28. 24-52772 Recommendation to approve ordinance amendment to Section 3.80.261 of the Long Beach Municipal Code (LBMC) to reduce the cannabis cultivation tax rate and adult-use retail tax rate and add provisions for the Pilot Tax Credit Program, read for the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

Office or Department:

Suggested Action: Approve recommendation.

CITY OF LONG BEACH

Office of the City Manager
411 West Ocean Boulevard, 10th Floor, Long Beach, CA 90802
(562) 570-6711

28

April 9, 2024

Honorable Mayor and City Council
City of Long Beach
California

RECOMMENDATION:

Recommendation to approve ordinance amendment to Section 3.80.261 of the Long Beach Municipal Code (LBMC) to reduce the cannabis cultivation tax rate and adult-use retail tax rate and add provisions for the Pilot Tax Credit Program. (Citywide)

DISCUSSION

On January 23, 2024, the City Council received a presentation from staff on the proposed Cannabis Tax Relief Plan that will include a one percent tax reduction (or equivalent) for cultivation and adult-use retail businesses and Pilot Tax Credit Program. Following the staff presentation, public comment, and City Council discussions, the City Council passed a motion to amend the Pilot Tax Credit Program eligibility criteria as follows:

- Reduce the Local Hiring criterion from 50 percent to 40 percent to align with the existing equity employee requirement as stated in Section 5.92.1660; and,
- Remove the part-time employees wage requirement under the Workforce Quality of Life criterion and, instead, set the wage requirement for all employees at 110 percent (or above) the state minimum wage, with 80 percent of employees receiving 115 percent (or above) the state minimum wage.

The updated Pilot Tax Credit Program chart is found in Attachment A.

In addition, the City Council motion requested staff to provide clarification on the requirement for businesses to be up to date with local cannabis taxes as part of their eligibility for the aforementioned tax relief. A business interested in applying for Pilot Tax Credit Program must be in good standing with local and state cannabis regulations to be eligible to apply for the three percent tax credit. The timeline for business eligibility is dependent on their good standing status. For example, businesses who are currently in “bad standing” due to delinquent taxes may become eligible in the future to receive a tax credit, upon payment of the delinquent taxes in full. In contrast, the one percent tax reduction will apply to all cultivation and adult-use cannabis businesses regardless of their good standing status. A reduced tax rate cannot be based on good standing status, as it is subject to change at any time.

The tax compliance and enforcement actions being administered by the Department of Financial Management, Business Services Bureau, are separate and parallel processes to the tax relief program. To operate legally in Long Beach, all cannabis businesses must be in compliance with Section 3.80.261 of the LBMC, Chapter 5.90 and 5.92, and other related

cannabis regulations (local and state). Specific to tax compliance, the Department of Financial Management has increased enforcement and collection efforts to address the estimated outstanding $8.5 million in unpaid cannabis taxes owed to the City, accumulated since 2020, particularly during the period of deferred payments permitted during the pandemic. A timeline of tax enforcement operations is found in Table 1 below.

Table 1: Cannabis Tax Enforcement Operations

Date	Action
August 21, 2023	Email notification sent to businesses regarding delinquent balances.
October 23, 2023	Email notification sent to businesses with expired licenses requiring delinquent balances to be paid in full in order to renew license.
January 3, 2024	Certified mail letter sent to businesses with delinquent accounts stating balance and reporting status and payment plan offer.
February 16, 2024	Payment demand letter sent via certified mail to businesses requesting to pay delinquent balances in full or enter into a payment plan by March 18, 2024. Failure to take any action by deadline will result in license suspension.

It is important to note that continuous verbal communication has taken place prior to and during the aforementioned enforcement actions as part of regular tax collection operations and field interactions with businesses. Businesses that are out of compliance can work with the Business Services Bureau to pay their delinquent balances to enter into a payment plan. Outreach to businesses will continue in an effort to gain compliance.

TIMING CONSIDERATIONS

City Council action is requested on April 9, 2024, to ensure timely implementation of the Cannabis Tax Relief Plan.

FISCAL IMPACT

The Adopted FY 24 Budget included a projected impact on the General Fund structural shortfall of $3,060,000, due to the proposed tax relief plan. This impact is comprised of a $1,080,000 budgeted revenue decrease from the one percent tax rate reduction and a cost of $1,980,000 for the Pilot Tax Credit Program. The FY 24 Measure MA revenues are budgeted at $10,920,000, including an appropriation of $1.98 million in the FY 24 Budget that will be used to rebate funds back to eligible businesses. This projected structural impact will be offset on a one-time basis with previously set-aside Measure MA revenues and other reserves. The potential structural ongoing impact in the outyears (FY 25 and beyond), inclusive of potential impacts from increased collection efforts, will be evaluated and addressed as part of future budget development processes. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

Thomas B. Modica
City Manager

ATTACHMENTS: ORDINANCE
A - PILOT TAX CREDIT PROGRAM CHART

Proposed Pilot Tax Credit Program

Good Standing Requirements	
• Be compliant with the regulations set by Section 3.80.261 of the LBMC and California Department of Tax and Fee Administration (CDTFA), and cannot have outstanding taxes and fees for any cannabis license associated with the business	
• Be complaint with the regulations set in Chapter 5.90 and Chapter 5.92 of the LBMC and cannot have pending enforcement action(s) for any cannabis license associated with the business	
• Be compliant with the regulations set by the Department of Cannabis Control, including the issuance of an active provisional or annual state license	
Eligibility Criteria	
Local Hiring	• 40% of employees reside within Long Beach
Workforce Quality of Life	• Employees receive wages set at 110% (or above) of the state minimum wage • 80% of employees receive wages set at 115% (or above) of the state minimum wage
Training	• Proof of participation in a High Road Training Partnership
Equity Business Support	At least 1 of the following: • 15% of shelf space reserved for cannabis goods cultivated, manufactured, or delivered by an equity business • Provide 50 hours of incubation support per year to equity businesses

3.80.261 Marijuana Businesses.

A. Definitions. For purposes of this Section, the following terms shall be defined as follows:

1. "Equity Business" means a cannabis business where a minimum of fifty-one percent (51%) ownership in the cannabis business is held by one equity applicant or, if the cannabis business will be held by a group of applicants in the Equity Program, any one (1) of the equity applicants must hold majority ownership interest in the cannabis business.

2. "Gross Receipts" shall mean any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration including any monetary consideration for marijuana whatsoever, including, but not limited to, membership dues, reimbursements or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation, processing, storage, delivery or provision of marijuana or any transaction related thereto. The term "Gross Receipts" shall also include the total amount of the sale price of all sales, the total amount charged or received for the performance of any act, service or employment of whatever nature it may be, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise, for which a charge is made or credit allowed, including all refunds, cash credits and properties of any amount or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom, on account of the cost of the property sold, the cost of materials used, the labor or service cost, interest paid or payable, losses, or any other expense whatsoever; provided that cash discounts allowed or payment on sales shall not be included. "Gross Receipts" shall not include the amount of any federal tax imposed on or with respect to retail sales whether imposed upon the retailer or the consumer and regardless of whether or not the amount of federal tax is stated to customers as a separate charge, or any California state, city or city and county sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part payment on any property so accepted for resale. "Gross Receipts" shall be calculated without any deduction on account of any of the following:

   a. The cost of tangible property sold or bartered;

   b. The cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or

   c. The cost of transportation of the marijuana, or other property or product.

3. "Income Tax Exempt Non-Profit Organization" shall mean any association, corporation or other entity that is exempt from taxation measured by income or gross receipts under Article XIII, Section 26 of the California Constitution.

4. "Marijuana" shall mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin; whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana. "Marijuana" also means the term as defined in California Health and Safety Code Section 11018 and is not limited to medical marijuana.

5. "Marijuana Business" shall mean any business, whether operating for-profit or not-for-profit, which performs any of the following activities: marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing. "Marijuana Business" includes both a Medical Marijuana

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

6. "Marijuana Cultivation" shall mean the seeding, planting, watering, warming, cooling, growing, cultivating, harvesting, drying, curing, grading or trimming of marijuana.

7. "Marijuana Delivery" shall mean the commercial transfer of marijuana or marijuana products from a marijuana business to a retail or wholesale customer.

8. "Marijuana Distribution" or "Marijuana Transport" shall mean any activity involving the commercial procurement, sale, transfer and/or transport of marijuana and marijuana products from one Marijuana Business to another Marijuana Business for purposes authorized pursuant to state law or the Long Beach Municipal Code.

9. "Marijuana Processing" shall mean any activity involving the manufacturing, production, preparation, propagation, processing, converting, or compounding of raw marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels, packages or relabels its container.

10. "Marijuana Product" shall mean marijuana that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Marijuana Product" also means marijuana products as defined by California Health and Safety Code Section 11018.1 and is not limited to medical marijuana products.

11. "Marijuana Retail Sale" shall mean any activity involving the retail sale to customers of marijuana, marijuana products, or devices for the use of marijuana or marijuana products, either individually or in any combination, including marijuana delivery as part of a retail sale.

12. "Marijuana Testing" means any activity involving the testing of marijuana or marijuana products by a facility that is both of the following:

    a. Accredited by an accrediting body that is independent from all other persons involved in the marijuana industry in the state; and

    b. Registered with the California State Department of Public Health.

13. "Medical Marijuana Business" shall mean any Marijuana Business which performs marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing, for the ultimate consumption or use of marijuana by qualified patients in accordance with California Health and Safety Code Sections 11362.5 et seq., the California Medical Marijuana Regulation and Safety Act ("MMRSA"), and any other State law authorizing activities related to the medical use of marijuana.

14. "Non-Medical Marijuana Business" shall mean any business which performs marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing, for any other purpose than as a Medical Marijuana Business.

15. "Personal Medical Marijuana Cultivation" means cultivation by a qualified patient who cultivates one hundred (100) square feet total canopy area or less of marijuana exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute marijuana to any other person. "Personal Medical Marijuana Cultivation" also includes cultivation by a primary caregiver who cultivates one hundred (100) square feet total canopy area or less of marijuana exclusively for the personal medical purposes of no more than five (5) specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for

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

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

B. Business License Tax.

1. Every Marijuana Business whether organized as not-for-profit or for-profit, shall pay a business license tax in accordance with Chapter 3.80 of this Code and this Section.

2. For the purposes of this Section, a Marijuana Business is considered to be a business as that term is defined in Long Beach Municipal Code Section 3.80.133.

3. For the purposes of this Section, a Marijuana Business is not considered to be a religious or charitable organization as defined in Long Beach Municipal Code Section 3.80.320 (Exemption - Religious and charitable organizations).

4. The business tax set forth in this section is a general tax, the revenues from which shall be deposited into the City's general fund and may be expended for any valid public purpose of the City.

C. Business License Tax Rates.

1. Every medical marijuana business engaged in marijuana retail sale or delivery within the City shall pay a business tax at a rate of up to eight percent (8%) of gross receipts, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax shall be initially set at a rate of six percent (6%). The tax under this paragraph shall not be increased on medical marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed eight percent (8%) of gross receipts.

2. Every non-medical marijuana business engaged in marijuana retail sale or delivery within the City shall pay a business tax at a rate of up to twelve percent (12%) of gross receipts, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax which ~~shall be initially~~was initially set at a rate of eight percent (8%) is reduced and set at a rate of seven percent (7%). The tax under this paragraph shall not be increased on non-medical marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed twelve percent (12%) of gross receipts.

3. If a marijuana business is engaged in retail sales or delivery of both medical marijuana and a non-medical marijuana, it shall pay the business tax set forth in paragraph C.2., unless the marijuana business identifies to the City, by reasonable and verifiable standards, the portions of its retail sales activities that are tied to medical marijuana and those that are tied to non-medical marijuana, through the marijuana business' books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not specifically created and maintained for tax purposes. The marijuana business has the burden of proving the proper apportionment of taxes under this paragraph C.3.

4. Every marijuana business, whether medical or non-medical, that is engaged in marijuana distribution, transport, processing, or testing within the City, shall pay business tax at a rate of up to eight percent (8%) of gross receipts. The tax which was initially set at a rate of six percent (6%), is reduced and set at a rate of one percent (1%). The tax under this section shall not be increased on marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed eight

percent (8%) of gross receipts. If a marijuana business that is engaged in marijuana distribution, transport, processing, or testing, is also engaged in marijuana retail sale or delivery of the same marijuana and marijuana products, then it shall pay the business taxes set forth in paragraphs C.1. or C.2., as applicable, for retail sale or delivery of any marijuana or marijuana products and is not required to pay the business taxes set forth in this paragraph for marijuana distribution, transport, processing, or testing for the same marijuana and marijuana products. The marijuana business has the burden of proving that the marijuana or marijuana products involved in distribution, transport, processing, or testing are the same.

5. In addition to the taxes set forth in paragraphs C.1., C.2., and C.4., every marijuana business, whether medical or non-medical, engaged in marijuana cultivation shall pay a tax of up to fifteen dollars ($15.00) per square foot under cultivation, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax which was~~shall~~ initially ~~be~~ set at a rate of twelve dollars ($12.00) per square foot under cultivation and increased to fourteen dollars and ninety-six cents ($14.96) per the annual adjustment as stipulated in paragraph E., is set to thirteen dollars and nine cents ($13.09).~~.~~ The City Council may by ordinance increase any such tax rate from time to time, not to exceed the maximum tax rate of fifteen dollars ($15.00) per square foot under cultivation.

6. Notwithstanding the maximum tax rates imposed in paragraphs C.1., C.2., C.4. and C.5., the City Council may in its discretion at any time by ordinance implement a lower tax rate, as defined in such ordinance, subject to the maximum rates set forth in C.1., C.2., C.4. and C.5. City Council may subsequently in its discretion, at any time by ordinance implement a higher tax rate, subject to the maximum rates set forth in C.1., C.2., C.4. and C.5., and such increase does not constitute a tax increase for which voter approval is required Article XIII C of the California Constitution.

7. All marijuana businesses shall pay a minimum tax of one thousand dollars ($1,000.00) annually.

D. Modification, Repeal or Amendment. The City Council may repeal the ordinance codified in this Section, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. If the City Council repeals said ordinance or any provision of this Section, it may subsequently reenact it without voter approval, as long as the reenacted ordinance or Section does not result in an increase in the tax or taxes beyond the maximum rate or methodology imposed herein.

E. Annual Adjustment. The taxes imposed by paragraph C.5 shall be adjusted annually by the Director of Financial Management. Beginning on October 1, 2018, and on October 1 of each succeeding year thereafter, the amount of each tax imposed by paragraph C.5 shall be adjusted equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the Los Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics; however no adjustment shall decrease any tax imposed by paragraph C.5. For the purposes of calculating the annual adjustment factor under paragraph C.5, the base year shall be that year ending with December 31, 2016. Rates shall next be adjusted on October 1, 2018, and annually thereafter, based on the annually calculated change from the base year. The October 1, 2018, adjustment shall be the change in the average CPI for the year ending December 31, 2017, compared to the base year ending December 31, 2016.

F. Pilot Tax Credit Program. Every medical and non-medical marijuana business engaged in cultivation and non-medical marijuana business engaged in retail sale or delivery, is eligible to apply for the Pilot Tax Credit Program to receive a tax credit of 3%, upon meeting the good standing requirements and eligibility criteria set by the City Council. Under no circumstances may a tax credit result in tax at a rate less than two percent (2%).

G~~F~~. Administration. The City Manager, or designee, and/or the City Council by ordinance, may promulgate regulations to implement and administer this Section including, but not limited to regulations allowing

Marijuana Businesses to report and or remit taxes more or less frequently than monthly. The City Manager shall provide no less than annually a report to the City Council detailing annual expenditures.

HG. Reporting and Remittance. In order to aid in the City's collection of taxes due under this Section and to ensure that all Marijuana Businesses are taxed consistently to the best of the City's ability, beginning as set forth in Section K, below, and monthly thereafter, each Marijuana Business shall report to the City any Gross Receipts received during the reporting period and shall likewise remit to the City the taxes due and owing during said period. For purposes of this Section, taxes shall begin to accrue on the date that a person or entity first receives a business license or other permit to operate as a Marijuana Business or Cultivation Site. Square Footage payments shall be made annually at the beginning of the calendar year and should be based on the square footage that the marijuana business is authorized to cultivate by either a City permit or license, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage, pro-rated based on the number of months of operation.

IH. Delinquent date—Penalties. Any individual or entity who fails to pay the taxes required by this Section within thirty (30) days after the due date shall pay in addition to the taxes a penalty for nonpayment in a sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid; up to a maximum of one hundred percent (100%) of the tax payable on the due date. Receipt of the tax payment in the office shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

JI. Records Inspection. Whenever it is necessary to examine any books or records, including tax returns, of any Marijuana Business or Cultivation Site in the City to ascertain the amount of any tax due pursuant to this Section, the City shall have the power and authority to examine such necessary books and records at any reasonable time including, but not limited to, during normal business hours. Records must be maintained for no less than seven (7) years.

KJ. Suspension, Revocation and Appeal. The provisions of Sections 3.80.429.1 (Suspension or Revocation) and 3.80.429.5 (Appeal of License Revocation) shall apply in the case of Marijuana Businesses or Cultivation Sites governed by this Section.

LK. Application of Provisions. No business license permit issued under the provisions of this Code, or the payment of any tax required under the provisions of this Code shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Section implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed by California and federal law. Nothing in this Section shall be applied or construed as authorizing the sale of marijuana.

ML. Operative Date. This ordinance establishing a marijuana business tax shall only become operative: 1) if Chapter 5.89 of the Long Beach Municipal Code (banning marijuana businesses in the City of Long Beach) is repealed; and 2) if a regulatory scheme to permit marijuana businesses within the City is adopted. The tax shall become effective on the effective date of the regulatory ordinance as provided by law.

(ORD-23-0032 §§ 1, 2, 2023; ORD-20-0001 § 1, 2020; Measure MA § 2, 11-8-2016; Measure MM § 2, 11-6-2016; Measure A , 4-8-2014, eff. 5-23-2014)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING SECTION 3.80.261 TO REDUCE THE CANNABIS CULTIVATION TAX RATE AND ADULT-USE CANNABIS RETAIL TAX RATE ADD THE PILOT TAX CREDIT PROGRAM PROVISIONS

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 3.80.261. of the Long Beach Municipal Code is amended to read as follows:

3.80.261 Marijuana Businesses.

A. Definitions. For purposes of this Section, the following terms shall be defined as follows:

1. "Equity Business" means a cannabis business where a minimum of fifty-one percent (51%) ownership in the cannabis business is held by one equity applicant or, if the cannabis business will be held by a group of applicants in the Equity Program, any one (1) of the equity applicants must hold majority ownership interest in the cannabis business.

2. "Gross Receipts" shall mean any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration including any monetary consideration for marijuana whatsoever, including, but not limited to, membership dues, reimbursements or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation, processing, storage, delivery or provision of marijuana or any transaction related thereto. The term "Gross Receipts" shall also include the total amount of the sale price of all sales, the total amount

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charged or received for the performance of any act, service or employment of whatever nature it may be, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise, for which a charge is made or credit allowed, including all refunds, cash credits and properties of any amount or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom, on account of the cost of the property sold, the cost of materials used, the labor or service cost, interest paid or payable, losses, or any other expense whatsoever; provided that cash discounts allowed or payment on sales shall not be included. "Gross Receipts" shall not include the amount of any federal tax imposed on or with respect to retail sales whether imposed upon the retailer or the consumer and regardless of whether or not the amount of federal tax is stated to customers as a separate charge, or any California state, city or city and county sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part payment on any property so accepted for resale. "Gross Receipts" shall be calculated without any deduction on account of any of the following:

a. The cost of tangible property sold or bartered;

b. The cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or

c. The cost of transportation of the marijuana, or other property or product.

3. "Income Tax Exempt Non-Profit Organization" shall mean any association, corporation or other entity that is exempt from

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taxation measured by income or gross receipts under Article XIII, Section 26 of the California Constitution.

4. "Marijuana" shall mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin; whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana. "Marijuana" also means the term as defined in California Health and Safety Code Section 11018 and is not limited to medical marijuana.

5. "Marijuana Business" shall mean any business, whether operating for-profit or not-for-profit, which performs any of the following activities: marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing. "Marijuana Business" includes both a Medical Marijuana Business and Non-Medical Marijuana Business. "Marijuana Business" does not include personal medical marijuana cultivation that is specifically permitted by state law or the Long Beach Municipal Code.

6. "Marijuana Cultivation" shall mean the seeding, planting, watering, warming, cooling, growing, cultivating, harvesting, drying, curing, grading or trimming of marijuana.

7. "Marijuana Delivery" shall mean the commercial transfer of marijuana or marijuana products from a marijuana business to a retail or wholesale customer.

8. "Marijuana Distribution" or "Marijuana Transport" shall mean any activity involving the commercial procurement, sale, transfer

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and/or transport of marijuana and marijuana products from one Marijuana Business to another Marijuana Business for purposes authorized pursuant to state law or the Long Beach Municipal Code.

9. "Marijuana Processing" shall mean any activity involving the manufacturing, production, preparation, propagation, processing, converting, or compounding of raw marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels, packages or relabels its container.

10. "Marijuana Product" shall mean marijuana that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Marijuana Product" also means marijuana products as defined by California Health and Safety Code Section 11018.1 and is not limited to medical marijuana products.

11. "Marijuana Retail Sale" shall mean any activity involving the retail sale to customers of marijuana, marijuana products, or devices for the use of marijuana or marijuana products, either individually or in any combination, including marijuana delivery as part of a retail sale.

12. "Marijuana Testing" means any activity involving the testing of marijuana or marijuana products by a facility that is both of the following:

a. Accredited by an accrediting body that is independent from all other persons involved in the marijuana industry in the state; and

b. Registered with the California State Department of Public Health.

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13. "Medical Marijuana Business" shall mean any Marijuana Business which performs marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing, for the ultimate consumption or use of marijuana by qualified patients in accordance with California Health and Safety Code Sections 11362.5 et seq., the California Medical Marijuana Regulation and Safety Act ("MMRSA"), and any other State law authorizing activities related to the medical use of marijuana.

14. "Non-Medical Marijuana Business" shall mean any business which performs marijuana cultivation, delivering, distribution, processing, transporting, dispensing, selling at retail or wholesale, manufacturing, compounding, converting, preparing, storing, packaging, or testing, for any other purpose than as a Medical Marijuana Business.

15. "Personal Medical Marijuana Cultivation" means cultivation by a qualified patient who cultivates one hundred (100) square feet total canopy area or less of marijuana exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute marijuana to any other person. "Personal Medical Marijuana Cultivation" also includes cultivation by a primary caregiver who cultivates one hundred (100) square feet total canopy area or less of marijuana exclusively for the personal medical purposes of no more than five (5) specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code Section 11362.765(c), as it may be amended.

16. "Square Foot under Cultivation" or "Square Footage under Cultivation" shall mean the actual amount of canopy (measured by

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the aggregate area of vegetative growth of live marijuana plants on the premises including the area occupied by vertically and horizontally stacked canopies) that is limited by the maximum amount a marijuana business is authorized to cultivate by either a City permit or license, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage.

B. Business License Tax.

1. Every Marijuana Business whether organized as not-for-profit or for-profit, shall pay a business license tax in accordance with Chapter 3.80 of this Code and this Section.

2. For the purposes of this Section, a Marijuana Business is considered to be a business as that term is defined in Long Beach Municipal Code Section 3.80.133.

3. For the purposes of this Section, a Marijuana Business is not considered to be a religious or charitable organization as defined in Long Beach Municipal Code Section 3.80.320 (Exemption - Religious and charitable organizations).

4. The business tax set forth in this section is a general tax, the revenues from which shall be deposited into the City's general fund and may be expended for any valid public purpose of the City.

C. Business License Tax Rates.

1. Every medical marijuana business engaged in marijuana retail sale or delivery within the City shall pay a business tax at a rate of up to eight percent (8%) of gross receipts, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax shall be initially set at a rate of six percent (6%). The tax under this paragraph shall not be increased on medical marijuana businesses unless and until the City

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Council by ordinance takes action, and the tax rate shall not exceed eight percent (8%) of gross receipts.

2. Every non-medical marijuana business engaged in marijuana retail sale or delivery within the City shall pay a business tax at a rate of up to twelve percent (12%) of gross receipts, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax which was initially set at a rate of eight percent (8%) is reduced and set at a rate of seven percent (7%). The tax under this paragraph shall not be increased on non-medical marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed twelve percent (12%) of gross receipts.

3. If a marijuana business is engaged in retail sales or delivery of both medical marijuana and a non-medical marijuana, it shall pay the business tax set forth in paragraph C.2., unless the marijuana business identifies to the City, by reasonable and verifiable standards, the portions of its retail sales activities that are tied to medical marijuana and those that are tied to non-medical marijuana, through the marijuana business' books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not specifically created and maintained for tax purposes. The marijuana business has the burden of proving the proper apportionment of taxes under this paragraph C.3.

4. Every marijuana business, whether medical or non-medical, that is engaged in marijuana distribution, transport, processing, or testing within the City, shall pay business tax at a rate of up to eight percent (8%) of gross receipts. The tax which was initially set at a rate of six percent (6%), is reduced and set at a rate of one percent (1%). The tax under this

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DAWN MCINTOSH, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

section shall not be increased on marijuana businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed eight percent (8%) of gross receipts. If a marijuana business that is engaged in marijuana distribution, transport, processing, or testing, is also engaged in marijuana retail sale or delivery of the same marijuana and marijuana products, then it shall pay the business taxes set forth in paragraphs C.1. or C.2., as applicable, for retail sale or delivery of any marijuana or marijuana products and is not required to pay the business taxes set forth in this paragraph for marijuana distribution, transport, processing, or testing for the same marijuana and marijuana products. The marijuana business has the burden of proving that the marijuana or marijuana products involved in distribution, transport, processing, or testing are the same.

5. In addition to the taxes set forth in paragraphs C.1., C.2., and C.4., every marijuana business, whether medical or non-medical, engaged in marijuana cultivation shall pay a tax of up to fifteen dollars ($15.00) per square foot under cultivation, except equity businesses who meet the eligibility criteria as stated in Section 5.92.1615, shall pay a business tax at half the rate set for non-equity businesses. The tax which was initially set at a rate of twelve dollars ($12.00) per square foot under cultivation and increased to fourteen dollars and ninety-six cents ($14.96) per annual adjustment as stipulated in paragraph E., is set to thirteen dollars and nine cents ($13.09). The City Council may be ordinance increase any such tax rate from time to time, not to exceed the maximum tax rate of fifteen dollars ($15.00) per square foot under cultivation.

6. Notwithstanding the maximum tax rates imposed in paragraphs C.1., C.2., C.4. and C.5., the City Council may in its discretion at any time by ordinance implement a lower tax rate, as defined in such

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ordinance, subject to the maximum rates set forth in C.1., C.2., C.4. and C.5. City Council may subsequently in its discretion, at any time by ordinance implement a higher tax rate, subject to the maximum rates set forth in C.1., C.2., C.4. and C.5., and such increase does not constitute a tax increase for which voter approval is required Article XIII C of the California Constitution.

7. All marijuana businesses shall pay a minimum tax of one thousand dollars ($1,000.00) annually.

D. Modification, Repeal or Amendment. The City Council may repeal the ordinance codified in this Section, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. If the City Council repeals said ordinance or any provision of this Section, it may subsequently reenact it without voter approval, as long as the reenacted ordinance or Section does not result in an increase in the tax or taxes beyond the maximum rate or methodology imposed herein.

E. Annual Adjustment. The taxes imposed by paragraph C.5 shall be adjusted annually by the Director of Financial Management. Beginning on October 1, 2018, and on October 1 of each succeeding year thereafter, the amount of each tax imposed by paragraph C.5 shall be adjusted equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the Los Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics; however no adjustment shall decrease any tax imposed by paragraph C.5. For the purposes of calculating the annual adjustment factor under paragraph C.5, the base year shall be that year ending with December 31, 2016. Rates shall next be adjusted on October 1, 2018, and annually thereafter, based on the

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annually calculated change from the base year. The October 1, 2018, adjustment shall be the change in the average CPI for the year ending December 31, 2017, compared to the base year ending December 31, 2016.

F. Pilot Tax Program. Every medical and non-medical marijuana business engaged in cultivation and non-medical marijuana business engaged in retail sale or delivery, is eligible to apply for the Pilot Tax Credit Program to receive a tax credit of 3% upon, meeting the good standing requirements and eligibility criteria set by City Council. Under no circumstances may a tax credit result in tax at a rate less than two percent (2%).

G. Administration. The City Manager, or designee, and/or the City Council by ordinance, may promulgate regulations to implement and administer this Section including, but not limited to regulations allowing Marijuana Businesses to report and or remit taxes more or less frequently than monthly. The City Manager shall provide no less than annually a report to the City Council detailing annual expenditures.

H. Reporting and Remittance. In order to aid in the City's collection of taxes due under this Section and to ensure that all Marijuana Businesses are taxed consistently to the best of the City's ability, beginning as set forth in Section K, below, and monthly thereafter, each Marijuana Business shall report to the City any Gross Receipts received during the reporting period and shall likewise remit to the City the taxes due and owing during said period. For purposes of this Section, taxes shall begin to accrue on the date that a person or entity first receives a business license or other permit to operate as a Marijuana Business or Cultivation Site. Square Footage payments shall be made annually at the beginning of the calendar year and should be based on the square footage that the marijuana

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DAWN MCINTOSH, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

business is authorized to cultivate by either a City permit or license, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage, pro-rated based on the number of months of operation.

I. Delinquent date—Penalties. Any individual or entity who fails to pay the taxes required by this Section within thirty (30) days after the due date shall pay in addition to the taxes a penalty for nonpayment in a sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid; up to a maximum of one hundred percent (100%) of the tax payable on the due date. Receipt of the tax payment in the office shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

J. Records Inspection. Whenever it is necessary to examine any books or records, including tax returns, of any Marijuana Business or Cultivation Site in the City to ascertain the amount of any tax due pursuant to this Section, the City shall have the power and authority to examine such necessary books and records at any reasonable time including, but not limited to, during normal business hours. Records must be maintained for no less than seven (7) years.

K. Suspension, Revocation and Appeal. The provisions of Sections 3.80.429.1 (Suspension or Revocation) and 3.80.429.5 (Appeal of License Revocation) shall apply in the case of Marijuana Businesses or Cultivation Sites governed by this Section.

L. Application of Provisions. No business license permit issued under the provisions of this Code, or the payment of any tax required under

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411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

the provisions of this Code shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Section implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed by California and federal law. Nothing in this Section shall be applied or construed as authorizing the sale of marijuana.

M. Operative Date. This ordinance establishing a marijuana business tax shall only become operative: 1) if Chapter 5.89 of the Long Beach Municipal Code (banning marijuana businesses in the City of Long Beach) is repealed; and 2) if a regulatory scheme to permit marijuana businesses within the City is adopted. The tax shall become effective on the effective date of the regulatory ordinance as provided by law.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20____, by the following vote:

Ayes: Councilmembers: _____

_____

_____

_____

Noes: Councilmembers: _____

_____

Absent: Councilmembers: _____

_____

Recusal(s): Councilmembers: _____

_____

_____

City Clerk

Approved: _____ _____

(Date) Mayor

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