

Belal Dalati
832 N. West Street
Anaheim, CA 92801

March 21, 2022

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

RECEIVED

2022 MAR 21 P 1:18

OFFICE OF CITY CLERK
CITY OF ANAHEIM

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.

Thank you for your assistance with this matter.

Sincerely,



Belal Dalati

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.



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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, Belal Dalati, 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.



Belal Dalati

Dated this 21st day of March, 2022

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

SECTION 1. 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, 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. Chapters 4.19 (Medical Marijuana Cultivation and Processing), 4.20 (Medical Marijuana Dispensaries), 4.21 (Mobile Medical Marijuana Dispensaries), and 4.100 (Commercial Marijuana Activities and Outdoor Cultivation of Marijuana) of Title 4 (Business Regulation) of the City Municipal Code are hereby repealed in their entirety and replaced in their entirety by amending Title 4 (Business Regulation) of the City Municipal Code to add Chapter 4.130 (Commercial Cannabis Activity) to read as follows:

Chapter 4.130 COMMERCIAL CANNABIS ACTIVITY

4.130.010. Purpose and Intent.

It is the purpose and intent of this Chapter 4.130 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 4.130 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 4.130 is intended to authorize the possession, use, sale, or provision of cannabis for purposes which violate State Law. In addition, nothing in this Chapter 4.130 is intended to allow persons to engage in conduct that endangers others or constitutes a public nuisance. The requirements of this Chapter 4.130 are in addition to any other permits, licenses, or approvals required to conduct business in the City or under State, County, or other law. Nothing in this Chapter 4.130 shall be interpreted to allow Commercial Cannabis Activity 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 4.130 is strictly prohibited.

4.130.020. Fees and Taxes.

All Applicants and Permittees 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. Permit Application Fees. Applicants shall submit a non-refundable fee to cover the cost of processing an application or amended application for a Permit.
- b. 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 Permit.
- c. Business License Taxes. A Permittee shall at all times maintain a current and valid City 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 City Municipal Code or other City rule or regulation.
- d. Cannabis-specific gross receipts, excise taxes, or other municipal tax approved by the voters of the City.
- e. All required transfer taxes and/or fees.

4.130.030. 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, the provisions of the MAUCRSA, and any subsequent state legislation and/or regulations regarding the MAUCRSA, the City 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 to all Commercial Cannabis Activity.

.020. Unauthorized Commercial Cannabis Activities Prohibited.

Except as specifically authorized in this Chapter 4.130, 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)), of Cannabis or Cannabis products is expressly prohibited in the City.

.030. Compliance with Laws.

Nothing in this Chapter 4.130 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 Permittee 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 ("Prbp. 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 Permit.

4.130.040. Definitions.

When used in this Chapter 4.130, 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 4.130 that is not defined below shall have the same meaning contained in the MAUCRSA.

- a. *Applicant*: a Person applying for a Permit. In the context of an annual renewal, Applicant means a Permittee applying to renew a Permit.

- b. *Cannabis*: 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. The term "Cannabis" shall also have the same meaning as set forth in Business & Professions Code § 26001 (f), 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 4.130, "cannabis" 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.

- c. *City*: the City of Anaheim.
- d. *City Cannabis Regulations*: the regulations issued by the City Manager or his or her designee relating to the application for or renewal of a Permit and/or the oversight and operation of Commercial Cannabis Facilities.
- e. *City Council*: the City Council of the City of Anaheim.
- f. *City Manager*: the City Manager of the City of Anaheim or his or her designee.
- g. *Commercial Cannabis Activity*: shall have the same meaning as set forth in Business and Professions Code § 26001, as it may be amended from time to time. Commercial Cannabis Activity includes the cultivation, manufacture, possession, distribution, processing, storing, laboratory testing, packaging, labeling, delivery or sale of Cannabis and Cannabis products.
- h. *Commercial Cannabis Facility or Facility*: a Premises where Commercial Cannabis Activity is conducted pursuant to a Permit issued by the City, and which is subject to the regulations set forth in State Law and this Chapter 4.130.
- i. *Cultivation*: any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.
- j. *Delivery*: 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.
- k. *Distribution*: the procurement, sale, and transport of Cannabis and Cannabis products between persons lawfully conducting Commercial Cannabis Activity under State law.
- l. *Hearing Officer*: shall have the meaning set forth in Section 1.12.110 of this Code.
- m. *Individual Majority Owner*: an individual / natural person who holds an Ownership Interest of more than fifty (50) percent in an Applicant or Permittee.
- n. *Labor Peace Agreement*: a written agreement between an Applicant or Permittee and any bona fide labor organization as defined by California Business and Professions Code § 26001(x) that, at a minimum, prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the Applicant's or Permittee's business and contains an agreement by the Applicant

or Permittee not to disrupt efforts by the bona fide labor organizer to communicate with, and attempt to organize and represent the Applicant's or Permittee's employees.

- o. *Liquid Assets*: assets that can be readily converted into cash, including the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, and United States savings bonds. Liquid Asset shall not mean household items, furniture and equipment, vehicles, Cannabis or Cannabis products, business inventory, or real property and improvements thereto.
- p. *Manufacture*: 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.
- q. *Owner*: Any of the following: (i) a Person with an Ownership Interest of twenty (20) percent or more in an Applicant or Permittee; (ii) a Person involved in the management, direction or control of the Applicant or Permittee, including without limitation a chief executive officer, managing member, general partner, board member, or trustee.
- r. *Ownership Interest*: any direct or indirect, legal or beneficial ownership of shares, interests, participations, rights to purchase, options, warrants, general or limited partnership interests, limited liability company interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or nonvoting, including common stock, preferred stock or any other equity security.
- s. *Permit*: a regulatory permit issued by the City pursuant to this Chapter 4.130 to a Person at 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 Permit is made expressly contingent upon the Permittee's ongoing compliance with all of the requirements of this Chapter 4.130 and any regulations adopted by the City governing the Commercial Cannabis Activity at issue.
- t. *Permittee*: a Person that holds a Permit.
- u. *Person*: an individual / natural person, 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.
- v. *Premises*: the designated structure or structures and land specified in the Permit application that is owned, leased, or otherwise held under the control of the Applicant or Permittee where the Commercial Cannabis Activity will be or is conducted. The Premises shall be a contiguous area and shall only be occupied by one Permittee.

- w. *Retail*: any activity involving the retail sale of Cannabis or Cannabis Products from a storefront retail location (or a microbusiness engaging in retail sales).
- x. *Retail Permit*: a Permit to engage in Retail activity.
- y. *School*: as evidenced by the State Department of Education school directory, a public school instructing children in grades kindergarten through 12, as authorized by the State Department of Education or a private school instructing children in grades kindergarten through 12 that has filed a verification of private school affidavit with the State Department of Education pursuant to Section 33190 of the State Education Code, excluding any private school in which education is primarily conducted in a private home. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, this definition of "school" under this Chapter 4.130 shall override the definition of "school" used in MAUCRSA or Section 11362.768 of the Health & Safety Code.
- z. *State*: the State of California or any departments or divisions thereof.
- aa. *State Law*: shall have the meaning set forth in Section 4.130.030 of this Chapter 4.130.
- bb. *State License*: a license issued by the State under the MAUCRSA or any subsequent State legislation relating to Commercial Cannabis Activity.
- cc. *State-Licensed Cultivator*: a Person holding a State License to engage in Cultivation.
- dd. *State-Licensed Distributor*: a Person holding a State License to engage in Distribution.
- ee. *State-Licensed Manufacturer*: a Person holding a State License to engage in Manufacture.
- ff. *State-Licensed Nursery*: a Person holding a State License for Cultivation nursery activity, which is limited to growing clones, immature plants, seeds or other types of Cannabis used for propagation.
- gg. *State-Licensed Retailer*: a Person holding a State License to engage in Retail storefront Type 10 activity, as defined under State Law.
- hh. *Testing Laboratory*: a laboratory, facility, or entity 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 State.
- ii. *Youth Center*: a park, playground, or recreational area specifically designed to be used by children that may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, County, or State parks. "Youth center" shall not include any private martial arts, yoga, ballet, music, or similar studio of

this nature nor shall it include any private athletic training facility, pizza parlor, restaurant, video arcade, dentist office, or doctor's office primarily serving children. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, this definition of "youth center" under this Chapter 4.130 shall override the definition of "youth center" in MAUCRSA at Section 26001 of the State Business & Professions Code.

4.130.050. Procedures.

.010. Permit Required to Engage in Commercial Cannabis Activity.

No Person shall engage in Commercial Cannabis Activity in the City unless: (1) the Person has obtained a valid Permit issued by the City under this Chapter 4.130; (2) the Person has obtained a valid State License; and (3) the Person operates a Commercial Cannabis Facility 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 4.130 and the City's Cannabis Regulations.

.020 Retail Permit Application Process and Requirements

- a. Within forty-five (45) days following the effective date of this Chapter 4.130, the City Manager shall make available the necessary forms, adopt any necessary application rules for the submission, intake, review, and approval of Retail Permit applications up to the maximum number of Retail Permits authorized in Section 4.130.060.010.
- b. The City Manager shall cease acceptance of Retail Permit applications thirty (30) days after making available the necessary forms and adopting any necessary application rules for the submission, intake, review, and approval of Retail Permit applications.
- c. Within thirty (30) days of ceasing the acceptance of Retail Permit applications, the City Manager shall review timely submitted applications for the following minimum requirements:
 1. Payment of an application fee established by resolution of the City Council within forty-five (45) days following the effective date of this Chapter 4.130 to cover all costs incurred by the City in the application process;
 2. Sufficient evidence of the legal right to use the Applicant's proposed Premises for Retail, to include a lease, sublease, purchase agreement, assignment of purchase agreement, or lease or purchase option, in the name of the applicant, which may include nominal consideration and be contingent upon issuance of a Permit or other approvals. The City shall only consider one Applicant per property address or County Assessor's Identification Number. In the event that more than one Applicant applies for a Retail Permit at a given property address or a given County Assessor's Identification Number, the City Manager shall only accept the application with the earliest dated evidence of the legal right to use the proposed property for the proposed use in the name of the Applicant;

3. Sufficient evidence to demonstrate that the proposed Premises complies with the location and separation requirements in Section 4.130.060.020;
4. A copy of the Applicant's organizational documents, including a complete disclosure of all Persons with an Ownership Interest in the Applicant, except that any Person with an Ownership Interest in the Applicant that is held through ownership of less than five (5) percent of the total shares in a publicly traded company need not be disclosed;
5. Proof of funds showing that the Applicant has access and control of over \$1,000,000.00 in Liquid Assets, which shall be in the form of a record of a financial institution account in the name of the Applicant or Owner holding an Ownership Interest of more than fifty (50) percent in the Applicant, which is dated within sixty (60) days of the date of submission of the application under this Section. An Applicant or Owner who submits more than one application under this Section must provide a separate proof of funds for each application. For example, an Applicant that submits three (3) applications must submit proof of funds showing access and control over \$3,000,000 in Liquid Assets.
6. A set of plans, including a site development plan, floor plan(s), building elevations (all four (4) sides), and a conceptual landscape plan;
7. A completed background check application and receipt for each Owner of the Applicant pursuant to Section 4-14-21.L;
8. For an Applicant with two (2) or more employees, proof of a Labor Peace Agreement between a bona fide labor organization and the Applicant (the Applicant shall provide the City with a copy of the labor peace agreement that contains the signatures of the union representative and the Applicant). For Applicants with less than two (2) employees who have not yet entered into a Labor Peace Agreement, the Applicant shall provide a notarized statement indicating that the Applicant will enter into and abide by the terms of a Labor Peace Agreement within thirty (30) days after employing two (2) employees.
9. A statement identifying the trade name, brand name, "Doing Business As" name, fictitious business name or other name under which the Applicant intends to conduct business or hold itself out the public as at the Premises ("Trade Name"); and
10. The following application components: (a) Qualifications of the Applicant's owners; (b) plans, renderings, and overall location; (c) business and operations plan; (d) security plan; (e) neighborhood compatibility plan; (f) community benefits plan; and (g) labor and employment plan.

The City Manager shall reject any Retail Permit application that fails to meet the minimum requirements contained in this Subsection c.

- d. Within sixty (60) days of completing the application review under Subsection c. above, the City Manager, or his or her designee, shall review and score any complete applications pursuant to the following objective review criteria according to the following quantitative evaluation scale:

1. Qualifications of the Applicant's Owners – 200 points

The People of the City find that a proven record of experience in directly controlling the operations of a State-Licensed Retailer will be critical towards successfully operating in the City, including generating tax revenue for the City, which carries out the purpose and intent of the Measure; that other jurisdictions in the State that have licensed Retail have not recognized the expected benefits of such licensing because they awarded licenses to Applicants that lacked the requisite experience in controlling Retail operations; that many merit-based cannabis licensing programs in other jurisdictions have produced poor outcomes because Applicants provided misleading and inaccurate information about their ownership credentials and experiences; and that the most successful Retail Permittees in the City will be those that have an Individual Majority Owner who has a prior record of a controlling Ownership Interest in a State-Licensed Retailer.

The People of the City further find that a Retail Permittee's proven ability to consistently to procure high quality, affordable Cannabis and Cannabis products will be critical towards successfully operating in the City, including generating tax revenue for the City, which carries out the purpose and intent of the Measure; that the City will benefit from Retail Permittees that are less susceptible to price fluctuations and quality inconsistencies in the Cannabis product supply chain; and that an Applicant with an Individual Majority Owner who holds and has prior experience in holding a controlling Ownership Interest in State-licensed Cultivators, Manufacturers, Distributors and Nurseries will be best positioned to consistently procure high quality, affordable Cannabis and Cannabis products.

Accordingly, 120 of the 200 points awardable under this Subdivision 1 shall be awarded to, and shall only be awarded to, an Applicant that meets the following criteria:

60 Points – The Applicant has an Individual Majority Owner who has held for the entirety of the two (2) years preceding application submission under this Section, more than fifty (50) percent of the Ownership Interests in at least one State-Licensed Retailer with an active and valid Retail storefront Type 10 State license(s) for the entirety of such time. An Applicant shall demonstrate its Individual Majority Owner has such prior Ownership Interest of more than fifty (50) percent of a State-Licensed Retailer through credible records of ownership disclosures on license applications or license modification requests with the California Bureau of Cannabis Control or California Department of Cannabis Control. The City

Manager shall not consider any documents or information purporting to establish the existence of the Individual Majority Owner's Ownership Interest of more than fifty (50) percent in a State-Licensed Retailer prior to the date such Ownership Interest was disclosed on a State license application or license modification request.

60 Points – The Applicant has an Individual Majority Owner who has held for the entirety of the twelve (12) months preceding application submission under this Section, more than fifty (50) percent of the Ownership Interests in all the following State-Licensed commercial cannabis businesses that have held active and valid State licenses for their corresponding Commercial Cannabis Activity for the entirety of such twelve (12) month period:

- i. one or more State-Licensed Distributors;
- ii. one or more State-Licensed Manufacturers;
- iii. one or more State-Licensed Cultivators, which in the aggregate is / are authorized under State Law to cultivate either indoor mature canopy areas of no less than thirty thousand square feet (30,000) or mixed-light or outdoor mature canopy areas of no less than one hundred thousand (100,000) square feet; and
- iv. one or more State-Licensed Nurseries.

An Applicant with an Individual Majority Owner that has held an Ownership Interest of more than fifty (50) percent in each type of State-Licensed commercial cannabis business referenced in paragraphs i.-iv. for the entirety of the six (6) month period preceding application submission under this Section shall be awarded 30 of these 60 points. An Applicant shall demonstrate an Individual Majority Owner's Ownership Interest of more than fifty (50) percent in each type of State-Licensed commercial cannabis business referenced in paragraphs i.-iv through records of ownership disclosures on State license applications and license modification requests with the California Bureau of Cannabis Control, California Department of Public Health, California Department of Food and Agriculture or California Department of Cannabis Control. The City Manager shall not consider any documents or information purporting to establish the existence of the Individual Majority Owner's Ownership Interest of more than fifty (50) percent in each type of State-Licensed commercial cannabis businesses referenced in paragraphs i.-iv prior to the date such Ownership Interests were disclosed on State license applications or license modification requests.

The remaining 80 points awardable under this Subdivision 1 shall be awarded pursuant to the following objective criteria:

Up to 30 points – A description of the Applicant’s Owners’, managers’, and employees’ qualifications, including any experience or expertise in areas related to Commercial Cannabis Activity, such as legal, business ownership/administration, and regulatory compliance.

25 points – Documentation that the Owner or Owners holding, in the aggregate, at least eighty (80) percent of the Ownership Interests in the Applicant have all held an Ownership Interest of twenty (20) percent or more in at least one State-Licensed Retailer for no less than one (1) year prior to the date of application submission under this Section, as evidenced through records of ownership disclosures on State license applications or license modification requests with the California Bureau of Cannabis Control or California Department of Cannabis Control. The City Manager shall not consider any documents or information purporting to establish the existence of an Ownership Interest in a State-Licensed Retailer prior to the date such Ownership Interest was disclosed on a state license application or license modification request.

25 points – Documentation that an Owner with an Ownership Interest of more than fifty (50) percent in the Applicant controls an established Retail brand as evidenced by such Owner having held an Ownership Interest of more than fifty (50) percent in a State-Licensed Retailer that has been continuously operating under the same Trade Name stated on the Applicant’s Retail Permit application for at least six (6) months prior to the date of application submission under this Section, as evidenced by both ownership disclosures and Trade Name disclosures on State license applications or license modification requests with the California Bureau of Cannabis Control or California Department of Cannabis Control. The City Manager shall not consider any documents or information purporting to establish the existence of an Owner’s Ownership Interest or operation under a Trade Name prior to the date such Ownership Interest and Trade Name were disclosed on a State license application or license modification request.

In considering records of Ownership Interest disclosures on a State license application or license modification request and the dates of such disclosures, the City Manager may consider documents provided by Applicants such as online state license application records or modification requests, email correspondence by and between an Applicant and the California Bureau of Cannabis Control, California Department of Public Health, California Department of Food and Agriculture or California Department of Cannabis Control, or any other State application or licensing record that incontrovertibly establishes the date of the Ownership disclosure.

2. Plans, renderings, and overall location – 125 points

The People of the City find that the further a Retailer is located away Schools, the better a Retailer will carry out the purpose and intent of the Measure (in particular the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts) and that the separation requirements contained in 4.130.060.020 are minimums rather than ideal distances to carry out the purpose and intent of the Measure. Accordingly, 25 of the 125 points awardable under this Subdivision 2 shall be awarded to, and shall only be awarded to, an Applicant whose proposed Retail Premises is located more than one-thousand two hundred fifty (1,250) feet away from any School, as measured pursuant to 4.130.060.020(c).

The remaining 100 points awardable under this Subdivision 2 shall be awarded, pursuant to the following objective criteria:

Up to 25 points – A premises diagram in accordance with applicable State Law.

Up to 25 points – A site development plan for the Retail Premises that provides information on existing conditions and proposed improvements to the site and how it meets or will meet the development standards outlined in the City Zoning Code. Information on existing conditions shall include:

- i. Exterior photographs showing all sides of any existing structure(s);
- ii. Photographs of existing parking areas, landscaping, trash enclosure, and signage;
- iii. Information on existing use on the site, including the addresses, uses, and square footages.
- iv. Photographs of the existing site if the site is vacant; and
- v. Photographs of adjacent properties for context.

Up to 10 points – A floor plan showing information on existing layout and proposed layout of the building interior.

Up to 10 points – Building elevations that provide information on existing conditions and proposed improvements.

Up to 15 points – A conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species.

Up to 15 points – Colored interior renderings and exterior elevation renderings (for both existing and/or proposed improvements).

3. Business and operations plan – 125 points

The 125 points awardable under this Subdivision 3 shall be awarded pursuant to the following objective criteria:

Up to 10 points – A written description of the total square footage of the Premises with estimated square footage of proposed uses.

Up to 20 points – A schedule for beginning operations, including a narrative outlining any proposed construction improvements and a timeline for completion.

Up to 20 points – A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operating costs.

Up to 10 points – A description of the sources(s) of capital and use(s) of capital.

Up to 10 points – Pro forma financial statements for at least three (3) years of operation.

Up to 5 points – A description of the type of products to be sold and the estimated quantity and value of product(s) to be sold.

Up to 5 points – A description of marketing procedures and tactics.

Up to 10 points – A description of day-to-day operations that should acknowledge both state and local laws and should be consistent with industry best practices.

Up to 5 points – A description of hours of operation and opening procedures.

Up to 10 points – A description of cash handling procedures.

Up to 10 points – A description of inventory control procedures to include identification of point-of-sale systems, and track and trace software.

Up to 10 points – A description of transportation, loading and unloading, distribution, or delivery procedures.

4. Security plan – 125 points

The 125 points awardable under this Subdivision 4 shall be awarded pursuant to the following objective criteria:

Up to 20 points – The security plan shall be prepared by a professional security consultant.

Up to 20 points – A premises security diagram.

Up to 50 points – A description of access control, inventory control, cash handling, and other security procedures and security equipment demonstrating compliance with the security requirements under this Chapter 4.130.

Up to 15 points – A description of the intrusion alarm and monitoring system including the name and contact information for the monitoring company.

Up to 20 points – A description of the services of on-site security guards to include the (1) number of security guards; (2) the hours security guards will be on-site; (3) locations where security will be positioned; and (4) security guard responsibilities.

5. Neighborhood compatibility plan – 125 points

The 125 points awardable under this Subdivision 5 shall be awarded pursuant to the following objective criteria:

Up to 50 points – A “Good Neighbor Policy” that (i) includes policies and measures in place to protect adjacent uses from any potential impacts (e.g., noise, light, odor, traffic, etc.) related to the proposed Cannabis business and (ii) describes how the Cannabis business and its operating characteristics will be proactively managed so the business is not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding area and will not result in the creation of a nuisance.

Up to 30 points – A description of odor mitigation practices to include: (i) identifying potential sources of odor; (ii) a description of odor control devices and techniques employed to ensure that odors from cannabis are not detectable beyond the proposed Premises; and (iii) all proposed staff odor training and system maintenance.

Up to 20 points – A description of a waste management plan that includes waste disposal locations within the proposed Premises and the Applicant’s security measures and methods of rendering waste unusable and unrecognizable.

Up to 25 points – A description of efforts at sustainability / environmental impact mitigation.

6. Community benefits plan – 150 points

The People of the City find that monetary donations to local non-profit organizations, financial support of City sponsored activities or organizations, in kind donations to the City or other charitable organizations, and economic incentives to the City carry out the purpose and intent of the Measure and are, therefore, critical for an Applicant to demonstrate an effective community benefits plan. Accordingly, 75 of the 150 points awardable under this Subdivision 6 shall be awarded to, and shall only be awarded to, an Applicant that pledges to voluntarily provide a public benefit to a public use, which is defined as a direct financial contribution equal to one percent (1%) of projected gross receipts of the Applicant to a public school located within the City, a public park located within the City, and/or a public or nonprofit community organization serving the City or its residents. Beyond the above, no further direct financial contributions shall be considered as part of an Applicant's community benefits plan.

The remaining 75 of the 150 points awardable under this Subdivision 6 shall be awarded pursuant to the following objective criteria:

Up to 35 points – A description of a social responsibility plan to include identification of a community liaison, plans to aide and participate in the work of local non-profits, community-based organizations, civic organizations, or social services organizations.

Up to 40 points – A description of a plan to develop a public health outreach and educational program that outlines the risks of youth use of cannabis and that identifies resources available to youth related to drugs and drug addiction.

7. Labor and employment plan – 150 points

The People of the City find that a proven track-record of Retail operations with high labor standards and commitment to labor peace carries out the purpose and intent of the Measure and are, therefore, critical for an Applicant to demonstrate an effective labor and employment plan. Accordingly, 25 of the 150 points awardable under this Subdivision 7 shall be awarded to, and shall only be awarded to, an Applicant that has an Owner that holds an Ownership Interest of more than fifty (50) percent in the Applicant that also holds an Ownership Interest of more than fifty (50) percent in a State-Licensed Retailer that, at least six (6) months prior to application submission under this Section, has entered into a collective bargaining agreement with a bona fide labor organization that represents cannabis workers in the State on the date of the application submission under this Section.

The remaining 125 of the 150 points awardable under this Subdivision 7 shall be awarded pursuant to the following objective criteria:

Up to 60 points – An organizational chart of the Applicant showing Owners, managers, and employees; a description of the Owner's and manager's roles in day-to-day operations and decisions; a description of the number of employees, title / position, and their respective responsibilities

Up to 25 points – A description of the wages and benefits provided to employees such as health care, vacation, and medical leave, to the degree they are offered as part of employment.

Up to 20 points – A description of a plan to recruit employees from socially and economically disadvantaged backgrounds.

Up to 20 points – A description of a plan to have at least 50% of employee positions filled and hours worked by employees residing in the City.

- e. Upon timely receipt of a Retail Permit application, the City Manager shall direct the Police Chief to conduct background checks in accordance with Section 4.130.070.020.b. Following review and scoring of complete applications completed pursuant to objective review criteria under Subsection d., the City Manager shall issue Retail Permits to Applicants in order of their rank under Subsection d. up to the maximum number of Retail Permits authorized in Section 4.130.060.010. In the event of a tie in the order of ranking under Subsection d. up to the maximum number of Retail Permits authorized in Section 4.130.060.010, the City Manager shall break the tie and issue Retail Permits to the Applicant(s) with the highest scoring application component in the following order: (1) Qualifications of the Applicant's owners and managers; (2) labor and employment plan; (3) plans, renderings, and overall location; (4) security plan; (5) safety plan; (6) community benefits plan; (7) neighborhood compatibility plan; and (8) business and operations plan. In the event of a tie on all application components between one of more Applicants up to the maximum number of Retail Permits authorized in Section 4.130.060.010, all tied Applicants shall make a presentation to a three-person panel made up of individuals appointed by the City Manager, at his or her discretion. The rules and procedures for the presentation shall be set by the City Manager, at his or her discretion. After all Applicant presentations have been completed, the three-person panel shall rank the presenting Applicants pursuant to ranking sheets prepared by the City Manager that achieve a forced ranking based on all of the objective review criteria and quantitative evaluation scale in Subsection d., and the City Manager shall issue Retail Permits to Applicants in order of their rank up to the maximum number of Retail Permits available following the City Manager's original ranking and issuance of Retail Permits and the limits contained in Section 4.130.060.010. However, the City Manager shall not issue a Retail Permit to any Applicant with an Owner that:
1. Provided false or misleading information on the Applicant's Retail Permit application;

- 2. Has been convicted of (or pled no contest to) “an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made” as that term is defined in 26057(b)(4) of the State Business & Professions Code; or
 - 3. Has been sanctioned by a licensing authority or a city, county, or state for unauthorized commercial cannabis activities in the three (3) years immediately preceding the date the application was submitted under this Section.
- f. Any decision of the City Manager under this Section shall be a final administrative decision not subject to administrative appeal under any provisions of this Chapter 4.130 or any provisions of the City Municipal Code but, rather, subject to judicial review and remedies.
 - g. In the event that (i) the number of issued Retail Permits falls below the maximum number authorized in Section 4.130.060.010 or (ii) the City Council is ordered to increase the maximum number of Retail Permits by a court of competent jurisdiction as a judicial remedy, the City Manager shall, as a ministerial duty, within thirty (30) days reinstitute the application procedure under this Section, subject to the maximum number of Retail Permits authorized and available.
 - h. In the event the City Council elects to increase the number of authorized Retail Permits pursuant to Section 4.130.060.010.b., the City Manager shall establish Cannabis Regulations governing the Permit application criteria and process for such Retail Permits in a manner consistent with Section 4.130.060.010.b.
 - i. The City Manager, at his or her discretion, may engage an independent, third-party consultant with prior experience in administering Retail licensing programs in the State to assist the City Manager with the implementation and administration of the Retail Permit application procedures in this Section.

.030. Non-Retail Permit Application Process and Requirements.

- a. The City Council, at its discretion, may adopt any necessary application rules for the submission, intake, review, and approval of applications for Permits for Cultivation, Distribution, Manufacture and Testing Laboratories.
- b. Nothing in this Section shall require the City to accept, process or approve an application for a Permit for Cultivation, Distribution, Manufacture and Testing Laboratory, and this Measure expressly grants the discretion to the City Council to decline to authorize any Cultivation, Distribution, Manufacture or Testing Laboratory activity in the City.

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

The City Manager shall either deny, approve, or conditionally approve a Permit Application. 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 to the extent the City is still accepting applications for the same type of Commercial Cannabis Activity.
- b. A Permit does not confer any property interest, entitlement or vested right and shall not run with the land. Permits issued pursuant to this Chapter 4.130 are not transferable to any other Person, Premises or location, except as set forth in this Chapter 4.130.
- c. The City Manager retains full authority to deny an application and/or reduce points awarded for a Retail Permit application if 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 information or made misrepresentations in the application.
 - 3. The Applicant has materially failed to comply with any of the requirements set forth in this Chapter 4.130.
 - 4. The approval could result in material harm to the public health, safety, or welfare that cannot be mitigated or avoided through reasonable conditions on the Permit.

.050. Amendment to Permit.

No Permit shall be amended without the prior written approval of the City Manager.

.060. Permit Term; Permit Performance Review

- a. Subject to this Section and Section 4.130.050.070, the term of each Permit shall be indefinite.
- b. Upon the one (1) year anniversary of the date of issuance for each Permit and each year thereafter, the City Manager shall conduct a performance review of the Permittee to assess compliance with the requirements of this Chapter 4.130. Within thirty (30) days of the conclusion of the annual performance review of the Permittee, the City Manager or designee(s) shall issue a letter of compliance or noncompliance outlining all items to be corrected to ensure full compliance. In the event of any noncompliance, the Permittee shall have sixty (60) days to remedy such noncompliance, unless additional time is granted in the City Manager's discretion. However, in the event such noncompliance items cannot be remedied within sixty (60) days or the time allotted by the City Manager, such failure to remedy shall constitute a material violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this Chapter 4.130 subject to suspension or revocation under Section 4.130.050.070.
- c. The Permittee shall pay a fee in an amount to be set by the City Council via resolution to cover the costs of conducting the performance review.

.070. Revocation, Modification and Suspension Requirements.

- a. A Permit may be suspended, revoked or modified by the City Manager based upon any of the following:
 - 1. A material violation of any State or local law, rule, regulation requirement and/or standard, including but not limited to the provisions of this Chapter 4.130, the City's Cannabis Regulations, or the City's Municipal Code.
 - 2. A determination that the Applicant falsified or misrepresented information on its Permit application or renewal application.
 - 3. An unauthorized transfer of ownership of a Permittee or change of location of a Commercial Cannabis Facility.
 - 4. The Permittee has failed to commence Commercial Cannabis Activity on its Premises within two (2) years of Permit issuance.
- b. Prior to determining whether to suspend, revoke or modify a Permit, the City Manager shall consider the following factors: 1) the extent of harm or potential harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the history of past violations; 5) any mitigating evidence.
- c. Suspension or revocation of a State License by the State corresponding to a Permit shall immediately result in the suspension of such Permit until the State reinstates the State License or otherwise lifts such suspension. A Permittee shall inform the City Manager of any suspension or revocation of a State License corresponding to its Permit within two (2) business days of the suspension or revocation of the 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.
- d. The City Manager's determination to suspend, modify, or revoke a Permit shall be effective immediately upon written notice from the City, but shall be stayed in the event an appeal is filed.
- e. The City Manager's determination to suspend, modify or revoke a Permit may be appealed as provided in this Chapter 4.130.

.080. Transfer of Permit; Change of Retailer Trade Name.

- a. No Permittee shall transfer its ownership or control of a Permit or any rights acquired under a Permit, to another Person without written notification to, and approval from, the City, and no Owner of a Permittee shall transfer its Ownership Interest in a Permittee without written notification to, and approval from, the City. Such notification shall be provided a minimum of thirty (30) 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 forty-five (45) 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. No transfer of a Permit or change in operational control of a Permittee's Facility to another Person shall occur pursuant to this Section for one (1) year following the date the Permit was first issued to the Permittee.
- c. During the first two (2) years following the issuance of a Retail Permit, the City Manager shall not approve any request to transfer the ownership or control of a Retail Permittee that results in such Permittee altering its ownership composition in a manner that would result in the Permittee not being entitled to points it was awarded when the Permittee was an Applicant pursuant to Section 4.130.050.020. For example, if a Permittee received 25 points when it was an Applicant for providing documentation that an Owner that holds an Ownership Interest of more than fifty (50) percent in the Applicant also holds an Ownership Interest of more than fifty (50) percent in a State-Licensed Retailer that has entered into a collective bargaining agreement with a bona fide labor organization that represents cannabis workers in the State on the date of the application submission under this Section, the City Manager shall not process or authorize any change in ownership or control of the Permittee if the change would result in the Permittee being unable to continue to satisfy the aforementioned criteria subsequent to its approval.
- d. Any transfer that occurs pursuant to this Section shall be subject to a transfer fee that is established by the City Council by resolution.
- e. Any transfer of a Permit or change in Ownership Interest in the Permittee or operational control of a Permittee's 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.
- f. No Retail Permittee shall change its Trade Name without written notification to the City. During the first two (2) years following issuance of a Retail Permit, a Retail Permittee shall only operate at its Retail Facility under the Trade Name stated on its initial application under Section 4.130.050.020. Any change in a Retail Permittee's Trade Name in violation of this subsection shall be grounds for revocation of the Permit.

.090. Relocation of Commercial Cannabis Facility.

- a. No 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 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.
- d. Any transfer or relocation 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 4.130 from a decision of the City Manager or his/her designee(s), the appeal shall be conducted as prescribed in this Chapter 4.130.
- 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 modify a 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.

4.130.060. Number and Location of Permits.

.010. Maximum Number of Permits.

- a. Subject to Subsection b., the total number of Retail Permits based within the City shall not exceed twenty (20). No more than three (3) Retail Permits shall be issued to the

same Applicant or Permittee. No Person may be an Owner of, or hold an Ownership Interest in, more than three (3) Retail Permits.

- b. At any time after all twenty (20) Retail Permits have been issued pursuant to Section 4.130.050.020 or one (1) year following the first day the City Manager accepts Retail Permit applications under Section 4.130.050.020, whichever occurs first, the City Council, at its discretion, may authorize the issuance of up to 5 additional Retail Permits based within the City. The City Council, at its discretion, may establish application procedures and Applicant selection criteria for any additional Retail Permits issued pursuant to this Subsection b., provided that such procedures and criteria address, in part, (i) the impacts of past policies of cannabis criminalization in the City and (ii) equitable access to economic opportunities for individuals residing in underserved communities in the City.
- c. The number of Retail Permits for Retailers based outside the City to engage in delivery within the City shall be zero (0).
- d. Except as provided in Subsection b., the maximum number of Retail Permits based within the City or outside the City may not be amended by the City Council or regulations promulgated by the City Manager pursuant to this Chapter 4.130. However, the City Council may and shall increase the maximum number of Retail Permits based within the City or outside the City if ordered to do so by a court of competent jurisdiction as a judicial remedy.
- e. The number of Commercial Cannabis Facility Permits for Cultivation, Manufacture, Distribution, and Testing Laboratory shall be established by resolution of the City Council, at the sole discretion of the City Council, including the possibility that the number of commercial cannabis business permits for Cultivation, Manufacture, Distribution, or Testing Laboratory may be zero (0).

.020. Location and Separation Requirements.

- a. A Retail Commercial Cannabis Facility shall only be located in a Commercial Zone or Industrial Zone in the City and shall not be located in The Anaheim Resort Specific Plan or Disneyland Resort Specific Plan.
- b. A Cultivation (excluding outdoor Cultivation), Distribution, Manufacture or Testing Laboratory Commercial Cannabis Facility shall only be located in an Industrial Zone.
- d. No Commercial Cannabis Facility shall be located within one thousand (1000) feet of any School, Youth Center or public library located in the City or six hundred (600) feet of any School located outside of City boundaries. The distances specified in this Subsection c. shall be the horizontal distance measured in a straight line from the parcel lines of the School, Youth Center or public library to the public entrance of a Retail Commercial Cannabis Facility or the primary entrance of a Non-Retail Commercial Cannabis Facility, without regard to intervening structures, except that the measurement shall stop at, and shall not include, State Route 91, State Route 57, or Interstate 5.

- d. Outdoor Cultivation shall not be permitted at any location in the City.

4.130.070. Operational Standards.

.010 Pre-Operational Requirements.

Prior to commencing operations, and as a precondition for commencing such operations, a Permittee shall:

- a. Obtain all required land use entitlements and approvals, if any, and comply with any California Environmental Quality Act requirements related thereto, if any.
- 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 a Commercial or Industrial zone. This includes but is not limited to obtaining any required building permit(s), certificates of occupancy, Fire Department approvals, and Health Department approvals.
- c. Provide the City Manager with an executed rental agreement for the Permittee's Premises and a written authorization from the property owner of the Premises consenting to the Commercial Cannabis Activity on the Premises. A Permittee that owns the property on which its Premises is located shall provide the City Manager with proof of ownership of such property.
- d. Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at Permittee'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 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 Permittee or any of its officers, employees, or agents.
- e. Obtain a 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.
- f. Comply with all State and local laws and regulations, including but not limited to the requirements of this Chapter 4.130, the City's Cannabis Regulations, the requirements of the Commercial Cannabis Permit, and State Law.
- g. Obtain a valid State License allowing for the operation of a Commercial Cannabis Facility.
- h. Apply for and obtain a City business license.

.020 Operational Standards Applicable to All Cannabis Facilities.

While engaged in Commercial Cannabis Activities, a Permittee and its Commercial Cannabis Facility 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 4.130.
- g. Except for 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.
- h. Refrain from displaying Cannabis products or graphics depicting Cannabis or Cannabis products so as to be visible from the exterior of the Premises, or on any of the vehicles owned or used as part of the Permittee's Commercial Cannabis operations.
- 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. Other than allowing entry to lawful customers permitted under State Law in the case of Retailers, prohibit any person under the age of twenty-one (21) years old from entering upon the Premises or being employed by the Permittee at the Premises.
- l. Prohibit the sale, dispensing, or consumption of alcoholic beverages or tobacco products on or about the Premises.

- m. Ensure that the Premises 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. If the Permittee employs two (2) or more employees (computed as "full time" non-supervisory employee equivalent positions where an employee full time equivalent works 1700 hours per year) at the Premises, enter into a Labor Peace Agreement and provide City with evidence of such Labor Peace Agreement within ninety (90) days following the date when the number of employees exceed two (2) full time positions.
- o. 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.
- p. Pursuant to Sections 11105(b)(11) and 13300(b)(11) of the State Penal Code, which authorizes City authorities to access State and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an Owner of an Applicant or Permittee must submit fingerprints and other information deemed necessary by the Chief of Police for a background check by the City Police Department. Pursuant to Sections 11105(b)(11) and 13300(b)(11) of the State Penal Code, which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall eligible to be an Owner of a Permittee unless they have first cleared the background check, as determined by the Chief of Police, as required by this 4.130. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.

.030. Additional Operational Standards Applicable to Retailers.

- a. Retailers shall only operate between the hours of 8:00 a.m. and 10:00 p.m.
- b. If permitted by State Law, 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 Premises 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. Retailers shall provide at least one (1) private security guard during all hours the Retail Facility is open to the public, who is licensed and possesses a valid Department of Consumer Affairs "security guard card".
- e. Shipments of Cannabis goods may only be accepted during regular business hours.

.040. Additional Operational Standards Applicable to Retail Deliveries.

- a. Commercial Cannabis Retail Deliveries in the City may be made only by a Retail Permittee and from a Retail Permittee's Premises in compliance with this Chapter 4.130 and State Law. Deliveries from Retailers located outside the City are prohibited.
- b. Cannabis goods shall only be delivered to a physical address and shall not be delivered cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency.
- c. All employees who deliver Cannabis shall have valid identification and a copy of the 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 Non-Retail Commercial Cannabis Activities

- a. If the City Council should amend this Chapter 4.130 to permit the issuance of Permits for Cultivation, Distribution, Manufacture or Testing Laboratory, the City Council shall amend this Section to adopt operating requirements for such types of Non-Retail Commercial Cannabis Activity.

4.130.080. Regulations and Inspection.

.010 Commercial Cannabis Regulations.

Consistently with stated requirements of this Chapter 4.130 (and in particular not to repeal or constructively repeal this Chapter 4.130), the City Manager is authorized to establish City Cannabis Regulations governing the 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 4.130. 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 Permit, as well as the other penalties set forth in this Chapter 4.130.

.020 Inspection.

The City Manager is charged with enforcing the provisions of this Chapter 4.130 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 4.130 or under applicable provisions of State Law.

4.130.090. Fees Deemed Debt to City.

The amount of any fee, cost, or charge imposed pursuant to this Chapter 4.130 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.

4.130.100. Permittee and Owners Responsible for Violations.

The Person to whom a Permit is issued pursuant to this Chapter 4.130, as well as each and every Owner and of a Permittee, shall be responsible for all violations of this Chapter 4.130 and/or of the City's Cannabis Regulations by the Permittee, whether committed by the Permittee or any employee or agent of the Permittee.

4.130.110. Violations Declared a Public Nuisance.

Each and every violation of the provisions of this Chapter 4.130 is hereby deemed unlawful and a public nuisance.

4.130.120. Each Violation a Separate Offense.

Every violation of this Chapter 4.130 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 4.130 shall be subject to injunctive relief, with any Permit issued pursuant to this Chapter 4.130 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 Permittee, or persons related to, or associated with, the Permittee. 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 Permit, and close down the Commercial Cannabis Facility pending a hearing before the City Hearing Officer.

4.130.130. Criminal Penalties.

Every violation of the provisions of this Chapter 4.130 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.

4.130.140. 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 5. 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 or Section 11018.5 of the State Health & Safety Code.

"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, or drug, as defined by Section 109925 of the State Health & Safety Code.

"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 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.

“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 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.

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 6. Section 18.08.030 (Uses) of Chapter 18.08 (Commercial Zones) of the City Municipal Code is hereby amended by the addition of the following land use to table 8-A (Primary Uses: Commercial Zones) within Section 18.08.030:

	C-NC	C-R	C-G	O-L	CNE	Special Provisions
Non-Residential Classes of Uses						
Retail Sales – Cannabis	P	P	P	P	P	

SECTION 7. Section 18.10.030 (Uses) of Chapter 18.10 (Industrial Zone) of the City Municipal Code is hereby amended by the addition of the following land use to table 10-A (Primary Uses: Industrial Zone) within Section 18.08.030:

	I	Special Provisions
Non-Residential Classes of Uses		
Retail Sales – Cannabis	P	

SECTION 8. Categorically 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 and the holding by the State Supreme Court in *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029. Further, the People of the City find that pursuant to 18.08.030 of Chapter 18.08 and Section 18.10.030 of Chapter 18.10 of the City Municipal Code as codified by this Measure, 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 9. 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 10. 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 11. 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 12. 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 13. 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.