabis Operating Agreement, or State Law.
 5. The Applicant fails or is unable to renew its State License.
 6. For any of the reasons set forth in Chapter 4.110.050.040(c).
- d. The City Manager is authorized to make all decisions concerning the renewal of a Commercial Cannabis Facility Permit. In determining whether to renew a Permit, the City Manager is authorized to impose additional conditions on the Permit, if deemed necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare.
 - e. The City Manager's decision to approve, conditionally approve, or deny an application to renew a Commercial Cannabis Facility Permit may be appealed as provided in this Chapter.
 - f. If a renewal application for a Commercial Cannabis Facility is denied, a person may file an application for a new Permit pursuant to this Chapter no sooner than one (1) year from the date of the denial.

.070. Revocation, Modification and Suspension Requirements.

- a. Commercial Cannabis Facility Permits may be suspended, revoked or modified by the City Manager based upon any of the following:
 1. A violation of any State or local law, rule, regulation requirement and/or standard, including but not limited to the provisions of this Chapter, the City's Cannabis Regulations, the Commercial Cannabis Operating Agreement, or the City's Municipal Code.
 2. A determination that the Applicant falsified or misrepresented information on its Commercial Cannabis Facility Permit application or renewal application.
 3. An unauthorized transfer of ownership or change of location of a Commercial Cannabis Facility.
- b. Suspension of a State License shall immediately suspend the ability of a Commercial Cannabis Facility to operate within the City. The City may, in its sole and absolute discretion, reinstate the Commercial Cannabis Facilities Permit if the State reinstates or reissues the State License. Should the State revoke or terminate the License of a Commercial Cannabis Facility, such revocation or termination shall automatically revoke or terminate the Commercial Cannabis Facility Permit and the ability of a Commercial

Cannabis Facility to operate within the City of Anaheim. Upon notification by the State, a Permittee shall notify the City immediately in writing of State proceedings to revoke or suspend a State License. If a Permittee fails to do so, the City Manager may impose a daily fine not to exceed one thousand dollars (\$1,000) for each day notification is delayed.

- c. The City Manager's determination to suspend, modify, or revoke a Commercial Cannabis Facility Permit shall be effective immediately upon written notice from the City, and shall not be stayed in the event an appeal is filed.
- d. The City Manager's determination to suspend, modify or revoke a Commercial Cannabis Facility Permit may be appealed as provided in this Chapter.

.080. Transfer of Commercial Cannabis Facility or Permit.

- a. No Owner or Permittee shall transfer his/her/its ownership or control of a Commercial Cannabis Facility or any rights acquired under a Commercial Cannabis Facility Permit, to another person without written notification to the City. Such notification shall be provided a minimum of ninety (90) days before the proposed transfer and shall be accompanied by the information required in the City's Cannabis Regulations, which shall be similar to the information required of Applicants for new Permits. The City Manager shall have ninety (90) days from receipt of the required information to make a determination on the transfer request, which time shall not begin to run until a completed transfer application packet is submitted to the City. The City Manager may approve, deny, or conditionally approve the transfer request.
- b. A Commercial Cannabis Facility may change the form of business entity that owns the Commercial Cannabis Facility or holds its Commercial Cannabis Facility Permit, provided that the membership of the new business entity is substantially similar to original Permit holder business entity (at least ninety-five percent (95%) of the membership is identical). The Permittee is required to notify the City Manager in writing of the proposed change thirty (30) days prior to the effective date of the proposed change. A change in the form of the business entity that occurs without prior notification to the City shall result in the immediate suspension of the Commercial Cannabis Facility Permit, shall be null and void, and may constitute grounds for Permit revocation.
- c. Any transfer a Commercial Cannabis Facility Permit, or change in the ownership, business structure, or operational control of a Commercial Cannabis Facility, either directly or indirectly, in violation of this section shall be null and void and is grounds for suspension or revocation of the Permit.
- d. No transfer shall occur pursuant to this Section for two years from the date a Permit was first issued to an Owner or operator of a Commercial Cannabis Facility.
- e. Any transfer that occurs pursuant to this Section shall be subject to a transfer fee that is established by the City Council by resolution.

.090. Relocation of Commercial Cannabis Facility.

- a. Neither a Commercial Cannabis Facility nor its Permit shall be transferred or relocated from one premises to another without the City Manager's prior written consent, which must be requested a minimum of ninety (90) days before the proposed relocation. The request will be processed in accordance with the City's Cannabis Regulations and the City Manager may require the Permittee to submit additional application materials for the new location. A Permittee shall not operate from a new location unless and until it applies for and receives written approval from the City Manager, who has discretion to approve, conditionally approve, or deny the request.
- b. A transfer or relocation of a Commercial Cannabis Facility or its Permit from one premises to another in violation of this section shall be null and void and is grounds for suspension or revocation of the Permit.
- c. No transfer shall occur pursuant to this Section for two years from the date a Permit was first issued to an Owner or operator of a Commercial Cannabis Facility.
- d. Any transfer or relocation location that occurs pursuant to this Section shall be subject to a transfer fee that is established by the City Council by resolution.

.100. Appeal Hearing and Procedure.

- a. Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or his/her designee(s), the appeal shall be conducted as prescribed in this Chapter.
- b. Within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend, or not to renew a Commercial Cannabis Facility Permit, a Permittee may appeal such action by filing a written appeal with the City Clerk setting forth the reasons for contesting the decision.
- c. At the time of filing, the appellant shall pay the designated appeal fee established by resolution of the City Council.
- d. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City's Hearing Officer. The Hearing Officer shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
- e. The appeal shall be held within a reasonable time after the date the appeal is filed. The City shall notify the appellant of the time and location of the hearing at least ten (10) days prior to the date of the hearing.
- f. At the hearing, the appellant may present any information it deems relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- g. At the conclusion of the hearing the Hearing Officer may affirm, reverse or modify the decision appealed. The decision of the Hearing Officer shall be final.

4.110.060. Number and Location of Cannabis Facility Permits.

.010. Maximum Number of Commercial Cannabis Facility Permits.

The City Manager shall be authorized to issue the following number of Commercial Cannabis Facility Permits for each type of Commercial Cannabis Activity:

- a. Retail: Thirty (30) total Commercial Cannabis Facility Permits for retail/delivery may be issued. No more than five (5) Retail Permits shall be issued to the same Owner(s).
- b. Indoor Cultivation: Twenty (20) total Commercial Cannabis Facility Permits may be issued for Indoor Cultivation. No more than three (3) Indoor Cultivation Permits shall be issued to the same Owner(s). A Commercial Cannabis Facility Permit for Indoor Cannabis Cultivation shall not authorize any individual to engage in any Outdoor Cannabis Cultivation.
- c. Manufacturing: Twenty (20) total Commercial Cannabis Facility Permits may be issued for Cannabis Manufacturing. No more than three (3) Manufacturing Permits shall be issued to the same Owner(s).
- d. Distribution: Twenty (20) total Commercial Cannabis Facility Permits may be issued for Cannabis Distribution. No more than three (3) Distribution Permits shall be issued to the same Owner(s).
- e. Testing Laboratories: There shall be no limit on the number of Commercial Cannabis Facility Permits issued for Cannabis Testing Laboratories. No more than three (3) Testing Laboratory Permits shall be issued to the same Owner(s).

.020. Location and Separation Requirements.

.0101 A Commercial Cannabis Facility that meets the Separation Requirements identified in Table 1 (Permitted Zones and Separation Requirements), and has obtained a valid Cannabis Facility Permit and Operating Agreement per this Chapter, may locate on any parcel designated by the General Plan for Industrial land use and located within the Industrial (I) Zone or Development Areas 1 and 2 of the Anaheim Canyon Specific Plan No. 2015-01 (SP2015-01) Zone.

.0102 No Commercial Cannabis Facility shall be located within six hundred (600) feet of any school (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), or any licensed commercial day care center, youth center, park or public library.

.0103 Outdoor Cultivation is expressly prohibited in all zoning districts in the City.

.0104 Cannabis Deliveries within the City of Anaheim are prohibited, unless the Delivery originated from a Retailer located in Anaheim that has obtained a valid Commercial Cannabis Delivery Permit, or if the Retailer is located outside the City of Anaheim, and has obtained a business license from the City of Anaheim.

.0105 Table 1 (Permitted Zones and Separation Requirements) identifies the permitted zones and separation requirements for Commercial Cannabis Facilities based on permit-type and State license-types.

<u>Commercial Cannabis Facility</u>	<u>State License Type</u>	<u>Zoning District</u>	<u>Buffer Zone</u>	<u>Permit Type Required</u>
<u>Cultivation – Indoor</u>	<u>Type 1A (Indoor<5000 SF), Type 2A (Indoor 5001-10,000 SF), Type 3A Indoor 10,001-22,000), Type 4 (Nursery – Indoor Only), Type 5A (Indoor 22,000+ SF)</u>	<u>Industrial</u>	<u>600 feet away from schools, licensed commercial day care centers, youth centers, parks, and libraries</u>	<u>Commercial Cannabis Facility Permit; State License; Anaheim Business License</u>
<u>Cultivation – Outdoor</u>	<u>Type 1 (Outdoor <5000 SF), Type 1B (Mixed Light <5000 SF), Type 2 (Outdoor 5001-10,000 SF); Type 2B (Mixed Light 5001-10,000 SF); Type 3 (Outdoor 10,001-22,000 SF); Type 3B (Artificial Light 10,001-22,000 SF); Type 4 (Nursery – Outdoor), Type 5 (Outdoor 22,000+ SF); Type 5B (Mixed Light (22,000+ SF)</u>	<u>Prohibited</u>	<u>N/A</u>	<u>N/A</u>
<u>Delivery – Non Anaheim Retailer</u>	<u>Type 9 (non-storefront); Type 10 (storefront); Type 10A (less than 3 retailers)</u>	<u>N/A</u>	<u>N/A</u>	<u>Anaheim Business License</u>
<u>Delivery – Anaheim Retailer</u>	<u>Type 9 (non-storefront); Type 10 (storefront); Type 10A (less than 3 retailers)</u>	<u>Retailer must be located in Industrial or Commercial Zones</u>	<u>Retailer must be 600 feet away from schools, licensed day care centers, youth centers,</u>	<u>Retailer must obtain Commercial Cannabis Facility Permit; State License; Anaheim</u>

			<u>parks, and libraries</u>	<u>Business License</u>
<u>Distribution</u>	<u>Type 11 (distribution); Type 12 (transportation)</u>	<u>Industrial</u>	<u>600 feet away from schools, licensed day care centers, youth centers, parks, and libraries</u>	<u>Commercial Cannabis Facility Permit; State License; Anaheim Business License</u>
<u>Manufacturing</u>	<u>Type 6 (non-volatile); Type 7 (volatile)</u>	<u>Industrial</u>	<u>600 feet away from schools, licensed day care centers, youth centers, parks, and libraries</u>	<u>Commercial Cannabis Facility Permit; State License; Anaheim Business License</u>
<u>Retailer</u>	<u>Type 9 (non-storefront); Type 10 (storefront); Type 10A (less than 3 retailers)</u>	<u>Industrial or Commercial Zone</u>	<u>600 feet away from schools, licensed day care centers, youth centers, parks, and libraries</u>	<u>Commercial Cannabis Facility Permit; State License; Anaheim Business License</u>
<u>Testing Laboratory</u>	<u>Type 8</u>	<u>Industrial or Commercial</u>	<u>600 feet away from schools, licensed day care centers, youth centers, parks, and libraries</u>	<u>Commercial Cannabis Facility Permit; State License; Anaheim Business License</u>

4.110.070. Operational Standards.

.010 Pre-Operational Requirements.

Prior to commencing operations, and as a precondition for commencing such operations, a Commercial Cannabis Facility and its Owners and operators shall:

- a. Obtain any and all required land use entitlements and approvals and comply with any California Environmental Quality Act requirements related thereto.
- b. Be subject to a mandatory building inspection and obtain all required permits and approvals that would otherwise be required for any business of the same size and intensity operating in the Industrial zone. This includes but is not limited to obtaining any required building permit(s), certificates of occupancy, Fire Department approvals, Health Department approvals, and other zoning and land use permit(s) and approvals.

- c. Enter into a Commercial Cannabis Operating Agreement with the City setting forth the terms and conditions under which the Commercial Cannabis Facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, providing for public safety, public outreach and education, community services and benefits, payment of fees and other charges as mutually agreed, and such other terms and conditions as will protect and promote the public health, safety, and welfare.
- d. Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Anaheim, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities, or losses which arise out of, or which are in any way related to, the City's issuance or failure to issue a Commercial Cannabis Facility Permit, the City's decision to approve or its refusal to approve the operation of the Commercial Cannabis Facility, the process used by the City in making its decision, or the alleged violation of any federal, state, or local laws by the Commercial Cannabis Facility or any of its officers, employees, or agents.
- e. Obtain and consistently maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate by the City Attorney.
- f. Obtain a Commercial Cannabis Facility Permit and pay all fees and charges required by the City or any other local or State agency for the operation of a Commercial Cannabis Facility.
- g. Comply with all State and local laws and regulations, including but not limited to the requirements of this Chapter, the City's Cannabis Regulations, the requirements of the Commercial Cannabis Permit, and State Law.
- h. Obtain a valid State License allowing for the operation of a Commercial Cannabis Facility.
- i. Apply for and obtain a City of Anaheim business license.
- j. If the Commercial Cannabis Facility employs two (2) or more employees, enter into a Labor Peace Agreement and provide City with evidence of such Labor Peace Agreement.

.020 Operational Standards Applicable to All Cannabis Facilities.

While engaged in Commercial Cannabis Activities, all Commercial Cannabis Facilities shall comply with the following operational requirements:

- a. Conform with the City's general plan, any applicable specific plans, master plans, and design requirements.
- b. Comply with all applicable zoning and related development standards.
- c. Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.

- d. Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose.
- e. Maintain sufficient security measures to deter and prevent the unauthorized entrance into areas containing Cannabis or Cannabis products, and to deter and prevent the theft of Cannabis or Cannabis products at the Commercial Cannabis Facility, consistent with State Law.
- f. Cooperate with the City if it makes a request, upon reasonable notice to the Commercial Cannabis Facility, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- g. With the exception of Cannabis Retailers operating in accordance with State Law to permit on-site consumption of Cannabis by customers, prohibit the consumption or sampling of Cannabis by any employee, visitor, customer, operator, or vendor on the premises of the Commercial Cannabis Facility.
- h. Refrain from displaying Cannabis products or graphics depicting Cannabis or Cannabis products so as to be visible from the exterior of any property issued a Commercial Cannabis Facility Permit, or on any of the vehicles owned or used as part of the Commercial Cannabis Facility.
- i. Refrain from displaying any signage, packaging, or other display that is "attractive" to minors as defined by State Law, as well as from any outdoor storage or display of Cannabis or Cannabis products.
- j. Provide the City with the name, telephone number of an on-site employee or Owner to whom emergency notice can be provided at any hour of the day.
- k. Prohibit any person under the age of twenty-one (21) years old from entering upon the Commercial Cannabis Facility premises or being employed by the Commercial Cannabis Facility.
- l. Prohibit the sale, dispensing, or consumption of alcoholic beverages or tobacco products on or about the premises of the Commercial Cannabis Facility.
- m. Ensure that the Commercial Cannabis Facility is monitored at all times by web-based closed-circuit television for security purposes and maintain and provide the City with access to those recordings as provided in the City's Cannabis Regulations.
- n. Comply with the City's Commercial Cannabis Regulations and any Commercial Cannabis Facility operational requirements or regulations as are determined by the City Manager to be necessary to protect the public health, safety and welfare.

.030. Additional Operational Standards Applicable to Cannabis Retailers.

- a. Cannabis Retailers shall only operate between the hours of 8:00 a.m. and 10:00 p.m.

- b. If permitted by State Law, Cannabis Retailers may operate as or with a drive-in or drive-thru at which Cannabis goods are sold to persons within or about a motor vehicle.
- c. All structures included as part of the permitted Commercial Cannabis Facility shall be permanently affixed to land by a method that would normally cause the structure to ordinarily remain affixed for an indefinite period of time.
- d. Commercial Cannabis Retailers shall provide at least one (1) private security guard during all hours of operation who is licensed and possesses a valid Department of Consumer Affairs "security guard card".
- e. No non-Cannabis food or concessions shall be sold or distributed at the Premises.
- f. Shipments of Cannabis goods may only be accepted during regular business hours.
- g. A permitted Commercial Cannabis Retail Facility shall have twelve (12) months after Permit issuance by the City of Anaheim to commence operations.

.040. Additional Operational Standards Applicable to Cannabis Retail Deliveries.

- a. Commercial Cannabis Retail Deliveries may be made only from a Commercial Cannabis Retail Facility permitted by the City in compliance with this Chapter and State Law. Deliveries from Cannabis Retailers located outside the City of Anaheim are prohibited, unless the Retailer obtains an Anaheim Business License.
- b. Cannabis goods shall only be delivered to a residential dwelling, or to a commercial building or structure being lawfully used for lodging or temporary dwelling purposes (e.g., hotels or motels) if such Delivery is expressly permitted by the owner of the building or structure. Deliveries shall not be made to, or thorough the use of, any kiosk or temporary building or structure, nor for purposes of re-sale of the Cannabis product that is delivered.
- c. All employees who deliver Cannabis shall have valid identification and a copy of the Commercial Cannabis Retail Facility Permit and State License at all times while making Deliveries.
- d. 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.
- e. A Commercial Cannabis Retail Facility 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 State Law.

.050. Additional Operational Standards Applicable to Cannabis Manufacturers.

- a. Any manufacturing that will be conducted by a commercial Cannabis Manufacturer shall be included on the Commercial Cannabis Facility Permit application. No additional manufacturing activity shall be conducted without notifying the City Manager, after which a determination will be made if the new activity may commence with or without modification to the Commercial Cannabis Facility Permit or if a new Commercial Cannabis Facility Permit is required.
- b. At all times, the commercial Cannabis manufacturing facility shall comply with all State regulations for Cannabis manufacturing. Signage shall be posted regarding the type(s) of chemicals being used at the manufacturing facility.
- c. Commercial Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
- d. Extraction equipment and extraction process utilizing hydrocarbon solvents shall be located in a room or area dedicated. to extraction.
- e. All commercial Cannabis manufacturing 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 Anaheim for Cannabis plant processing and extraction.

.060. Additional Operational Standards Applicable to Cannabis Distributors.

- a. A Distributor shall ensure that Cannabis goods are stored in compliance with applicable State Laws and regulations in conformity with all applicable Track and Trace systems required by the State.
- b. Employee breakrooms, eating areas, changing facilities, locker rooms, and bathrooms shall be completely separated from areas where Cannabis is stored.

.070. Additional Operational Standards Applicable to Cannabis Cultivators.

- a. There shall be no exterior evidence of Cannabis Cultivation from a public right-of-way.
- b. The Building Official may impose additional specific requirements 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 Anaheim for cannabis carbon dioxide enrichment systems.
- e. Commercial Cannabis Cultivation facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

.080. Additional Operational Standards Applicable to Cannabis Testing Laboratories.

A licensed Cannabis Testing Laboratory and/or its Owners or employees may not hold an interest in any other Cannabis business except another Testing Laboratory business.

.090. Co-location.

Co-location of Permittees engaged in more than one (1) type of Commercial Cannabis Activity on one (1) site or parcel shall occur only if authorized by State Law, the Anaheim Municipal Code, and the City's Commercial Cannabis Regulations. All co-located Permittees and/or Cannabis Facilities must have separately metered utilities.

4.110.080. Regulations and Inspection.

.010 Commercial Cannabis Regulations.

Consistently with stated requirements of this Chapter (and in particular not to repeal or constructively repeal this Chapter), the City Manager is authorized to establish City Cannabis Regulations governing the Commercial Cannabis Permit application and renewal criteria and processes, the regulation and oversight of Commercial Cannabis Facilities, the operational requirements imposed on such Facilities, and any other subject determined to be necessary to carry out the purposes of this Chapter. Compliance with the City's Commercial Cannabis Regulations is required to engage in Commercial Cannabis Activity, and failure to do so is grounds for revocation, suspension, or non-renewal of a Commercial Cannabis Facility Permit, as well as the other penalties set forth in this Chapter.

.020 Inspection.

The City Manager is charged with enforcing the provisions of this Chapter and may enter the location of a Commercial Cannabis Facility at any time, without notice, and inspect the location of any Commercial Cannabis Facility as well as any records required to be maintained pursuant to this Chapter or under applicable provisions of State Law.

4.110.090. Fees Deemed Debt to City of Anaheim.

The amount of any fee, cost, or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Anaheim that is recoverable via an authorized administrative process as set forth in the Anaheim Municipal Code, or in any court of competent jurisdiction.

4.110.100. Permit Holder, Owners, and Operators Responsible for Violations.

The person to whom a Permit is issued pursuant to this Chapter, as well as each and every Owner and operator of a Commercial Cannabis Facility, shall be responsible for all violations of this Chapter, State Law, the Anaheim Municipal Code, and/or of the City's Cannabis Regulations by the Facility, whether committed by the Permittee or any employee or agent of the Permittee.

4.110.110. Violations Declared a Public Nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

4.110.120. Each Violation a Separate Offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Anaheim Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, with any Permit issued pursuant to this Chapter being deemed null and void, and the City entitled to disgorgement or payment of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the Commercial Cannabis Facility Owner, operator or persons related to, or associated with, the Commercial Cannabis Facility. Additionally, when there is determined to be an imminent threat to public health, safety, or welfare, the City Manager or the Chief of Police or his/her designee(s), may take immediate action to temporarily suspend a Commercial Cannabis Facility Permit issued by the City, and close down the Commercial Cannabis Facility pending a hearing before the City Hearing Officer.

4.110.130. Criminal Penalties.

Each and every violation of the provisions of this Chapter may, in the discretion of the City Attorney, be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

4.110.140. Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 6. Chapter 2.20 (Cannabis Business Tax) is hereby added to Title 2 (Taxes) of the City Municipal Code to read as follows:

Chapter 2.20 CANNABIS BUSINESS TAX

2.20.010. Authority and Purpose.

- a. The purpose of this Chapter is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the State Government Code, upon cannabis businesses that engage in business in the City. The Cannabis Business Tax is levied based upon business gross receipts. It is not a sales and use tax, a tax upon income, or a tax upon real property
- b. The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this Chapter 2.20 shall be placed in the City's general fund and be available for any lawful City expenditure.

2.20.020. Intent.

The intent of this Chapter 2.20 is to impose a general tax applicable to Cannabis Businesses for the purpose of funding any and all governmental purposes, including but not limited to 911 emergency response, police / fire protection services; pothole repair; afterschool programs; senior services; homeless reduction; graffiti removal, and other City general fund services.

2.20.030. Definitions.

When used in this Chapter 2.20, the following words shall have the meanings ascribed to them as set forth herein. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code, or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any references to State law, including references to MAUCRSA, is deemed to include any successor or amended version of the referenced statute or regulations promulgated thereunder consistent with the terms of this Chapter 2.20.

“Adult-use cannabis” or “adult-use cannabis product” means cannabis or cannabis products for individuals twenty-one (21) years of age and over without the need for a physician’s recommendation.

“Business” means all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to that employee’s employer.

“Cannabis” 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 cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code. 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 2.20, cannabis does not mean industrial hemp as that term is defined by Section 81000 of the State Food & Agricultural Code (“an agricultural product, whether growing or not, that is limited to types of the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis”) or Section 11018.5 of the State Health & Safety Code (“a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom”).

“Cannabis business” or “commercial cannabis business” means any business or operation which engages in commercial cannabis activity whether or not carried on for gain or profit.

“Cannabis Business Tax” or “Tax” means the tax due pursuant to this Chapter 2.20 for engaging in commercial cannabis activity within in the City.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter 5.18. A cannabis concentrate is not considered food, as defined by Section 109935 of the State Health & Safety Code (“any article used or intended for use for food, drink, confection, condiment, or chewing gum by man or other animal”), or drug, as defined by Section 109925 of the State Health & Safety Code (“an article recognized in an official compendium, used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or any other animal, or other than food, that is used or intended to affect the structure or any function of the body of human beings or any other animal”).

“Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“City” means the City of Anaheim.

“City Council” shall mean the City Council of the City of Anaheim.

“Commercial cannabis activity” has the same meaning as that term is defined under MAUCRSA and includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as regulated under MAUCRSA.

“Code” means the City Municipal Code.

“Cultivation” means any commercial cannabis activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Customer” means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age that is a qualified patient or primary caregiver.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Dispensary” or “retailer” means a facility 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 and cannabis products.

“Dispensing” or “retail sale” means any commercial cannabis activity involving the retail sale of cannabis or cannabis products.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between persons engaged in commercial cannabis activity.

“Employee” means each person who renders any service, with or without compensation, for an owner, manager, or agent of either an owner or manager of a cannabis business. For purposes of this Chapter 2.20, the term employee shall include part-time, full-time, temporary, or regular employees.

“Engaged(s) in business” means the commencing, conducting, operating, managing, or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as an owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business if any of the following apply:

- a. Such person or person’s employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
- b. Such person or person’s employee owns or leases real property within the City for business purposes;
- c. Such person or person’s employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
- d. Such person or person’s employee regularly conducts solicitation of business within the City; or
- e. Such person or person’s employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of “engaged in business”.

“Evidence of doing business” means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the City.

“Fiscal year” means July 1 through June 30 of the following calendar year.

“Gross Receipts” means, except as otherwise specifically provided, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits and property of any kind or nature) received or payable for sales of goods, wares, or merchandise or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs,

interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

- a. Cash discounts where allowed and taken on sales;
- b. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- c. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- d. Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- e. Cash value of sales, trades, or transactions between departments or units of the same business;
- f. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered; and
- g. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

"Manager" means any individual who will be participating in the direction, control, or management of a cannabis business, including any (i) manager or managing member or other officer of a limited liability company or (ii) chief executive officer, secretary, treasurer / chief financial officer or other officer of a for profit corporation.

"Manufacture(ing)" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

"Marijuana" means "cannabis", as that term is defined in this Chapter 2.20.

"MAUCRSA" means Division 10 (commencing with Section 26000) of the State Business and Professions Code and any regulations promulgated thereunder.

"Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product for use by a qualified patient.

"Owner" means any of the following:

- a. A person with an ownership interest in a cannabis business;

b. The chief executive officer, secretary, or treasurer / chief financial officer of a nonprofit cannabis business; or

c. A member of the board of directors of a nonprofit cannabis business.

“Patient” or “qualified patient” means a person who is entitled to the protections of Section 11362.5 of the State Health & Safety Code (the Compassionate Use Act of 1996) and includes a person issued an identification card issued pursuant to Article 2.5 of Chapter 6 of Division 10 of the State Health & Safety Code.

“Person” means an 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 includes the plural as well as the singular number.

“Person with an identification card” shall have the meaning given to that term in Section 11362.7 of the State Health & Safety Code (“an individual who is a qualified patient who has applied for and received a valid identification card pursuant to [Article 2.5 of Chapter 6 of Division 10 of the State Health & Safety Code.]”).

“Sale” means any sale, exchange, or barter or other transaction for any consideration.

“State” means the State of California.

“Tax Administrator” means the Director of Finance of the City, the Director of Finance’s designee(s), or any other City officer charged with the administration of the provisions of this Chapter.

“Testing laboratory” means a laboratory, facility, or entity in the City that offers or performs tests of cannabis or cannabis products.

2.20.040. Tax Imposed.

a. There is established and imposed upon each person who is engaged in business as a cannabis business an annual Cannabis Business Tax at the rates set forth in this Chapter 2.20. Such Tax is payable regardless of whether the business is operating lawfully in the City or unlawfully. The City’s acceptance of a Cannabis Business Tax payment from a cannabis business operating illegally shall not constitute the City’s approval or consent to such illegal operations.

b. Medicinal Retailers. The Cannabis Business Tax upon every person who engages in business as a retailer of medicinal cannabis or medicinal cannabis products shall be at the following annual rate:

1. The tax rate upon the effective date of this Chapter 2.20 shall be two percent (2%) of the gross receipts derived from the retail sale of medicinal cannabis or medicinal cannabis products. Such tax rate may increase or decrease by resolution adopted

by the City Council but shall not exceed the maximum tax rate of four percent (4%) without voter approval.

c. Adult-use Retailers. The Cannabis Business Tax upon every person who engages in business as a retailer of adult-use cannabis or adult-use cannabis products shall be at the following annual rate:

1. The tax rate upon the effective date of this Chapter 2.20 shall be three percent (3%) of the gross receipts derived from the retail sale of adult-use cannabis or adult-use cannabis products. Such tax rate may increase or decrease by resolution adopted by the City Council but shall not exceed the maximum tax rate of five percent (5%) without voter approval.

d. Distribution. The Cannabis Business Tax upon every person who engages in business in distribution shall be at the following annual rate:

1. The tax rate upon the effective date of this Chapter 2.20 shall be one percent (1%) of the gross receipts derived from distribution. Such tax rate may increase or decrease by resolution adopted by the City Council but shall not exceed the maximum tax rate of one percent (1%) without voter approval.

e. Manufacturing. The Cannabis Business Tax upon every person who engages in business in manufacturing shall be at the following annual rate:

1. The tax rate upon the effective date of this Chapter 2.20 shall be one percent (1%) of the gross receipts derived from manufacturing. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of one percent (1%) without voter approval.

f. Cultivation. The Cannabis Business Tax upon every person who engages in business in cultivation shall be at the following annual rate:

1. The tax rate upon the effective date of this Chapter 2.20 shall be one percent (1%) of the gross receipts derived from cultivation. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of one percent (1%) without voter approval.

g. Testing Laboratory. The Cannabis Business Tax upon every person who engages in business as a testing laboratory shall be at the following annual rate:

1. The tax rate upon the effective date of this Chapter 2.20 shall be one percent (1%) of the gross receipts derived as a testing laboratory. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of one percent (1%) without voter approval.

2.20.050. Exemptions from the Tax.

The provisions of this Chapter 2.20 shall not apply to personal cannabis cultivation as the MAUCRSA or any subsequent State legislation regarding the same. This Chapter 2.20 shall not apply to personal use of cannabis that is specifically exempted from State licensing requirements and that meets the definition of personal use or equivalent terminology under State law.

2.20.060. Reporting and Remittance of Tax.

The Cannabis Business Tax imposed by this Chapter 2.20 shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

- a. The owner(s) or manager(s) of each cannabis business shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Tax Administrator and remit to the Tax Administrator the Tax due. The Tax due shall be no less than the quarterly installment due, but the taxpayer may prepay any amount of Tax at any time.
- b. Tax statements and payments for all outstanding Taxes owed the City are immediately due to the Tax Administrator upon cessation of a cannabis business for any reason.
- c. The Tax Administrator may, at the Tax Administrator's reasonable discretion, establish shorter reporting and payment periods for any taxpayer as the Tax Administrator reasonably deems necessary to ensure collection of the Tax.

2.20.070. Nonpayment of Cannabis Business Tax; Penalties and Interest Established by Ordinance.

- a. Any person who fails or refuses to pay any Cannabis Business Tax required to be paid pursuant to this Chapter 2.20 on or before the due date shall pay penalties and interest as follows:
 1. A penalty equal to ten percent (5%) of the amount of the Tax, in addition to the amount of the Tax, plus interest on the unpaid tax calculated from the due date of the Tax at the rate of one percent (1%) per month.
 2. If the Tax remains unpaid for a period exceeding three (3) calendar months beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the Tax, plus interest at the rate of one percent (1%) per month on the unpaid tax and on the unpaid penalties.
 3. These penalty provisions shall not be construed to preclude or limit the enforcement of the penal provisions of this Chapter 2.20 or the Code.
- b. Whenever a check or electronic payment is submitted in payment of a Cannabis Business Tax and the payment is subsequently returned unpaid by the bank, the taxpayer will be liable for the Tax amount due plus any fees, penalties, and interest as provided for in this Chapter 2.20, and any other amount allowed under State law.

2.20.080. Administration of the Tax.

- a. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter 2.20.
- b. For purposes of administration and enforcement of this Chapter 2.20 generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this Chapter 2.20 as he or she deems reasonably necessary to implement or clarify such provisions or aid in enforcement, including but not limited to:
 1. Provide to all cannabis business taxpayers forms for the reporting of the Tax;
 2. Provide information to any taxpayer concerning the provisions of this Chapter 2.20;
 3. Receive and record all taxes remitted to the City as provided in this Chapter 2.20;
 4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter 2.20;
 5. Assess penalties and interest to taxpayers pursuant to this Chapter 2.20; and
 6. Determine amounts owed and enforce collection pursuant to this Chapter 2.20.

2.20.090. Appeal Procedure.

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties, and fees, if any, due under this Chapter 2.20 may appeal to the City Council by filing a notice of appeal with the City Clerk within forty-five (45) calendar days of the serving or mailing of the determination of Tax due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such cannabis business at the last known place of address. The finding of the City Council shall be a final administrative decision, subject to judicial review and remedies, and shall be served upon the appellant in the manner prescribed by this Chapter 2.20 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

2.20.100. Constitutionality and Legality.

This Tax is intended to be applied in a manner consistent with the United States and State Constitutions and State law. None of the Tax provided for by this Chapter 2.20 shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection, or due process clauses of the Constitutions of the United States or the State or a violation of any other provision of the State Constitution or State law. If a person believes that the Tax, as applied to him or her, is impermissible under applicable law, he or she may request that the Tax Administrator release him or her from the obligation to pay the impermissible portion of the Tax.

2.20.110. Apportionment.

If a cannabis business subject to the Tax is operating both within and outside the City, it is the intent of the City to apply the Cannabis Business Tax so that the measure of the Tax fairly reflects the proportion of the taxed activity actually carried on in the City. To the extent federal or State law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on his or her tax return. The Tax Administrator may promulgate administrative procedures for apportionment as he or she finds reasonably useful or necessary.

2.20.120. Audit and Examination of Records and Equipment.

- a. For the purpose of ascertaining the amount of Cannabis Business Tax owed or verifying any representations made by any taxpayer to the City in support of his or her tax calculation, the Tax administrator shall have the power to inspect any location where commercial cannabis activity occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, State and federal income tax returns, and other records relating to the gross receipts of the business) of owners and managers of the cannabis businesses. In conducting such investigation, the Tax Administrator shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.
- b. It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter 2.20 to keep and preserve, for a period of at least seven (7) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

2.20.130. Payment of Tax Does not Authorize Unlawful Conduct.

- a. The payment of a Cannabis Business Tax required by this Chapter 2.20, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of the Code, MAUCRSA, and all other applicable State laws.
- b. No Tax paid under the provisions of this Chapter 2.20 shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or State law.
- c. Nothing in this Chapter 2.20 shall be construed as in conflict with State or federal law.
- d. It shall be the responsibility of the owners and managers of a cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with the protection of public health, safety, and community standards, including all applicable State and local laws and regulations, including any subsequently enacted State or local law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements, which may be imposed as conditions of approval of any State or City license.

2.20.140. Other Licenses, Permits, Taxes, Fees, or Charges.

Nothing contained in this Chapter 2.20 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City Council, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee, or other charge imposed, assessed or required by, under or by virtue of any other provision of the Code or any other ordinance or resolution of the City Council. Any references made or contained in any other provision of the Code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other provisions of this Code.

2.20.150. Deficiency Determinations.

If the Tax Administrator is not reasonably satisfied that any statement filed as required under the provisions of this Chapter 2.20 is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within two (2) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within two (2) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given in this Chapter 2.20.

2.20.160. Failure to Report; Nonpayment; Fraud.

- a. Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of tax owed by a person under this Chapter 2.20 at any time:
1. If the person has not filed a complete statement required under the provisions of this Chapter 2.20;
 2. If the person has not paid the Tax due under the provisions of this Chapter 2.20;
 3. If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter 2.20; or
 4. If the Tax Administrator determines that the nonpayment of any Cannabis Business Tax is due to fraud, a penalty of twenty-five percent (20%) of the amount of the Tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter 2.20 and any other penalties allowed by law.

b. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter 2.20 and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

2.20.170. Tax Assessment; Notice Requirements.

The notice of assessment shall be served upon the person either by personal delivery, by overnight delivery by a nationally-recognized courier service, or by a deposit of the notice via United States Postal Service Priority Mail Express (or a comparable service with another carrier or with the United States Postal Service, should Priority Mail Express no longer be provided) with proof of delivery, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this Chapter 2.20; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purposes of this Section, a service by overnight delivery shall be deemed to have occurred one (1) calendar day following deposit with a courier and service by United States Postal Service Priority Mail Express shall be deemed to have occurred three (3) calendar days following deposit of the notice.

2.20.180. Tax Assessment; Hearing, Application, and Determination.

Within forty-five (45) calendar days after the date of service the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall be a final administrative decision, subject to judicial review. Within thirty (30) calendar days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) calendar days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than fifteen (15) calendar days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in this Chapter 2.20 for giving notice of assessment.

2.20.190. Relief from Taxes; Disaster Relief.

a. If a cannabis business is unable to comply with any Tax requirement due to a disaster, the cannabis business may notify the Tax Administrator of this inability to comply and request relief from the tax requirement. A request for relief must clearly indicate why relief is requested, the time period for which the relief is requested, and the reason relief is needed for the specific amount of time.

- b. To obtain relief, the cannabis business agrees to grant the Tax Administrator or designee(s) access to the location where the cannabis business has been impacted due to a disaster.
- c. The Tax Administrator, in his or her reasonable discretion, may provide relief from the Cannabis Business Tax requirement for businesses whose operations have been impacted by a disaster if such tax liability does not exceed \$25,000.00. If such tax liability is \$25,001.00 or more, than such relief shall only be approved by the City Council.
- d. Temporary relief from the Cannabis Business Tax may be granted for a reasonable amount of time as determined by the Tax Administrator or the City Council, as applicable in order to allow the cannabis business time to recover from the disaster.
- e. The Tax Administrator or City Council, as applicable may require that certain conditions be followed in order for a cannabis business to receive temporary relief from the Cannabis Business Tax requirement.
- f. For purposes of this Section, "disaster" means, including but not limited to, natural disasters (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves, and floods); war, hostilities, invasion, act of foreign enemies, mobilization, requisition, or embargo; rebellion, revolution, insurrection, or military or usurped power, or civil war; riot, commotion, strikes, go slows, lock outs or disorder; or acts or threats of terrorism.

2.20.200. Conviction for Violation; Taxes not Waived.

The conviction and punishment of any person for failure to pay the required Cannabis Business Tax shall not excuse or exempt such person from any civil action for the Tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter 2.20 or of any State law requiring the payment of all taxes.

2.20.210. Violation Deemed Misdemeanor.

Each and every material violation of the provisions of this Chapter 2.20 may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a material violation is committed or permitted to continue shall constitute a separate offense.

2.20.220. Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 7Categorically Exempt From CEQA. The People of the City find that the actions contemplated by the Measure, including the issuance of commercial cannabis business permits, are categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15060(c)(2) and Section 15060(c)(3) of Title 14 of the State Code of Regulations (an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable indirect physical

change in the environment; or is not a “project”) and the holding by the State Supreme Court in *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029 (that CEQA review is not required before direct adoption of initiative). Further, the People of the City find that cannabis retailers are a use permitted by right in certain zoning districts within the City. As permitted in those zoning districts, cannabis retailers are similar to already existing permitted general uses in those zoning districts with the only difference being the type of product being delivered or sold.

SECTION 8. Conflicting Measures. The People of the City find and declare that the provisions of the Measure relating to the regulation of commercial cannabis activity in the City may conflict with one or more provisions of other initiative measures. It is the intent of the People that if the Measure receives a greater number of affirmative votes than a conflicting measure at the same election, this Measure shall prevail in its entirety over a conflicting measure.

SECTION 9. Severability. If any provision, section, paragraph, sentence, phrase, or word of the Measure is rendered or declared invalid, illegal, or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, such unconstitutionality, illegality, or invalidity shall only affect such provision, section, paragraph, sentence, phrase, or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases, or words, or the application of the Measure to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to be the intention of the People of the City that that the Measure would have been adopted had such unconstitutional, illegal, or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

SECTION 10. Liberal Construction. The Measure is an exercise of the initiative power of the People of the City to provide for safe and regulated access to cannabis and cannabis products, and shall be liberally construed to effectuate that purpose.

SECTION 11. Legal Defense. If approved by a simple majority of voters, and thereafter challenged in court of competent jurisdiction, the City shall defend the Measure in such court of competent jurisdiction. The People of the City by approving this Measure by a simple majority of voter hereby declare that the proponent(s) of the Measure have a direct and personal stake in defending the Measure from constitutional or statutory challenges to the Measure’s validity or implementation. In the event the City fails to defend the Measure, or the City fails to appeal an adverse judgment against this Measure, in whole or in part, in any court of competent jurisdiction, the Measure’s proponent(s) shall be entitled to assert his, her, or their direct personal stake by defending the Measure’s validity and implementation in any court of competent jurisdiction and shall be empowered by the People through this Measure to act as agents of the People of the City, and the City shall indemnify the proponent(s) for reasonable attorneys’ fees.

SECTION 12. Effective Date. The Measure shall be in full force and effect upon the tenth day following certification by the City Council of the election returns indicating passage of the Measure by a majority of the voters casting votes on the Measure.