REQUEST FOR COUNCIL ACTION

CITY COUNCIL MEETING DATE:
OCTOBER 17, 2017

TITLE:
PUBLIC HEARING – ORDINANCE AMENDMENT NO. 2017-03 TO CREATE CHAPTER 40 IN THE SANTA ANA MUNICIPAL CODE (COMMERCIAL CANNABIS EXCEPTING MEDICINAL RETAIL) {STRATEGIC PLAN NOS. 3, 2, 3, 5, 4, 3}

CLERK OF COUNCIL USE ONLY:

APPROVED
☐ As Recommended
☐ As Amended
☐ Ordinance on 1st Reading
☐ Ordinance on 2nd Reading
☐ Implementing Resolution
☐ Set Public Hearing For

CONTINUED TO

FILE NUMBER

RECOMMENDED ACTION

Adopt an ordinance approving Ordinance Amendment No. 2017-03 creating Chapter 40 in the Santa Ana Municipal Code (Commercial Cannabis Excepting Medicinal Retail). Chapter 40 will regulate adult use retail sales and expand cannabis commercial activities in Santa Ana to include in-door cultivation, distribution, manufacturing and testing.

PUBLIC SAFETY, CODE ENFORCEMENT AND NEIGHBORHOOD EMPOWERMENT COUNCIL COMMITTEE

At the Special Public Safety, Code Enforcement and Neighborhood Empowerment meeting on October 10, 2017, the Committee approved by a vote of 2-1 the draft Ordinance with the following recommendations: 1) add a provision requiring labor peace agreements for businesses with more than two employees, and 2) staff to further review the use of volatile solvents consistent with current permitted manufacturing activities.

BACKGROUND

Legislative Framework

On November 4, 2014, Santa Ana voters approved Santa Ana’s Medical Marijuana Regulatory Program ordinance (“Measure BB”) which was codified in sections of chapters 18 and 21 of the Santa Ana Municipal Code (SAMC). Following the adoption of Measure BB, the City established an implementation plan, enforcement program, administrative policies, and best practices. Since then, 16 of the 20 permitted medical marijuana collectives/cooperatives have opened retail dispensaries where medical marijuana is dispensed.

In November 2016, the majority of voters in California (57%) and Orange County and (52%) in Santa Ana approved Proposition 64, the California marijuana legalization initiative, also known as
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the Adult Use of Marijuana Act (AUMA). The AUMA immediately legalized the possession, use, and cultivation of up to six mature cannabis plants at a residence for personal use. Following Proposition 64's passage, the California legislature adopted SB 94 which merged and streamlined many of the standards and license types for medicinal- and adult-use cannabis. Both Proposition 64 and SB 94 provide for the following types of commercial cannabis activities:

- Testing
- Manufacturing/Processing
- Distribution (Wholesale)
- Cultivation
- Retail
- Microbusiness

Significance and Enforcement Background

Local jurisdictions such as the City of Santa Ana must adopt an ordinance to establish a regulatory framework for cannabis related activities. If the City fails to adopt an ordinance on commercial cannabis activities by January 1, 2018, the City could lose control over local land decisions and commercial cannabis businesses may be able to operate legally.

The City of Santa Ana and its community have benefited from the successes brought by Measure BB. Through Measure BB, the City has been able to responsibly allow and regulate the medicinal cannabis retail industry. Measure BB has generated significant revenue through gross receipts taxes that have funded enforcement efforts by the Santa Ana Police Department, Code Enforcement, the City Attorney's Office, and the Finance & Management Services Agency. Of the roughly 120 illegal dispensaries open prior to Measure BB, 85 percent were successfully shutdown and additional properties are in receivership in an effort to close outstanding illegal operators. The ordinance under consideration will allow the City to continue its success of responsibly allowing and regulating additional commercial cannabis business activities in industrial areas.

DESCRIPTION

Following analysis of the impacts of Proposition 64 and SB 94 on Santa Ana, in September 2017, the City embarked on an extensive outreach campaign to respond to community questions and concerns surrounding the passage of Proposition 64 and to solicit input prior to drafting this ordinance. Commercial Cannabis was added as a topic of discussion in eight Neighborhood Association meeting agendas; staff attended these meetings and met with approximately 180 residents.

The feedback and input shared at these meetings varied from supporting expanded cannabis uses to opposition; those opposed to commercial cannabis were against all types (medicinal and adult-use). The majority of those in support were for both medicinal and adult-use activities. All groups raised questions regarding the potential impact of commercial cannabis activity. Also, the groups supported maintaining commercial cannabis activities in industrial zones.
In addition, the City met with the Santa Ana Chamber of Commerce, Com-Link Executive Board, Com-Link general meeting, and the Santa Ana Cannabis Association (SACA). Both SACA and the Chamber of Commerce were supportive of additional commercial cannabis activities, although some members of the Chamber of Commerce expressed concerns over the impacts of additional uses on real estate values both positively or negatively. Moreover, Com-Link Executive Board and general meeting members questioned how other cities in Orange County are addressing Proposition 64/commercial cannabis activity, impacts on minors, the potential positive impacts for the local jobs market and additional revenue opportunities.

Individuals attending the outreach meetings received an informational flyer prepared by the City. The flyer provided background on Proposition 64, why the City was required to take some action prior to January 1, 2018, the options available for City consideration and related impacts. Further, the flyer provided the name and contact information of Planning & Building staff so the community could directly provide feedback.

Additionally, staff prepared a presentation at the Public Safety, Code Enforcement and Neighborhood Empowerment Council Committee meetings on May 9, July 11, October 2 and October 10 to discuss adult use and commercial cannabis. Based on the feedback received from various neighborhood/stakeholder groups and recommendations received from the Public Safety, Code Enforcement and Neighborhood Empowerment Council Committee, staff prepared a draft ordinance that responds to the City and community needs.

On October 10th, the Public Safety, Code Enforcement and Neighborhood Empowerment Council Committee approved the draft ordinance with recommendations. The recommendations include: 1) adding a provision requiring labor peace agreements for businesses with more than two employees, and 2) staff to further review the use of volatile solvents consistent with current permitted manufacturing activities.

The draft ordinance will create a new chapter (Chapter 40) to regulate adult use (retail) and commercial cannabis. Highlights of the Ordinance are provided in Table 2.

<table>
<thead>
<tr>
<th>Topic</th>
<th>New Ordinance Requirements and General Discussion</th>
</tr>
</thead>
</table>
| Permitted Cannabis Uses | Retail Sale – Adult Use  
Testing for quality control purposes – Adult and Medicinal  
Indoor Cultivation – Adult and Medicinal  
Manufacturing  
Distribution  
• Medicinal Use Retail Sales will continue to be regulated by Measure BB  
• All other uses will be regulated through Chapter 40 |
| Prohibited Cannabis Uses| Outdoor Cultivation – Adult and Medicinal  
Microbusinesses – Adult and Medicinal                                                                                           |
### Topic: Permitted Zoning Districts

<table>
<thead>
<tr>
<th>New Ordinance Requirements and General Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permitted Zoning Districts</strong></td>
</tr>
<tr>
<td>M-1</td>
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<tr>
<td>M-2</td>
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<tr>
<td>Cannabis Businesses are prohibited in all other zoning districts.</td>
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### Topic: Maximum Number of Permits

<table>
<thead>
<tr>
<th>New Ordinance Requirements and General Discussion</th>
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<tbody>
<tr>
<td><strong>Maximum Number of Permits</strong></td>
</tr>
<tr>
<td>A maximum number of permits will be issued for the various types of licenses.</td>
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<tr>
<td>23 Retail Sale — Adult</td>
</tr>
<tr>
<td>No cap Testing for quality control purposes — Adult and Medicinal</td>
</tr>
<tr>
<td>20 Indoor Cultivation — Adult and Medicinal</td>
</tr>
<tr>
<td>20 Manufacturing</td>
</tr>
<tr>
<td>20 Distribution</td>
</tr>
<tr>
<td>• It is anticipated that a business may hold permits for multiple uses.</td>
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<tr>
<td>• Testing facilities cannot hold any other license.</td>
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<td>• 20 Medicinal Retail permits to continue under Measure BB</td>
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### Topic: Separation Requirements

<table>
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<tr>
<td><strong>Separation Requirements</strong></td>
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<tr>
<td>1,000 feet From schools, parks or existing residential zoning districts</td>
</tr>
<tr>
<td>500 feet Between retail cannabis businesses</td>
</tr>
<tr>
<td>No separation Between non-retail cannabis businesses</td>
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### Topic: Commercial Cannabis Selection Process

<table>
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<tr>
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<tr>
<td><strong>Commercial Cannabis Selection Process</strong></td>
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<tr>
<td>Two Phase Selection Process:</td>
</tr>
<tr>
<td>Phase 1 Registration Application. Applications will be reviewed for eligibility.</td>
</tr>
<tr>
<td>Eligible applications shall be placed on the Regulatory Safety Permit (RSP) Eligibility list.</td>
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<tr>
<td>Phase 2 Regulatory Safety Permit (RSP) Application. RSP applications will be evaluated via a merit based system for the issuance of a RSP.</td>
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### Topic: Enforcement

<table>
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<tr>
<td><strong>Enforcement</strong></td>
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<tr>
<td>The ordinance establishes a framework for inspection to ensure the businesses are operating in compliance with state and local laws including:</td>
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<tr>
<td>Annual audits</td>
</tr>
<tr>
<td>Defining inspection and enforcement responsibilities and violations</td>
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<tr>
<td>Outlining a process for suspension or revocation of Regulatory Safety Permits.</td>
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### Topic: Revenues

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<td><strong>Revenues</strong></td>
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<tr>
<td>Commercial Cannabis businesses shall be subject to the following applicable fees:</td>
</tr>
<tr>
<td>Application Fees — Registration and Regulatory Safety Permit</td>
</tr>
<tr>
<td>Regulatory Safety Permit Renewal Fees</td>
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<tr>
<td>Business License Fee</td>
</tr>
<tr>
<td>In-Lieu Fees</td>
</tr>
<tr>
<td>Taxes — Approved by the voters of the City of Santa Ana</td>
</tr>
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In addition to the provisions set forth in the Ordinance, Staff will develop administrative procedures for the implementation of the Ordinance as well as for the inspection of new cannabis facilities. This will include special handling procedures for cannabis waste byproduct and proper disposal of hazardous materials to protect public health and safety.

Staff recommends the approval of Ordinance Amendment No. 2017-03 to create Chapter 40.
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(commercial cannabis excepting medicinal retail) to regulate adult use retail and in-door
cultivation, distribution, manufacturing and testing of cannabis.

NEXT STEPS

On November 7th, Staff anticipates bringing forward two items for City Council consideration: (1) the criteria that will be used for the merit based system and how RSP applicants will be evaluated, and (2) a template of an In-lieu fee agreement. Staff will also draft revisions to Measure BB to ensure consistency with new State legislation and a recommendation to increase the gross receipts tax rate from 5% to 6%.

STRATEGIC PLAN ALIGNMENT

Approval of this item supports the City's efforts to meet Goal #3 - Economic Development, Objective #2 (create new opportunities for business/job growth and encourage private development through new General Plan and Zoning Ordinance policies), Objective #3 (promote a solutions-based customer focus in all efforts to facilitate development and investment in the community), Objective #5 (leverage private investment that results in tax base expansion and job creation citywide); and Goal #4 - City Financial Stability, Objective #3 (achieve a structurally balanced budget with appropriate reserve levels).

FISCAL IMPACT

Adoption of this ordinance will result in an increase in general fund revenue ranging $9.1 million to $20.25 million dollars per fiscal year. It is recommended that 50% of the new revenue will be dedicated for enforcement efforts and the administration of the program. Staff anticipates bringing forward an appropriation adjustment for City Council consideration at a future date.

Candida Neal, AICP
Acting Executive Director
Planning & Building Agency

Exhibit: 1. Ordinance
ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA CREATING CHAPTER 40 OF THE SANTA ANA MUNICIPAL CODE, "REGULATION OF COMMERCIAL CANNABIS", TO REGULATE COMMERCIAL CANNABIS ACTIVITIES, EXCEPTING MEDICINAL RETAIL

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

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

A. In 1996, the California electorate approved Proposition 215, the Compassionate Use Act which allows a patient, with a doctor's recommendation, to use cannabis for medical purposes without the fear of prosecution or arrest.

B. In 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medical cannabis dispensaries for the distribution of cannabis for medical purposes.

C. In 2005, the California Board of Equalization began issuing seller's permits for sales consisting of medical cannabis.

D. In 2008, the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use.

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

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

G. In 2016, the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act ("AUMA").
H. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

I. Health & Safety Code Section 11362.83 provides that cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medical cannabis.

J. The City Council of the City of Santa Ana intends that nothing in this article shall be deemed to conflict with federal law as contained in the Controlled Substances Act, nor to otherwise permit any activity that is prohibited under that Act or other applicable law.

K. The City of Santa Ana has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents.

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

Section 3. Pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, the adoption of this ordinance is exempt from CEQA review pursuant to California Code of Regulations section 15061(b)(3), which is applicable if it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment. As a result, a Notice of Exemption will be filed upon the adoption of this ordinance.

Section 4. The City hereby amends the Santa Ana Municipal Code (“SAMC”) by adding Article 1 to Chapter 40, entitled “Regulation of Commercial Cannabis Activities” as follows:

Chapter 40

ARTICLE 1. REGULATION OF COMMERCIAL CANNABIS ACTIVITIES

Section 40-1. Purpose and Intent.

The purpose and intent of this article is to regulate commercial cannabis business activities, as defined in this article, in order to ensure the health, safety and welfare of
the residents of the City of Santa Ana by establishing regulations necessary for a commercial cannabis business to obtain and maintain a Regulatory Safety Permit. Any commercial cannabis businesses operating in the City of Santa Ana shall at all times be in compliance with current State Law and this article. All commercial cannabis facilities shall operate in accordance with the regulations in this article and with the conditions of approval associated with the applicable zone for the parcel of real property upon which the commercial cannabis activities are conducted. Any commercial cannabis business shall qualify for and receive a Regulatory Safety Permit from the City of Santa Ana as provided by this article and operate only in a zone in compliance with Santa Ana Municipal Code before commencing with any commercial cannabis activity. Any commercial cannabis business without a Regulatory Safety Permit is in violation of this article. The regulations in this article, in compliance with the Compassionate Use Act, the Medicinal Marijuana Program Act, SB 94, AB 133, Proposition 64, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with the right to use cannabis or medical cannabis as authorized under State Law, nor do they criminalize the possession or commercial activities of cannabis or medical cannabis as authorized under State Law.

Section 40-2. Definitions

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

1. "Applicant" means a person who is required to file an application for a permit under this article, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a commercial cannabis business.

2. "Adult-use" means cannabis or cannabis products that are intended to be used for non-medical purposes by a person 21 years of age or older.

3. "Authorized City of Santa Ana representative" any police officer, city employee or agent of the city designated by the director of any city department which has the authority and responsibility to enforce provisions as set forth in this article.

4. "Business owner" means any of the following:
   a. A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
   b. The chief executive officer of a nonprofit or other entity.
   c. A member of the board of directors of a nonprofit.
   d. An individual who will be participating in the direction, control, or management of the person applying for a license.
5. "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 marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

6. "Cannabis waste" means waste that is not hazardous waste, as defined in Public Resources Code section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.

7. "City" means the City of Santa Ana, a charter city and municipal corporation.

8. "Commercial cannabis activity" includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of medicinal and adult-use cannabis or a cannabis product, except as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers, excepting medicinal cannabis retail.

9. "Commercial cannabis business" means a business that obtains a Regulatory Safety Permit and engages in the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of adult-use cannabis, medicinal cannabis or an adult-use cannabis or medicinal cannabis product, except as related Business and Professions Code Section 19319, or Health and Safety Code Sections 11362.1 through 11362.45, as amended from time to time, excepting medicinal cannabis retail.


12. "Concentrated cannabis product" means a consolidation of cannabinoids made by dissolving cannabis in its plant form into a solvent.

13. "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
14. "Customer" means a natural person 21 years of age or over.

15. "Delivery" means the commercial transfer of cannabis or cannabis products from a retail cannabis business to a customer up to an amount determined to be authorized by the State of California, or any of its departments or divisions. "Delivery" also includes the use by a retail cannabis business of any technology platform owned, controlled, and/or licensed by the retail cannabis business, or independently licensed by the State of California under the State law (as amended from time to time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed retail cannabis business of cannabis or cannabis products. For the purposes of this article, "delivery" does not include distribution or purchase of cannabis from a licensed cultivator, and cannabis products from a licensed manufacturer, for sale to a licensed cannabis business or a wholesale establishment.

16. "Delivery employee" means an individual employed by a licensed retail cannabis business who delivers cannabis goods from the permitted retail premises to a medicinal cannabis patient or primary caregiver or customer at a physical address.

17. "Display" means cannabis goods that are stored in the licensed retail business during the hours of operation.

18. "Display case" means container in the licensed retail business where cannabis goods are stored and visible to customers.

19. "Distribution" means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

20. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

21. "Free sample" means any amount of commercial cannabis goods provided to a purchaser of cannabis without cost or payment or exchange of any other thing of value.

22. "In-Lieu Fee Agreement" means a mitigation option used by the City to compensate for authorized impacts to City services and/or residents.
23. "License/Licensee" means a license issued by the State and includes both an A-license and an M-license, as well as a testing laboratory license, and the holder of such license.

24. "Limited-access area" means an area in which cannabis goods are stored or held and which is only accessible to a Licensee and the Licensee's employees and contractors.

25. "Manufacturer" means a Licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

26. "Manufacturing" or "manufacturing operation" means all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

27. "Medicinal cannabis" or "Medicinal cannabis product", means cannabis or a product containing cannabis, including, but not limited to, concentrates, and extractions, intended to be sold for use by medicinal cannabis patients in California pursuant to the Compassionate Use Act of 1996, found at Section 11362.5 of the California Health and Safety Code. Medicinal cannabis retail is regulated by Chapter 18 and Chapter 21 of the Santa Ana Municipal Code.

28. "Medicinal cannabis patient" is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

29. "Microbusiness" means a commercial cannabis business that cultivates cannabis on an area less than 10,000 square feet and acts as a licensed distributor, Level 1 manufacturer, and retailer.

30. "Non-volatile solvent" means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, a non-volatile solvent includes carbon dioxide used for extraction, or as it may be defined and amended by the State.

31. "Nursery" means a commercial cannabis Licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
“Operating hours” means the hours within a day during which a permitted commercial cannabis business may allow cannabis customers to enter the retail premises and purchase cannabis goods.

“Outdoor Cultivation” means the cultivation of cannabis without the use of artificial lighting of any kind. Outdoor cultivation is prohibited within the City of Santa Ana.

“Ownership interest” means an interest held by a person who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of 5% or more.

“Package” and “Packaging” means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. “Package” and “packaging” does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a Licensee.

“Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Premises” means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or Licensee to conduct the commercial cannabis activity.

“Primary Caregiver” has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

“Private Residence” means a lawfully established structure, suitable for human occupancy as required by section 17922 and 17958 of the California Health and Safety Code. A recreational vehicle does not constitute a lawfully established structure for the purposes of this article.

“Private security officer” has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

“Publicly owned land” means any building or real property that is owned by a city, county, state, federal, or other government entity.

“Purchase” means obtaining cannabis goods in exchange for consideration.

“Purchaser” means a person who is engaged in a transaction with a Licensee for purposes of obtaining cannabis goods.
44. “Responsible person” means any of the following:
   a) A person who causes a Code violation to occur.
   b) A person who maintains or allows a Code violation to continue, his or her
      action or failure to act.
   c) A person whose agent, employee, or independent contractor causes a
      Code violation by its failure to act.
   d) A person who is the owner of, and/or a person who is a lessee or sub
      lessee with the current right of possession of, real property where
      property-related Code violation occurs.
   e) A person who is the on-site manager of a business who normally works
      daily at the site when the business is open and is responsible for the
      activities of such premises. For the purposes of this article “person”
      includes a natural person or legal entity, and the owners, majority
      stakeholders, corporate officers, trustees, and general partners of a legal
      entity.

45. “Retail area” means a building, room, or other area upon the licensed cannabis
    retail business premises in which cannabis goods are sold or displayed.

46. “Retail business” means a premises where adult-use cannabis, commercial
    cannabis products, or devices for the use of cannabis or cannabis products are
    offered, either individually or in any combination for retail sale, including an
    establishment that delivers cannabis or cannabis products as part of a retail sale.

47. “Regulatory Safety Permit (RSP)” means a permit issued by the City pursuant
    to this article to a commercial cannabis business.

48. “Security monitoring” means the continuous and uninterrupted attention to
    potential alarm signals that can be transmitted from a security alarm system for
    the purpose of summoning law enforcement.

49. “Sell,” “sale,” and “to sell” include any transaction whereby, for any
    consideration, title to cannabis is transferred from one person to another, and
    includes the delivery of cannabis goods pursuant to an order placed for the
    purchase of the same and soliciting or receiving an order for the same, but does
    not include the return of cannabis goods by a licensee to the licensee from whom
    such cannabis goods were purchased.

50. “Sublet” means to lease or rent all or part of a leased or rented property.

51. “State” means the State of California.

52. “Testing Laboratory” means a laboratory, facility, or entity in the State that
    offers or performs tests of cannabis or cannabis products and that is both of the
    following:
a) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State; and,

b) Licensed by the Bureau of Cannabis Control.

53. “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include but are not limited to, butane, hexane, propane, and ethanol, or as it may be defined and amended by the State.

54. “Wholesale” means the sale of cannabis goods to a distributor for resale to one or more retail cannabis businesses.

Section 40-3. Compliance with State and Local Licensing Requirements

Any commercial cannabis business as defined by the State of California and the City of Santa Ana shall operate in conformance with all regulations and standards set forth in this article to assure that the operations of any commercial cannabis business as defined by the State of California and allowed by the City of Santa Ana are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations.

Commercial cannabis businesses shall be required to obtain a Regulatory Safety Permit (RSP) from the City of Santa Ana and a State license once they become available, and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria.

Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City of Santa Ana and only if all uses proposed are allowed pursuant to the City's Zoning Code. Any cannabis activity not specifically permitted by this article is prohibited.

Section 40-4. Maximum Number of Regulatory Safety Permits

The total number of commercial cannabis businesses in operation shall be determined based on the number of locations which have been issued a Regulatory Safety Permit by the City of Santa Ana. In no case shall the City of Santa Ana allow more than the following commercial cannabis businesses to operate within City limits, regardless of the location's compliance with any other Section specified in this article:

A. 20 total cannabis indoor cultivation businesses.
B. 20 total cannabis manufacturing businesses.
C. 20 total cannabis medicinal retail businesses (as regulated by Article XIII of Chapter 18).
D. 23 total cannabis adult-use retail businesses.
E. 20 total cannabis distribution businesses.
F. No cap on cannabis testing laboratory businesses.

Section 40-5. Zoning Compliance and Regulatory Safety Permit Requirements

Commercial cannabis activities are expressly prohibited in all zones in the City of Santa Ana; however, specific commercial cannabis businesses are allowed as a special use in the Industrial zone (M-1, M-2). Commercial cannabis businesses shall apply for and conduct business only in the appropriate zones as described in Table 40-5 and the City of Santa Ana’s zoning ordinance as a requisite for obtaining a Regulatory Safety Permit. No commercial cannabis business may operate in the City of Santa Ana without a Regulatory Safety Permit.

This Land Use Table 40-5 shall be used to determine whether a commercial cannabis business is permitted – “P”, or not permitted – “X”. Any commercial cannabis business in the City of Santa Ana shall also operate in compliance with the City’s zoning ordinance. If a Zoning District is not listed in the Land Use Table in this section then the use is expressly not permitted.
Land Use Classifications:
Commercial A - permitted cultivation area: 0 to 5,000 square feet
Commercial B - permitted cultivation area: 5,001 to 10,000 square feet
Commercial C - permitted cultivation area: 10,000 to 22,000 square feet
Commercial D - permitted cultivation area: 22,000 square feet

Section 40-6. Separation Requirements

(a) No commercial cannabis business shall be located within 1,000 feet of any:

(1) School (K-12) as defined by Section 11362.768 of the Health and Safety Code; or
(2) Park; or
(3) Existing Residential zone.

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

(c) No separation requirements for all non-retail commercial cannabis businesses.

Section 40-7. Exceptions

Commercial cannabis cultivation is expressly prohibited in all zones and all specific plan areas in the City except for Industrial zone (M-1, M-2); provided, however, that six (6) plants per private residence may be cultivated indoors within a legally permitted structure for personal use in compliance with all applicable local and State regulations.

Section 40-8. General Provisions for Commercial Cannabis Activities in the City of Santa Ana

1. Commercial Cannabis Regulatory Safety Permit Required

   a. Each business shall obtain a Regulatory Safety Permit (RSP) specific to the business activity defined by the State pertaining to that activity. Following is a list of current permit types:
   i. Cultivation
   ii. Distribution
   iii. Manufacturing
   iv. Retail sales (Adult Use)
   v. Testing

   b. It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, in or upon any premises within the City of Santa Ana any commercial cannabis business without a RSP. A cannabis business...
shall register and obtain a RSP from the City of Santa Ana prior to operation. The RSP applicant shall pay an annual non-refundable application fee in an amount established by the City Council.

c. A copy of the RSP shall be displayed at all times in a place visible to the public.

d. A RSP shall be valid for a period of one (1) year, unless sooner revoked. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.

2. Maintenance of Records and Reporting

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

a. The business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization.

b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations section 1968.

c. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable.

d. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.

e. Contracts with other businesses regarding commercial cannabis activity.

f. Permits, licenses, and other local authorizations to conduct the commercial cannabis activity.

g. Security records.

h. Proof of building ownership or landlord letter acknowledging business type.
i. Proof of insurance.

3. Operational Standards for Commercial Cannabis Business Activities

a. The location, interior and exterior, shall be monitored at all times by web-based closed circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the location. The recordings shall be maintained unaltered in a secure location for a period of not less than ninety (90) days. The police department may request the recordings in connection with an investigation.

b. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet.

c. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the police department or their designee on request.

d. The applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.

e. Commercial cannabis businesses shall create and maintain an active account within the State’s track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.

f. No physical modification of the licensed premises is allowed without written prior permission by the City of Santa Ana and payment of any additional fees required by the City.

g. Commercial cannabis business activities shall provide adequate off-street parking and comply with the City of Santa Ana Municipal Code parking requirements in order to service customers without causing negative impact.

h. The commercial cannabis business shall provide adequate disabled access parking per the requirements in the California Building Code.

i. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.
j. Any and all signage, packaging, and facilities shall not be 'attractive', as it is defined by the State, to minors.

k. Commercial cannabis business facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the use occupies only a portion of a building.

l. A permitted commercial cannabis business entity shall have 180 days after permit issuance by the City of Santa Ana to begin initial operations, unless otherwise approved by the Director of Planning and or designee. A permitted commercial cannabis business entity that ceases to operate for more than 180 calendar days shall be deemed “abandoned” and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director of Planning or designee.

m. The commercial cannabis business shall comply with all State regulations regarding:
   i. Testing, labeling and storage of all cannabis products.
   ii. Use of appropriate weighing devices.
   iii. Electrical and plumbing regulations subject to periodic and unannounced inspections to ensure compliance.
   iv. State deadlines for applying for a State license and receiving a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks.

n. The commercial cannabis business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis.

o. The commercial cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3).

p. The commercial cannabis business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an “A” rated
insurance carrier in an amount no less than Two Million Dollars, with primary
coverage, naming the City of Santa Ana as additional insured.

q. No free samples of any cannabis or cannabis product may be distributed at any
time.

r. All agents, private security officers or other persons acting for or employed by a
commercial cannabis business shall display a laminated identification badge at
least 2" X 2" in size, issued by the business. The badge, at a minimum, shall
include the business’s “doing business as” name and license number, the
employees first and last name, and a color photo of the employee that shows the
full front of the employee’s face.

s. All private security officers acting for or employed by a commercial cannabis
business shall be licensed by the State and issued a business license from the
City of Santa Ana.

t. The commercial cannabis business shall have a centrally-monitored fire and
burglar alarm system which shall include all perimeter entry points and perimeter
windows and the building or portion of the building where the commercial
cannabis business is located shall contain a fire-proof safe and include a safety
and security plan.

u. The commercial cannabis business shall ensure a licensed alarm company
operator or one or more of its registered alarm agents installs, maintains,
monitors and responds to the alarm system. The alarm company shall obtain a
City of Santa Ana business license.

v. The commercial cannabis business shall provide the name and phone number of
an on-site staff person to the police department and the Code Enforcement
Division of the Planning and Building Agency for notification if there are
operational problems with the establishment.

w. The commercial cannabis business must obtain and maintain a valid City
business license at all times as a condition for receiving, renewing, and
maintaining their regulatory safety permit.

x. Occupancy shall not exceed that required under the Uniform Building Code and
Uniform Fire Code, and the maximum occupancy load shall be posted at the
main entrance.

y. For any commercial cannabis business with two (2) or more employees, the
business owner shall attest that he/she has entered into a labor peace
agreement and provide a copy of the agreement to the City.
4. **Additional Operational Standards for Adult-use Retail Business**

   a. At all times the adult-use retail business is open, it shall provide at least one private security guard who is licensed, possesses a valid Department of Consumer Affairs "security guard card", and has a valid business license from the City of Santa Ana.

   b. The private security guard and adult-use retail business personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the retail business or on the property or in the parking lot.

   c. Exterior signage shall comply with Article XI of Chapter 41 of the Santa Ana Municipal Code and may not be externally or internally illuminated. Interior signage or advertising may not be visible from the exterior. Retail businesses must comply with the advertising and marketing provisions of Business and Professions Code §§ 26150-26155.

   d. There shall be no on-site sales of alcohol or tobacco products, (excluding rolling papers and lighters) and no on-site consumption of food, alcohol or tobacco by patrons.

   e. Hours of operation shall be limited to: 7 a.m. to 11 p.m. daily. No licensed retail business shall be open to the public between the hours of 11:01 p.m. and 6:59 a.m. of any day.

   f. An adult-use retail business shall notify patrons of the following both verbally and through posting of a sign in a conspicuous location:

      i. Secondary sale, barter or distribution of adult-use cannabis is a crime and can lead to arrest.

      ii. That loitering on and around the retail site is prohibited by California Penal Code § 647(e) and that patrons must immediately leave the site and not consume cannabis in the vicinity of the retail site or on the property or in the parking lot.

      iii. A warning that patrons may be subject to prosecution under federal cannabis laws.

      iv. That the use of cannabis may impair a person's ability to drive a motor vehicle or operate machinery.

   g. No one under the age of 21 shall be allowed to enter an Adult-use facility.
h. If food is distributed, the retail business shall comply with all relevant State laws, County and City ordinances pertaining to the preparation, distribution and sale of food.

i. All retail businesses shall establish and implement a program to incentivize the recycling of used containers.

j. Retail businesses shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.

k. Adequate signage shall clearly state who has inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.

l. Shipments of cannabis goods may only be accepted during regular business hours.

m. Inventory shall be secured using a lockable storage system during non-business hours.

n. No cannabis product shall be visible from the exterior of the business.

o. All required labelling shall be maintained on all product, as required by State law, at all times.

p. Educational tours of adult-use retail cannabis businesses shall be allowed.

5. Additional Operational Standards for Commercial Cannabis Delivery Services

a. Commercial cannabis deliveries may be made only from a commercial cannabis retail business permitted by the City in compliance with this article, and in compliance with all State regulations.

b. All employees who deliver cannabis shall have valid identification and a copy of the commercial cannabis retail business' Regulatory Safety Permit and State license at all times while making deliveries.

c. All commercial cannabis delivery businesses shall maintain proof of vehicle insurance for any and all vehicles being used to transport cannabis goods as required by State law.

d. Deliveries may only take place during normal business hours of the commercial cannabis retail business.

e. During delivery, the delivery employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the
licensing authority and law enforcement officers. The delivery request documentation shall comply with State law.

f. A licensed delivery employee shall not leave the State of California while possessing cannabis products.

g. A commercial cannabis retail business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State.

h. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.

i. Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).

j. Each delivery request shall have a receipt prepared by the retail business with the following information:

   i. Name and address of the retail business
   ii. The name of the employee who delivered the order
   iii. The date and time the delivery request was made
   iv. The complete delivery addresses
   v. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested.
   vi. The total amount paid for the delivery including any fees or taxes.

k. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.

l. No cannabis delivery vehicle shall display signs, decals or any other form of advertisement with the exception of a maximum four-inch by four-inch decal.

m. Inspections by an authorized City of Santa Ana representative may be conducted anytime during regular business hours.

6. Additional Operational Standards for Manufacturing Cannabis Businesses

a. Commercial cannabis manufacturing facilities are prohibited from using volatile solvents in the manufacturing process as defined in the California Health and Safety Code 11362.3(d) and as further defined in the California Health and Safety Code 11362.775(b)(1)(A) and as amended from time to time, unless a
conditional use permit (CUP) for volatile solvents is applied for and granted pursuant to Chapter 41 of the Santa Ana Municipal Code.

b. A licensed commercial cannabis non-volatile manufacturing facility may conduct all activities permitted by the State. This includes but is not limited to, non-volatile extractions, repackaging and relabeling, infusions and extractions.

c. Any manufacturing activity that will be conducted by the commercial cannabis business shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City of Santa Ana for that additional activity.

d. At all times, the commercial cannabis manufacturing facility will be compliant with all State regulations for cannabis manufacturing including Health and Safety Code 11362.775, as amended from time to time. Signage shall be posted regarding chemicals being used at the manufacturing facility.

e. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business’s regular business hours.

f. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

g. Educational tours of cannabis manufacturing businesses shall be allowed.

7. Additional Operational Standards for Indoor Cannabis Cultivation Businesses

a. From a public right-of-way, there shall be no exterior evidence of cannabis cultivation.

b. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

c. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.

d. Educational tours of indoor cannabis cultivation businesses shall be allowed.

8. Additional Operational Standards for Cannabis Testing Laboratory Businesses

a. A licensed cannabis testing facility business, its owners and employees may not hold an interest in any other cannabis business except another testing business.
b. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business’s regular business hours.

c. Educational tours of cannabis testing laboratory businesses shall be allowed.

9. **Additional Operational Standards for Cannabis Distribution Businesses**

a. Inspections by an authorized City of Santa Ana representative may be conducted anytime during the business’s regular business hours.

b. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor’s premises.

c. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas.

d. Educational tours of cannabis distribution businesses shall be allowed.

**Section 40-8. Commercial Cannabis Selection Process**

1. **Commercial Cannabis – Registration Application and Regulatory Safety Permit Required**

The Commercial Cannabis Regulatory Safety Permit ("RSP") selection process will be conducted in two phases, Phase 1 (Registration Application) and Phase 2 (Regulatory Safety Permit Application). Registration Applications will be reviewed by the Director of Planning and Building or designee(s) for completeness and compliance, and if eligible, will be placed on the "Regulatory Safety Permit ("RSP") Eligibility List" and entered into the Phase 2 Regulatory Safety Permit Application process. In Phase 2, the City of Santa Ana has established a merit based point system to objectively award permits as described in the Regulatory Safety Permit Application.

2. **Phase 1 – Registration Application**

a. Following the adoption of this article, the Director of Planning and Building shall prepare commercial cannabis business registration application forms and a related administrative policy. Each commercial cannabis business interested in operating pursuant to this article may submit an application together with a non-refundable processing fee in an amount established by the City Council.

b. The Registration Application period shall be thirty (30) calendar days from the date the applications are released. Following the application period, the Director of Planning and Building or designee(s) shall stop accepting applications and review all applications received in Phase 1. Each application that is complete and
in compliance with the application requirements in Phase 1 shall be placed on the “RSP Eligibility List” and shall be notified in writing whether they are a “RSP Eligible Applicant” or not. Each applicant on the RSP Eligibility List may then choose to file an application for a RSP in Phase 2.

c. The requirements for Phase 1 include but are not limited to:

i. All application documents required in the City’s Phase 1 Registration Application package.

ii. Application was submitted during the application period.

iii. Application forms are filled out completely.

iv. Business Owner(s)/Applicant(s) referenced on the application provides a Live Scan that was conducted within 14 days prior to submitting the application.

v. Phase 1 application fee is paid.

vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this article including, but not limited to, any and all sensitive use separation criteria required by this article.

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

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

3. Phase 2 - Regulatory Safety Permit Application

a. Each applicant identified on the RSP Eligibility List may choose to complete and file a RSP application to the Director of Planning and Building. The application shall be filed together with a nonrefundable fee as established by resolution of the City Council, to defray the cost of investigation required by this article.

b. The RSP application period shall be open for thirty (30) calendar days and may run concurrently with the Phase 1 review period. Following the RSP application
period, the Director of Planning and Building or designee(s) shall stop accepting applications and review all applications received in Phase 2.

c. The Director of Planning and Building or designee(s) will review all application documents required in the City's Phase 2 application package plus the additional requirements in subsection (d) below. The Director of Planning and Building or designee(s) will use a merit based point system to review and rank each of applications from the most to the least points and objectively award the top applicants a RSP. A complete description of the merit based point system and all merit based point considerations shall be included with the application forms.

d. Phase 2 requirements include but are not limited to:

i. All application documents required in the City's Phase 2 RSP application package.

ii. Phase 2 application fee is paid and a comprehensive owner background check is completed.

iii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

iv. The Planning Manager or designee has issued a Zoning Clearance documenting compliance with the following:

1. The use is permitted;
2. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
3. No zoning violations exist on the property; and

e. The Director of Planning and Building or designee(s) shall review each application upon submission and ensure that the application is complete. Incomplete applications will be promptly rejected and the applicant shall be notified that business day of the deficiencies. The applicant shall be given an opportunity to cure any incomplete or deficient application prior to the conclusion of the application processing term, if such time period is applicable.
4. Regulatory Safety Permit Annual Renewal

a. Applications for the renewal of a permit shall be filed with the Director of Planning and Building or designee(s) at least sixty (60) calendar days before the expiration of the current permit. Temporary permits will not be issued. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the Director of Planning and Building or designee(s) who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this article. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Planning and Building or designee(s) in order to determine whether said permit should be renewed.

5. Appeal of Denial of Regulatory Safety Permit / Denial of RSP Renewal

The City Manager or designee(s) will review all Regulatory Safety Permit applications and renewal requests, along with all other relevant information, and determine if a RSP should be granted and/or renewed. If the City Manager determines that the permit shall not be granted and/or renewed, the reasons for denial shall be provided in writing to the applicant. No such denial shall become effective until the applicant for the regulatory safety permit and/or renewal has been notified in writing by certified mail of the right to appeal the denial decision pursuant to the provisions of Chapter 3 of this Code. If a timely appeal is filed, the denial shall be effective only upon decision of the City Council. Otherwise, the denial shall become effective after the timely appeal period has passed. The matter may be subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

Section 40-9. Audits.

Annual audits. No later than June 30th of every year, each licensed commercial cannabis business shall file with the City an audit or financial review of its operations of the previous calendar year. The form and contents of the document shall be specified by the Executive Director of Finance and Management Services, or designee(s).

Section 40-10. Inspection and enforcement responsibilities.

The Code Enforcement Division of the Planning and Building Agency may enter and inspect the location of any commercial cannabis business between the hours of 7:00 a.m. and 11:00 p.m., or at any reasonable time, to ensure compliance with this article. In addition, a designated unit within the police department may enter and inspect the
location of any commercial cannabis business and the recordings and records maintained as required by this article, except that the inspection and copying of private medical records shall be made available to the police department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any owner, responsible person, landlord, lessee, member including but not limited to a member engaged in the management), or any other person having any responsibility over the operation of the commercial cannabis business to refuse to allow, impede, obstruct or interfere with an inspection, review or copying of records and closed-circuit monitoring authorized and required under this article, including but not limited to, the concealment, destruction, and falsification of any recordings, records, or monitoring.

Section 40-11. Violation and enforcement.

1. Violation/enforcement.

Each and every violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by this Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the commercial cannabis business registration, revocation of the certificate of occupancy for the location, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the commercial cannabis business and persons related or associated with the business.

2. Suspension or revocation.

When an authorized City of Santa Ana representative finds that any person holding a regulatory safety permit under the provisions of Chapter 40 has violated the provisions of this chapter or is found guilty of conduct which would form the basis of denial of the regulatory safety permit as set forth in Article XIII of Chapter 18, s/he may revoke or suspend the permit. No such revocation shall become effective until the regulatory safety permit holder has been notified in writing by certified mail of the right to appeal the revocation decision pursuant to the provisions or Chapter 3 of this Code. If a timely appeal is filed, the revocation shall be effective only upon decision of the City Council. Otherwise, the revocation shall become effective after the timely appeal period has passed.

Section 40-12. Transfer of Ownership.

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

2. Any such transfer of any interest in an existing commercial cannabis business or any
application for an extension or expansion of the building or other place of business
of the commercial cannabis business shall require inspection and compliance with
section 40-10 of this article.

3. The owner or operator of a commercial cannabis business shall be responsible for
notifying the City of any intention to rename, change management, or convey the
business to another person/entity. Notification to the City must be made a minimum
of sixty (60) days prior to such transfer.

Section 40-13. Limitations on the City's Liability

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

1. Execute an agreement indemnifying the City from any claims, damages, injuries or
liabilities of any kind associated with the registration or operation of the commercial
cannabis facility or the prosecution of the applicant or business or its members for
violation of federal or State laws;

2. Maintain insurance in the amounts and types that are acceptable to the City Attorney
or designee;

3. Name the City as an additionally insured on all City required insurance policies;

4. Agree to defend, at its sole expense, any action against the City, its agents, officers,
and employees related to the approval of a Regulatory Safety Permit; and

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5. Agree to indemnify and reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to this ordinance and/or the City’s approval of a Regulatory Safety Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

Section 40-14. Fees and Taxes

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

1. Application Fees. The business owner shall submit a non-refundable fee to cover the cost of processing an application for the commercial cannabis business. These fees may be divided into two fees according to Registration Application (Phase 1) and RSP Application (Phase 2).

2. Regulatory Safety Permit Renewal Fees. The business owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.

3. Business License Fee. The business owner shall at all times maintain a current and valid business license and pay all business taxes required by the Santa Ana Municipal Code.

4. In-Lieu Agreement Fees.

5. Additional cannabis-specific gross receipts, excise, cultivation or any other tax approved by the voters of the City of Santa Ana.

6. All required taxes including sales and use taxes, business, payroll etc.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 6. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.
ADOPTED this ______ day of _________, 2017.

Miguel A. Pulido
Mayor

APPROVED AS TO FORM
Sonia R. Carvalho, City Attorney

By: Lisa Storck
Assistant City Attorney

AYES: Councilmembers: ______________________________________

NOES: Councilmembers: ______________________________________

ABSTAIN: Councilmembers: ____________________________________

NOT PRESENT: Councilmembers: ________________________________

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS_______ to be the original ordinance adopted by the City Council of the City of Santa Ana on ________________________, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: __________________________

Clerk of the Council
City of Santa Ana