REQUEST FOR COUNCIL ACTION

CITY COUNCIL MEETING DATE: JUNE 4, 2019

TITLE: PUBLIC HEARING – APPROVE ORDINANCE AMENDMENT NO. 2019-01 TO ADD TO AND AMEND CERTAIN SECTIONS OF CHAPTER 21 OF THE SANTA ANA MUNICIPAL CODE TO ALLOW VERTICAL AND HORIZONTAL INTEGRATION OF CANNABIS BUSINESSES; UPDATING PROCEDURAL STANDARDS AND REQUIREMENTS RELATING TO OWNERSHIP TRANSFERS, SECURITY DEPOSITS, AND VARIOUS ADMINISTRATIVE PROCESSES; AND REDUCING CANNABIS TESTING TAXES TO TWO PERCENT OF GROSS RECEIPTS {STRATEGIC PLAN NOS. 3, 2; 3, 3; 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

1. Approve Ordinance Amendment No. 2019-01 allowing vertical integration of certain commercial cannabis businesses; updating operational and procedural standards for implementing the City's medicinal and commercial cannabis ordinances, decrease security deposit amount requirements, compute square footage cannabis taxes based on allocation of gross square footage usage; and reducing the commercial cannabis testing laboratory tax from five (5) to two (2) percent.

2. Adopt a resolution reducing the gross receipts tax on commercial cannabis testing laboratories from five (5) to two (2) percent.

3. Adopt a resolution implementing a canopy measurement service fee and an allocated square footage measurement service fee to cover the City's cost in independently verifying the allocation of square footage usage by commercial cannabis businesses.

BACKGROUND

The City of Santa Ana permits a variety of types of cannabis business activity, which include retail sales of medicinal and adult-use cannabis, and cannabis cultivation, distribution, manufacturing, and testing. These cannabis business activities were permitted through adoption of multiple ordinances beginning with Measure BB (Ordinance NS-2684) in November 2014 through Ordinance NS-2944 in May 2018. In November 2018, Santa Ana voters approved Measure Y (Ordinance NS-2962), which established commercial cannabis business license taxes for adult-
use cannabis retail sales, cannabis cultivation, distribution, manufacturing, and testing. Medicinal cannabis retail sales continue to be subject to taxes pursuant to Measure BB.

Multiple changes to State cannabis laws and changes in market demands require the City to revisit its ordinances and tax collection to ensure that Santa Ana maintain its competitive position in the region, remain compliant with applicable laws, and streamline its implementation of cannabis taxation. When added to Santa Ana’s local cannabis taxes, the State’s assessments on cannabis goods, which include sales tax, excise cannabis tax, and cultivation tax, result in legally-operating and permitted commercial cannabis businesses having to confront a combined state and local tax rate exceeding 50 percent of the retail sale value of their cannabis goods. This 50-percent rate discourages businesses from seeking the required permits to operate legally and can foster a continued illicit cannabis market, which is to the detriment of Santa Ana’s permitted operators.

**DESCRIPTION**

The table below (Proposed Amendments to Chapter 21) describes the ordinance amendments. Additional details are provided in the subsections that follow.

<table>
<thead>
<tr>
<th>Item</th>
<th>Proposed Amendment</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vertical and Horizontal Integration</td>
<td>Amends Ordinances NS-2864 and NS-2962 to allow vertical and horizontal integration of business structures for businesses engaging in multiple types of commercial cannabis business activity. Includes allowance for vertical and horizontal integration of commercial cannabis business activities involving both medicinal and nonmedicinal cannabis retail businesses.</td>
<td>Incentivizes cannabis business to expand operations within the City and encourages new businesses to enter the Santa Ana marketplace by providing full vertical/horizontal integration of commercial cannabis business activities in Santa Ana, including medicinal and nonmedicinal retail cannabis businesses. Allows for the deduction of interparty sales and/or transfers of cannabis and cannabis products occurring within a single integrated cannabis business from the reportable gross receipts of cannabis businesses, thereby reducing the net negative effect of multi-level taxation. Incentivizes existing cannabis businesses to expand operations within the City and encourages new businesses to enter the Santa Ana marketplace by providing full vertical/horizontal integration of commercial cannabis business activities in Santa Ana. Allows for the deduction of intraparty sales and/or transfers of cannabis and cannabis products occurring within a single integrated cannabis business from reportable gross receipts of cannabis businesses thereby reducing the net negative effect of multi-level taxation.</td>
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<tr>
<td>Security Deposits</td>
<td>Amends Ordinance NS-2962 to allow a single security deposit to cover multiple types of vertically/horizontally integrated commercial cannabis business activities conducted by the same ownership regardless of form of business structure.</td>
<td>Reduces overall security deposit requirement to a maximum amount of $10,000. Allows two or more vertically/horizontally integrated cannabis businesses to be covered by a single deposit. In lieu of higher deposit amounts, implements well defined proceeds for handling deposits, their application, replenishment, and release as well as...</td>
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<tr>
<td>Proposed Amendments to Chapters 21</td>
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<td>----------------------------------</td>
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<tr>
<td><strong>Item</strong></td>
<td><strong>Proposed Amendment</strong></td>
<td><strong>Impact</strong></td>
</tr>
<tr>
<td>Alternate Square Footage Tax</td>
<td>Amends Ordinance NS-2962 to allow certain vertically and/or horizontally integrated commercial cannabis businesses to base their alternate square footage tax calculations on measured allocated gross square feet rather than total gross square feet.</td>
<td>Allows distribution and manufacturing cannabis businesses that are vertically or horizontally integrated to report actual allocated square footage utilized upon verification by the City in place total square footage of premises.</td>
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<tr>
<td>Testing Laboratories Reduce Tax Rate From 5% to Two 2%</td>
<td>In parallel with an enabling resolution amends Ordinance NS-2962 to reduce the gross receipts tax rate on testing laboratories and testing facilities.</td>
<td>Allows the City to maintain its competitive position with regards to cannabis testing which is the most mobile and easily re-locatable class of commercial cannabis business.</td>
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**Vertical and Horizontal Cannabis Business Integration**

Santa Ana voters approved Measure Y in November 2018, which established various tax rates for legally-operating and permitted commercial cannabis businesses in the City. In tandem with preparation of the measure, City officials met with cannabis industry representatives to discuss vertical and horizontal integration, security deposits and substitution of allocated gross square footage vs. total square footage for certain types of commercial cannabis businesses. Subsequently, City staff met with cannabis industry representatives and reviewed proposed changes to Measure Y in order to address the new tax confronting cannabis businesses and to incentivize legal operators throughout Santa Ana. The City’s current regulatory ordinances permit co-location of multiple commercial cannabis business activities on the same site along with medicinal cannabis retail activity; the proposed revisions to Chapter 21 will ensure that these co-located business activities are vertically and/or horizontally integrated under the business license code as well. Additionally, concerns related to reducing the amount of security deposits and accommodating use of allocated gross square footage in the computation of the alternate gross square footage tax payable by commercial cannabis businesses engaged in distribution and manufacturing are likewise addressed below.

An understanding was reached with industry representatives that the City would be open, via a subsequent ordinance as provided under the terms of Measure Y, to the adoption of vertical/horizontal integration, and reducing and capping the amount of security deposits and applying in cases of vertically/horizontally integrated cannabis businesses, a single security deposit.

With regard to the concept of vertical/horizontal integration which relates to the City’s recognition that state law, by requiring separate licensure for certain separate aspects of commercial cannabis business (cultivation, distribution, manufacturing, and retail sales), consciously adopts a horizontally integrated regulatory scheme as opposed to a vertically integrated scheme adopted in other states. Other states that utilize horizontal integration for regulatory purposes and prohibit vertical integration at the regulatory level include Illinois and Washington. While horizontal integration carries with it certain benefits in terms of maintaining a more open, participatory, and
business-friendly marketplace at the state level, it also results in a single integrated cannabis business being subject to multiple state and local tax assessments. The state assessments - sales tax, excise cannabis tax, and cultivation tax - when added to local taxes, such as Santa Ana’s, mean that a single integrated cannabis business could face a combined state and local tax rate exceeding 50 percent of the retail sale value of their cannabis goods.

Vertical/horizontal integration of these separately licensed business activities at the local tax level allows a single integrated business to effectively pay their gross receipts tax assessment once, at the final point of retail sale (which is still at the highest rate of 8 percent for adult-use and 6 percent for medicinal cannabis). In this model, interparty sales and transfers of goods between component parts of a vertically/horizontally integrated cannabis business supply chain, sharing 80% underlying ownership, without reference to form of business structure, are allowed to be deducted from each individual integrated cannabis business’ gross receipts tax assessment at each point in the supply chain. This would leave only their third-party sales and/or their minimum square footage tax, whichever is greater, to be reported and paid.

Security Deposits

Concerning security deposits, it was determined that nominal security deposit language setting a minimum security deposit amount of $10,000 or the average of one month’s remittable commercial cannabis tax, whichever was greater, would be included in the final text of Measure Y. This was done with an understanding that the City would be open via a subsequent ordinance, as provided under the terms of Measure Y to reducing and capping the amount of security deposits for commercial cannabis businesses to $10,000 or one month’s average remittable commercial cannabis tax whichever is least. Also, it would permit two or more vertically/horizontally integrated cannabis businesses to be covered by a single deposit, provided that: clear detailed procedural language be added surrounding security deposits, their maintenance, application, replenishment and refunding and that similarly detailed language be added concerning sales, assignments, transfers and terminations of cannabis businesses to ensure the City is secure in its continued receipt of cannabis business license tax revenues.

Allocated Gross Square Footage

In the case of integrated distribution and/or manufacturing cannabis businesses, the minimum gross square footage tax reported would reflect the allocated square footage actually utilized by the business as verified by the City, rather than the maximum square footage of the premises. The gross square footage tax on cultivation would continue to be based on canopy size as reported to the state and as verified by the City. The gross square footage tax for adult-use retail businesses would continue to be based on the maximum size of the premises.
Gross Receipts Tax Rate Reduction for Cannabis Testing Laboratories

Local jurisdiction tax rates on commercial cannabis testing laboratories vary across the state. When the City’s commercial cannabis testing laboratory ordinance was adopted in March 2018, testing laboratory tax rates ranged from 2 to 10 percent in various jurisdictions statewide. The City currently collects a tax of 5 percent of gross receipts or $1.50 per gross square foot, whichever is the greater of the two calculations. Nearby, the City of Costa Mesa collects 6 percent; Long Beach collects 6 percent, with the option to increase to 8 percent; Bellflower collects 5 percent, (with multiple 2.5 percent annual increases scheduled beginning July 1, 2020 until a 10 percent cap is reached) and Irvine collects no taxes. It is important to note that beginning in 2015 the City of Irvine ceased collecting a business license tax for any type of business in the City.

Cannabis testing laboratories play a crucial role in ensuring product safety for medicinal and adult-use consumers. Testing laboratories examine products for pesticides, minerals, potency, and toxicity. These facilities employ highly-skilled and educated individuals and require purchasing and installation of costly equipment. Although the City’s current 5 percent tax rate is consistent with other local jurisdictions with the exception of Irvine, the City has a continuing interest in promoting safe medicinal and nonmedicinal cannabis and cannabis products for all users and to ensure the sustained growth of the regulated medicinal and commercial cannabis business hub in Santa Ana. Reducing the cannabis testing laboratory gross receipts rate from 5 to 2 percent will maintain Santa Ana’s overall competitive edge in the medicinal and commercial cannabis industries by promoting a healthy mix of business types, employment opportunities, and equipment investment in Santa Ana’s industrial areas.

Recommendation

There are currently 127 applications for commercial cannabis business start-ups pending with the Planning & Building Agency, each of which paid $1,690 to apply. For these businesses to move forward with their permitting and licensing processes they need assurance that the City will move forward in providing local tax treatment based on principles of vertical and horizontal integration and that issues related to security deposits and gross square footage assessment will be addressed.

The medicinal and commercial cannabis ordinance updates recommended by staff provide this assurance and will serve to “jump-start” commercial cannabis business activity in the City, while at the same time accomplishing all other objectives of the City in securing reliable and continuing receipt of resulting cannabis revenues.

ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action. In accordance with the California Environmental Quality Act (CEQA), the subject actions are exempt from further review pursuant to Section 15061(b)(3) of the CEQA Guidelines.
FISCAL IMPACT

There is no fiscal impact associated with approval of this action as projected revenues are incorporated within the City's 2019-20 budget. Failure to adopt the above recommended action items, however, would have a negative impact as a significant portion of the 127 pending commercial cannabis applicants awaiting adoption of those recommended items before committing to entering the approval, permitting, and licensing process will defer or cancel their decision to enter the Santa Ana market and anticipated revenues will not be realized.

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), and Objective #5 (leverage private investment that results in tax base expansion and job creation citywide). Approval of this item also supports the City's efforts to meet Goal #4 - City Financial Stability; Objective #3 (achieve a structurally balanced budget with appropriate reserve levels).

Kathryn Dowris, CPA
Executive Director
Finance and Management Services Agency

Minh Thai
Executive Director
Planning and Building Agency

Exhibits:

1. Ordinance
2. Resolution- Reducing The Commercial Cannabis Gross Receipts Tax for Testing Laboratories from 5% to 2%
3. Resolution - Establishing a Canopy Measurement Service Fee and an Allocated Square Footage Measurement Service Fee

WH:AP
EXHIBIT 1

ORDINANCE NO. NS-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING AND ADDING CERTAIN SECTIONS TO ARTICLES XIII, XII, AND VII OF CHAPTER 21 OF THE SANTA ANA MUNICIPAL CODE PERTAINING TO OWNERSHIP TRANSFERS, CLOSE OUT AUDIT PROCEDURES (SECTIONS 21-131.1 AND 21-141); VERTICAL INTEGRATION (SECTIONS 21-131.2 AND 21-142); REDUCTION IN THE GROSS RECEIPTS TAX RATE FOR CANNABIS TESTING FACILITIES, DEDUCTIBILITY OF INTERPARTY SALES AND TRANSFERS OF GOODS, CLARIFICATION OF SQUARE FOOTAGE TAX MEASUREMENT REQUIREMENTS (SECTION 21-133); AND REDUCTION OF SECURITY DEPOSIT AMOUNTS AND ESTABLISHMENT OF RELATED PROCEDURAL REQUIREMENTS (SECTIONS 21-80, 21-80.1, 21-86 AND 21-136)

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

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

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

B. In 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act further amended in 2016 as the Medical Cannabis Regulation and Safety Act which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing.
C. In November 2016, the voters of the State of California approved Proposition 64, the California Marijuana Legalization Initiative, also known as the Adult Use of Marijuana Act.

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

E. On November 9, 2017, the City Council created Chapter 40 of the Santa Ana Municipal Code, allowing adult-use commercial cannabis retail businesses in the city, and amended certain sections of Chapters 18 and 21 of the Santa Ana Municipal Code to ensure consistency with State law and Chapter 40.

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

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

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

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

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 cultivated, manufactured or distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents.

L. The City Council has held a duly noticed public hearing in connection with consideration and adoption of this ordinance.
Section 2. This ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to: Article 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), the Adult Use of Marijuana Act (Proposition 64), and the Medical and Adult Use Cannabis Regulation and Safety Act (SB 94).

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

Section 5. Section 21-131.1, Article XII of Chapter 21 of the Santa Ana Municipal Code is hereby added to read in full as follows:

Sec. 21-131.1. Sale, assignment, transfer, or termination of business; marijuana collective/cooperative (medicinal cannabis retail business) owner/operator's duty to notify; remitting and reporting requirements; closeout audit; successor's duty to notify; successor's and transferor's joint and several liability; certificate of nonliability.

(a) **Owner/Operator's duty to notify.**

i. **Termination of business.** A medicinal marijuana collective/cooperative owner/operator (also referred to herein as medicinal cannabis retail business) who is terminating their business shall notify the collector in writing of such termination at least ninety (90) days in advance of the date of termination of business. If the decision to terminate business is made within less than a ninety (90) day period prior to the date of termination, the owner/operator shall then immediately notify the collector of said decision and the date of termination of business.
ii. Sale, assignment, or transfer of business. A medicinal cannabis retail business owner/operator who is selling, assigning, or otherwise transferring their business (hereinafter collectively referred to as transferor) shall notify the collector in writing of such sale, assignment, or transfer at least ninety (90) days in advance of the date of the sale, assignment, or transfer and shall notify the collector in writing of the name and address of the purchaser, assignee, transferee, or other successor in interest (hereinafter collectively referred to as successor) unless the decision to sell, assign, or otherwise transfer their business was made within less than a ninety (90) day period prior to the sale, assignment, or transfer, in which case the transferor shall then immediately notify the successor of the successor’s responsibility for unpaid business license taxes, including penalties, interest, charges, fees, or costs (hereinafter collectively referred to as business license tax liabilities) for the period prior to the sale, assignment, or transfer as set forth in subsections (d) and (e) below, and shall further certify in writing to the collector that the successor was notified of the requirements of this Article regarding their responsibility for unpaid business license tax liabilities.

(b) Remitting and reporting requirements. Each medicinal cannabis retail business owner/operator upon the sale, assignment, or other transfer, or termination of business for any reason shall, on or before the last day of the month following the sale, assignment, transfer, or termination of business, file a final return to the collector on City approved forms, of the total gross receipts received, adjustments to gross receipts, the amount of business license tax collected for the reporting period, remittances made, if any, and the balance of the business license tax due, if any, shall be remitted to the collector.

(c) Closeout audit. After filing the final return and remitting the balance due, the medicinal cannabis retail business owner/operator shall make its records of account available for a closeout audit by the collector, his or her revenue officers, or duly authorized employees or agents of the City. The decision to perform a closeout audit shall be made solely at the discretion of the collector. If, upon closeout audit, or by means of other information available to them, the collector determines that the owner/operator selling, assigning, or otherwise transferring, or terminating their business is found to have satisfied all business license tax liabilities, the collector shall issue to such business owner/operator a certificate of nonliability.

If, upon closeout audit, or by means of other information available to them, the collector determines that the owner/operator selling, assigning, or otherwise transferring, or terminating their business is deficient in either their return or remittance, or both, the collector shall immediately notify such owner/operator of the amount of the net deficiency, plus applicable penalties, interest, charges, fees, or costs. Upon such owner/operator’s remittance of all business license tax liabilities owing, the collector shall issue a certificate of nonliability.
(d) **Successor's duty to notify.** If a medicinal cannabis retail business owner/operator decides to sell, assign, or otherwise transfer their business, their successor shall notify the collector of the date of the sale, assignment, or other transfer at least ninety (90) days before the date of the sale, assignment, or transfer. It shall be the duty of the successor to obtain written verification from the collector's office that the transferor does not have or is not liable for any outstanding business license taxes liabilities. After the successor seeks written verification from the collector's office, if the collector notifies the successor that the transferor has or is liable for any outstanding amount of business license tax liabilities, the successor shall withhold an amount equal to such outstanding business license tax liabilities until the transferor produces a certificate of nonliability stating the nonliability of the transferor for payment of business license tax liabilities. If the transferor does not present a certificate of nonliability within ninety (90) days after such sale, assignment, or other transfer, the successor shall deposit the withheld amount with the collector pending settlement of the account of the transferor.

If the decision to sell, assign, or otherwise transfer was made within less than a ninety (90) day period prior to the date of the sale, assignment, or other transfer, the successor shall notify the collector of the sale, assignment, or transfer immediately and shall withhold an amount equal to the sum of the transferor's last three (3) months' of reported and remitted business license taxes until the transferor produces a certificate of nonliability stating the nonliability of the transferor for payment of business license tax liabilities. If the transferor does not present a certificate of nonliability within ninety (90) days after such sale, assignment, or other transfer, the successor shall deposit the withheld amount with the collector pending settlement of the account of the transferor.

(e) **Joint and several liability.** If the successor fails to withhold the applicable amount required under subsection (d) they shall become jointly and severally liable along with the transferor for the payment of the full amount of the transferor's business license tax liabilities and shall likewise become jointly and severally liable along with the transferor for future penalties and/or interest charges as may be applicable as set forth in sections 21-83, 21-84, and 21-85 until all business license tax liabilities are satisfied.

(f) **Certificate of nonliability.** Upon application of a medicinal cannabis retail business operator/owner who is terminating their business, or a transferor, or a successor, for a certificate of nonliability, the collector, after conducting an audit therefore, as he or she may deem necessary, shall issue the certificate if the owner's/operator's, transferor's, or successor's business license tax liabilities have been satisfied. If any business license tax liabilities remain outstanding, or if additional business license tax liabilities have accrued subsequent to the date of application, the collector shall give notice to the operator/owner, transferor, or successor of the applicable amount which must be fully paid as a condition of issuing their respective certificate of nonliability. Where a transferor's business license tax liabilities have been partially or wholly paid by their successor to the collector.
pursuant to subsection (e) or partially or wholly satisfied by their successor's action of withholding and depositing amounts with the collector pursuant to subsection (d), no certificate of nonliability shall be issued to the transferor without the prior written consent of their successor.

Section 6. Section 21-131.2 of Article XII of Chapter 21 of the Santa Ana Municipal Code is hereby added to read in full as follows:

Sec. 21-131.2 Vertical and horizontal integration of marijuana collective/cooperative licensees (medicinal cannabis retail businesses)—Defined.

The terms vertical integration and horizontal integration as used in this Article shall have the following meanings: Vertical integration shall refer to cannabis businesses operating at different points in the same supply chain from cultivation to retail sales, as long as they share at least 80% underlying common ownership, regardless of form of business structure, and are engaged in interparty sales and/or transfers of goods. Horizontal integration shall refer to cannabis businesses operating at the same point in the same supply chain, as long as they share at least 80% underlying common ownership, regardless of form of business structure, and are engaged in interparty sales and/or transfers of goods. For purposes of this Article the term "cannabis businesses" shall include marijuana collectives/cooperatives as defined in section 18-611 and commercial cannabis businesses as defined in section 40-2, but shall not include commercial cannabis businesses engaged in testing facilities or testing laboratory businesses.

Section 7. Section 21-133 of Article XIII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

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

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

(a) For each branch establishment or separate property location of a commercial cannabis business transacted and carried on in the city, and for each separate type of commercial cannabis business conducted at the same location, the higher of the two (2) following tax rates shall be due to the City for each monthly reporting period:

75F-12
(1) Up to ten percent (10%) of each dollar of gross receipts received or generated for each monthly reporting period.

(2) Up to $35.00 per square foot (annual tax rate) prorated monthly to one-twelfth (1/12th) of the annual tax rate amount.

(b) These tax rates shall not be adjusted for inflation pursuant to section 21-121 of this Chapter.

(c) Notwithstanding the tax rates imposed herein under subsection (a), the City Council may, in its discretion, at any time by resolution, implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rates established by subsection (a).

(d) As of the operative date of this Article, the business license gross receipts tax rates and square footage tax rates application to specific commercial cannabis business activities shall be established as follows:

<table>
<thead>
<tr>
<th>Commercial Cannabis Business Activity</th>
<th>Gross Receipts Tax Rate</th>
<th>Gross Square Footage Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult-use Cannabis Retail Business (including Delivery)</td>
<td>8%</td>
<td>$ 25.00</td>
</tr>
<tr>
<td>Cultivation</td>
<td>6%</td>
<td>$ 10.00</td>
</tr>
<tr>
<td>Distribution</td>
<td>6%</td>
<td>$ 4.00</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>6%</td>
<td>$ 10.00</td>
</tr>
<tr>
<td>Testing Facility or Testing Laboratory (effective December 21, 2018 through June 30, 2019)</td>
<td>5%</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Testing Facility or Testing Laboratory (effective beginning July 1, 2019)</td>
<td>2%</td>
<td>$ 1.50</td>
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Commercial cannabis businesses not having a fixed place of business within the city but conducting regular, non- incidental commercial cannabis business activities within the city shall be subject to the gross receipts tax rate(s) as set out in the table above based on the category/categories of commercial cannabis activity conducted. However, such out-of-town commercial cannabis businesses shall not be subject to any gross square footage tax rate(s).

(e) As part of the annual gross receipts/square footage tax(es) imposed by this Article, each commercial cannabis business located within the city shall pay a minimum
basic rate of two thousand dollars ($2,000.00) annually for each branch establishment or separate property location of the commercial cannabis business transacted and carried on in the city, and for each separate type of commercial cannabis business conducted at the same location. Commercial cannabis businesses having no fixed place of business within the city shall be exempted from this requirement.

(f) In the event the City should in the future permit additional categories of commercial cannabis business activity, as may from time to time be licensed by the State of California, such categories of commercial cannabis activates shall be subject to the same maximum tax rates as imposed herein. The City may by ordinance of the City Council initially set the required gross receipts/gross square footage tax rates based on category of cannabis business activity at lesser rates as may be deemed appropriate by the City Council.

(g) For purposes of this Article, a commercial cannabis business is not considered to be a business or person having a "specified exemption" or "specified exclusion" from business license taxation as set forth in sections 21-48 and 21-49 of this Chapter.

(h) For purposes of this Article any person claiming an exemption from the gross receipts tax rate component of the combined gross receipts/square footage tax imposed under this Article on the basis of a claim of being a qualified "nonprofit organization" shall have the burden of substantiating their claim to the same extent and in the same manner as a marijuana collective/cooperative in accordance with section 21-127(a)(6) of this Chapter.

(i) Cannabis businesses shall not pass the taxes imposed by this Article through to an adult-use cannabis retail business customer or commercial cannabis business customer in any fashion except as part of the basic product sales and/or service price.

(j) Definitions. For purposes of this Article, the following terms have the following meanings:

1) "Adult-Use cannabis retail business" as defined in section 40-2(4) of this Code.

2) "Commercial Cannabis Activity" as defined in section 40-2(9) of this Code.

3) "Commercial cannabis business" as defined in section 40-2(10) of this Code excluding medical marijuana collectives/cooperatives also referred to as medicinal cannabis retail sales.

4) "Cultivation" as defined in section 40-2(11) of this Code.

5) "Delivery" as defined in section 40-2(13) of this Code.
(6) "Distribution" as defined in section 40-2(16) of this Code.

(7) "Gross receipts" — section 21-3 of this Chapter notwithstanding, "gross receipts" for the purposes of this Article shall mean:

(A) Transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration including any monetary consideration for cannabis, including, but not limited to, membership dues, reimbursements provided by members, regardless of form, or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation, manufacturing, distribution, testing, or provision of cannabis or any transaction related thereto.

(B) Anything else of value obtained by an a cannabis business;

(C) The total amount of the sale price of all sales and services;

(D) The total amount charged or received for the performance of any act, service or employment of whatever nature it may be, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares, or merchandise (whether at wholesale or retail), for which a charge is made or credit allowed, including all refunds, cash credits and properties of any amount or nature;

(E) Any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom, on account of the cost of the property sold, the cost of materials used, the labor or service cost, interest paid or payable, losses, or any other expense whatsoever; provided that cash discounts allowed or payment on sales shall not be included;

(F) The amount of any federal manufacturer's or importer's excise tax included in the price of property sold, even though the manufacturer or importer is also the retailer thereof—and whether or not—the amount of such tax is stated as a separate charge;

(G) The amount of any California state cannabis excise tax or state cannabis cultivation tax regardless of whether or not the amount of such excise tax or cultivation tax is included in the price of the product or stated to customers as a separate charge;

(H) "Gross receipts" shall not include the following:

i. The amount of any federal tax imposed on or with respect to retail or wholesale sales or the sale of services whether
imposed upon the cannabis business or the consumer whenever the amount of federal tax is authorized by law to be stated and passed through to customers as a separate charge.

ii. Any California state, county, or city sales or use tax, including any add-on, district, or transaction and use tax, required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part payment on any property so accepted for resale; or

iii. The amount of the sale price of business personal property (all property owned or leased by a cannabis business operator used in the operation cannabis business activities, including but not limited to: furniture, fixtures, and business equipment); real property, including land, buildings and other improvements.

iv. The amount of equity contributions, investments, and/or loan proceeds to cannabis business' operation, and/or proceeds from the sale or transfer of cannabis business' retail or commercial cannabis business.

v. The amount of interparty sales and/or transfers of goods within a single vertically and/or horizontally integrated cannabis business, where the sales or transfers goods are between two or more commercial cannabis business licensees (excluding testing facilities or testing laboratories), or one or more said commercial cannabis business licensee(s) and one or more medicinal cannabis retail business licensee(s), as set forth in accordance with section 21-131.2 and/or section 21-142.

(I) "Gross receipts" shall be calculated without any deduction on account of any of the following:

i. The cost of tangible or intangible property sold or bartered;

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

iii. The cost of transportation of cannabis, or other property or product;

iv. The amount of any federal or state income or franchise taxes; and
v. Any other business costs or expenses, unless otherwise specifically exempted.

(8) "Manufacturing" as defined in section 40-2(22) of this Code.

(8) "Retail businesses" as defined in section 40-2(40) of this Code. "Gross Square foot" or "gross square footage" for the purposes of this Article shall mean:

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

(B) In the case of commercial cannabis businesses licensed by the state to engage in cultivation, the aggregate number of square feet comprising all areas of the premises under "canopy", whether such sum is greater or lesser than the gross square footage as stated in the "approved building set" or "approved certificate of occupancy", and whether such commercial cannabis cultivation business is part of an on-site vertically integrated cannabis business or not.

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

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

(C) In the case of commercial cannabis businesses licensed by the state to engage in distribution or manufacturing and that are not vertically or horizontally integrated with another cannabis business occupying the same premises, the gross number of square feet as confirmed by the corresponding "approved building set" or "approved certificate of occupancy" on file with the City of Santa Ana Planning and Building Agency, whichever is the greater of any square footage indicated.

(C)–(D) In the case of commercial cannabis businesses licensed by the state to engage in distribution or manufacturing and occupying the same premises with another cannabis business with which they are vertically or horizontally integrated, the gross number of square feet allocated by the commercial cannabis business owner/operator respectively for either distribution use or for manufacturing use, whether the combined sum of all vertically or horizontally integrated uses is less than, equal to, or greater than the gross square footage as stated in the "approved building set" or "approved certificate of occupancy".

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

(E) In the case of commercial cannabis businesses licensed by the state to engage in testing facilities or testing laboratory businesses, the gross number of square feet comprising such commercial cannabis business' property location as confirmed by the corresponding "approved building set" or "approved certificate of occupancy" on file with the City of Santa Ana Planning and Building Agency, whichever is the greater.

(9)(10) "Manufacturing" as defined in section 40-2(22) of this Code.

(9)(10) "Retail businesses" as defined in section 40-2(40) of this Code.

(11) "Testing Facility" or "Testing Laboratory" as defined in section 40-2(44) of this Code.

(12) "Wholesale" as defined in section 40-46 of this Code.

(k) Modification, repeal or amendment. The City Council may repeal the ordinance codified in this Article, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. The City Council may likewise by ordinance adopt and add additional provisions to any other Article of this Chapter and relate them to this Article, or amend any existing provisions of any Article of this Chapter as they may already relate to this Article in any manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. If the City Council repeals said ordinance or any provision of this Article, it may subsequently reenact it without voter approval, as long as the reenacted ordinance or section does not result in an increase in the tax or taxes imposed herein.

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

(1) The provisions of this Article shall not apply to persons having no fixed place of business within the city who come into the city for the purpose of transacting a specific item of commercial cannabis business at the request of a specific client or customer, incidental to a commercial cannabis business principally established elsewhere, provided that such person does not come into the city for the purpose of transacting such business on more than three (3) days during any calendar year.

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

(n) Reporting and remittance.

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

(2) For purposes of this section, month shall mean calendar month and shall include any fraction of a month. Taxes shall begin to accrue on the date that a person or entity first receives a business license or other city permit to operate as a commercial cannabis business or upon the operative date of this Article should a person or entity already possess a
commercial cannabis business license or other city permit to operate as a commercial cannabis business.

(3) The payment of the two thousand dollars ($2,000.00) minimum basic rate gross receipts tax required annually for each separate branch location or separate property location of the business in accordance with this section, shall be made annually prior to the beginning of the fiscal year beginning April first of the current year and expiring on the 31st day of March of the following year. In the case of a new commercial cannabis business the minimum basic rate gross receipts tax shall be paid in advance prior to any new business activity being undertaken. Every new licensee shall pay in advance an amount equal to one-quarter (¼) of the annual minimum basic rate gross receipts tax, for each quarter and fraction of a quarter remaining during the period for which the new license is issued.

(o) Delinquent date—Penalty. Any individual or entity who fails to pay the taxes required by this Article when due shall be subject to penalties and interest as set forth in accordance with this Chapter. The collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Article and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Article.

(p) Business license tax certificate—Required. There are imposed upon all persons engaged in transacting and carrying on any commercial cannabis business activity in the city taxes in the amounts prescribed in this Article. It shall be unlawful for any person, either for him or herself or for any other person, to commence, transact or carry on any business in the city without first having procured a business license from the city under this Chapter and having paid the taxes set forth in this Article, and without complying with any and all applicable provisions contained in this Chapter. The carrying on of any commercial cannabis business activity without complying with all the provisions of this Article shall constitute a separate violation of this Chapter for each and every day that such commercial cannabis activity is so carried on.

(q) Classification of business license assessment type—Term and renewal. The business license issued to commercial cannabis businesses shall be classed as a gross receipts assessment type, issued for the same term of license as set forth in subsection 21-71(c) of this Chapter and shall be subject to renewal in accordance with sections 21-72(c), 21-73(c), and 21-77.

(r) Operative date. Upon the approval by the majority of the voters of the city at the November 6, 2018 general election, the taxes imposed by this Article shall become operative and shall be applied by the collector upon all commercial cannabis businesses.
(s) **Operative date of decreased gross receipts tax rate.** The gross receipts tax set initially at a rate of five (5%) percent for testing facilities or testing laboratories pursuant to subsection (d) above shall be decreased to a rate of two (2%) percent by resolution of the City Council [Santa Ana City Council Resolution No. XXX-XXX] as hereinafter provided for in accordance with subsection (c), which reduced rate, under the terms of said City Council resolution, shall become retroactively effective July 1, 2019.

**Section 8.** Section 21-136 of Article XIII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-136. **Security for collection of commercial cannabis business’ business license tax; requirement; extension of time; application; failure to post or restore—effect; jeopardy determination; refund or release; deposit adjustment—effect.**

(a) **Requirement for Security Deposit.** To ensure compliance with business license tax payment requirements established pursuant to this Article, the collector shall require, beginning on the operative date of this Article, that each commercial cannabis business owner/operator, (including but not limited to each purchaser, assignee, transferee, or other successor in interest (hereinafter collectively referred to as successor) of a commercial cannabis business subject to the business licensing requirements of this Article,) deposit within thirty (30) such security (per individual business license) one hundred and twenty (120) days following the last day of the month in which business was first commenced such security (per individual business license) in a form acceptable to the collector in an amount not larger than the commercial cannabis business owner's/operator's estimated average monthly business license tax liability as determined by the collector or the sum of ten thousand dollars ($10,000.00), whichever is the greater, least. Provided, however, in the event that two or more commercial cannabis business licensees sharing at least 80% underlying common ownership, regardless of form of business structure, are engaged in an integrated cannabis business (whether vertically or horizontally integrated) as defined in section 21-142, then a single consolidated deposit shall be made equal to the deposit amount owing for the integrated commercial cannabis activity having the highest individual business license tax liability. Each new city commercial cannabis business licensee shall upon obtaining their City business license(s) deposit a similar security as applicable per business license within thirty (30) days after commencing business.

(b) **Extension of Time.** If, upon request and in the judgment of the collector, a determination of any commercial cannabis business' estimated average monthly tax liability for purposes of setting the amount of their required security deposit requires an extension of time beyond one hundred and twenty (120) days following
the last day of the month in which business was first commenced, then the collector may issue a written notification to such commercial cannabis business granting such extension.

(c) **Application of Security Deposit.** To recover past-due business license taxes, including penalties, interest, charges, fees, or costs (hereinafter collectively referred to as business license tax liabilities) remittable by the depositor, the collector may apply the security deposited with the collector. At least fifteen (15) days prior to the application of a security deposit, the collector shall serve upon the depositing commercial cannabis business owner/operator notice of intent to apply the security deposit. Service of notice may be made by placing the notice in the United States mail, postage prepaid, addressed to the depositing commercial cannabis business owner/operator at their place of business or other mailing address of record. Any portion of the security remaining after satisfaction of outstanding business license tax liabilities and any expenses related to third-party administrative charges or fees relating to the liquidation and application of non-cash deposits may be retained by the collector for security or in the case of a closeout audit may be paid over by the collector to the depositing owner/operator. Except in the case of a closeout audit pursuant to section 21-141, in the event the collector applies the security deposit, or any portion of said deposit, as an offset against remittable business license tax liabilities and any expenses related to third-party administrative charges or fees relating to the liquidation and application of non-cash deposits, the commercial cannabis business owner/operator shall be required within thirty (30) days of the collector’s written demand therefor, to re-deposit the full amount of the required security. In such event the amount of the required security shall be adjusted by the collector based on the average of the commercial cannabis business’ actual monthly gross receipts tax returns and/or remittances as measured over the last three (3) valid monthly returns and/or remittances received by the collector or the sum of ten thousand dollars ($10,000), whichever is least, less any amount remaining on deposit with the collector. Service of demand shall be in the same manner as stated hereinabove for service of notice.

(d) **Failure to Post or Restore Security Deposit—effect.** Failure by a commercial cannabis business licensee to initially post or restore a security deposit when required by the collector pursuant to this section shall be cause for suspension and/or revocation of such commercial cannabis business’ existing Santa Ana Business License as set out in section 21-86 of this Chapter. Similarly, in the case of a vertically and/or horizontally integrated cannabis business, the business license(s) of the integrated commercial cannabis business(es) shall be likewise subject to suspension and/or revocation.
(e) **Jeopardy Determination.** If the collector believes that the collection of any business license tax imposed by this Article will be jeopardized, in whole or in part, by delay in the commercial cannabis business owner’s/operator’s timely remittance of the business license tax, the collector shall serve notice upon the person determined to be liable therefor of their determination of jeopardy and of the business license tax required to be paid to the City, and demand immediate payment thereof, together with any interest and penalty determined to be due. The collector may consider all facts and circumstances relevant to determining whether the collection of any business license tax will be jeopardized by delay, including but not limited to indications that the person liable for the business license tax intends to take or is taking action to discontinue business activities in the City, dissipate or otherwise remove assets from the City, or sell, exchange, transfer, assign, or otherwise dispose of such person’s business, personal or business income, or business property. The collector also may consider whether the person liable for the business license tax is or has been uncooperative or unresponsive in connection with any investigation, examination, audit, deficiency determination, assessment, or collection action or procedure undertaken by the collector. A jeopardy determination of business license tax, penalty, or interest, is immediately due and payable upon the service of the notice of jeopardy determination on the person determined to be liable therefor. Service of notice of a jeopardy determination shall be made by: (1) sending the notice initially by electronic mail to the depositing commercial cannabis business owner’s/operator’s electronic mail address of record as set out in the depositing commercial cannabis business owner’s/operator’s application for business license or most recent business license renewal affidavit or business license amendment statement; (2) placing the notice for delivery with an express carrier for next business day delivery, all delivery and tracking charges prepaid, addressed to the depositing commercial cannabis business owner/operator at their place of business; and/or (3) conspicuously posting said notice upon the premises of the commercial cannabis business. Service of notice of a jeopardy determination shall be deemed completed upon tracking confirmation of the delivery of said notice to the commercial cannabis business owner’s/operator’s place of business or on the date of the actual posting of said notice on the premises of the depositing commercial cannabis business owner/operator. Upon the business day next following the completion of service of notice of a jeopardy determination upon a depositing commercial cannabis business, the collector in his or her discretion may proceed with the application of the security deposit upon actual or estimated business license taxes due, including penalties, interest, charges, or service fees.

(f) **Refund or release of security deposit.** In the case of the sale, assignment, or other transfer or termination of business by the depositor pursuant to section 21-141, the collector shall refund or release the security deposit amount required pursuant to this section, or in the event of prior application of the security deposit pursuant to
subsection (c), any unapplied amount of such security deposit, upon depositor's presentation to the collector of a certificate of nonliability stating the nonliability of the depositor for payment of business license taxes as hereunder provided in section 21-141(f).

(g) Deposit adjustment—effect. In the case of a determination by the collector that the amount of a previously posted commercial cannabis business owner's/operator's security deposit exceeds the requirements of this section, then the collector shall adjust the amount of the required security deposit. If the prior security deposit was posted on a cash basis, then the collector shall refund the excess amount. If the prior security deposit was posted on a non-cash basis, then an adjusted cash basis security deposit or adjusted non-cash basis security deposit in a form acceptable to the collector may be posted in exchange for the release of the prior security deposit.

Section 9. Section 21-141 of Article XIII of Chapter 21 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 21-141. Sale, assignment, transfer, or termination of business commercial cannabis business owner's/operator's duty to notify; remitting and reporting requirements; closeout audit; successor's duty to notify; successor's and transferor's joint and several liability; certificate of nonliability.

(a) Owner/Operator's duty to notify.

i. Termination of business. A commercial cannabis business owner/operator who is terminating their business shall notify the collector in writing of such termination at least ninety (90) days in advance of the date of termination of business. If the decision to terminate business is made within less than a ninety (90) day period prior to the date of termination, the owner/operator shall then immediately notify the collector of said decision and the date of termination of business.

ii. Sale, assignment, or transfer of business. A commercial cannabis business owner/operator who is selling, assigning, or otherwise transferring their business (hereinafter collectively referred to as transferor) shall notify the collector in writing of such sale, assignment, or transfer at least ninety (90) days in advance of the date of the sale, assignment, or transfer and shall notify the collector in writing of the name and address of the purchaser, assignee, transferee, or other successor in interest (hereinafter collectively referred to as successor) unless the decision to sell, assign, or otherwise transfer their business was made within less than a ninety (90) day period prior to the sale, assignment, or transfer, in which case the transferor shall then immediately notify the successor of the successor's responsibility for
unpaid business license taxes, including penalties, interest, charges, fees, or costs (hereinafter collectively referred to as business license tax liabilities) for the period prior to the sale, assignment, or transfer as set forth in subsections (d) and (e) below, and shall further certify in writing to the collector that the successor was notified of the requirements of this Article regarding their responsibility for unpaid business license tax liabilities.

(b) Remitting and reporting requirements. Each commercial cannabis business owner/operator upon the sale, assignment, or other transfer, or termination of business for any reason shall, on or before the last day of the month following the sale, assignment, transfer, or termination of business, file a final return to the collector on City approved forms, of the total gross receipts received, adjustments to gross receipts, the amount of business license tax collected for the reporting period, remittances made, if any, and the balance of the business license tax due, if any, shall be remitted to the collector.

(C) Closeout audit. After filing the final return and remitting the balance due, the commercial cannabis business owner/operator shall make its records of account available for a closeout audit by the collector, his or her revenue officers, or duly authorized employees or agents of the City. The decision to perform a closeout audit shall be made solely at the discretion of the collector. If, upon closeout audit, or by means of other information available to them, the collector determines that the owner/operator selling, assigning, or otherwise transferring, or terminating their business is found to have satisfied all business license tax liabilities, the collector shall issue to such business owner/operator a certificate of nonliability.

If, upon closeout audit, or by means of other information available to them, the collector determines that the owner/operator selling, assigning, or otherwise transferring, or terminating their business is deficient in either their return or remittance, or both, the collector shall immediately notify such owner/operator of the amount of the net deficiency, plus applicable penalties, interest, charges, fees, or costs. Upon such owner/operator's remittance of all business license tax liabilities owing, the collector shall issue a certificate of nonliability.

(d) Successor's duty to notify. If a commercial cannabis business owner/operator decides to sell, assign, or otherwise transfer their business, their successor shall notify the collector of the date of the sale, assignment, or other transfer at least ninety (90) days before the date of the sale, assignment, or transfer. It shall be the duty of the successor to obtain written verification from the collector's office that the transferor does not have or is not liable for any outstanding business license taxes liabilities. After the successor seeks written verification from the collector's office, if the collector notifies the successor that the transferor has or is liable for any outstanding amount of business license tax liabilities, the successor shall withhold an amount equal to such outstanding business license tax liabilities until the transferor produces a certificate of nonliability stating the nonliability of the transferor for payment of business license tax liabilities. If the transferor does not
present a certificate of nonliability within ninety (90) days after such sale, assignment, or other transfer, the successor shall deposit the withheld amount with the collector pending settlement of the account of the transferor.

If the decision to sell, assign, or otherwise transfer was made within less than a ninety (90) day period prior to the date of the sale, assignment, or other transfer, the successor shall notify the collector of the sale, assignment, or transfer immediately and shall withhold an amount equal to the sum of the transferor’s last three (3) months’ of reported and remitted business license taxes until the transferor produces a certificate of nonliability stating the nonliability of the transferor for payment of business license tax liabilities. If the transferor does not present a certificate of nonliability within ninety (90) days after such sale, assignment or other transfer, the successor shall deposit the withheld amount with the collector pending settlement of the account of the transferor.

(e) **Joint and several liability.** If the successor fails to withhold the applicable amount required under subsection (d) they shall become jointly and severally liable along with the transferor for the payment of the full amount of the transferor’s business license tax liabilities and shall likewise become jointly and severally liable along with the transferor for future penalties and/or interest charges as may be applicable as set forth in sections 21-83, 21-84, and 21-85 until all business license tax liabilities are satisfied.

(f) **Certificate of nonliability.** Upon application of a commercial cannabis business owner/operator who is terminating their business, or a transferor, or a successor, for a certificate of nonliability, the collector, after conducting an audit therefore, as he or she may deem necessary, shall issue the certificate of nonliability if the owner/operator’s, transferor’s, or successor’s business license tax liabilities have been satisfied. If any business license tax liabilities remain outstanding, or if additional business license tax liabilities have accrued subsequent to the date of application, the collector shall give notice to the operator/owner, transferor, or successor of the applicable amount which must be fully paid as a condition of issuing their respective certificate of nonliability. Where a transferor's business license tax liabilities have been partially or wholly paid by their successor to the collector pursuant to subsection (e) or partially or wholly satisfied by their successor's action of withholding and depositing amounts with the collector pursuant to subsection (d), no certificate of nonliability shall be issued to the transferor without the prior written consent of their successor.

**Section 10.** Section 21-142 of Article XIII of Chapter 21 of the Santa Ana Municipal Code, is hereby added to read as follows:

Sec. 21-142. **Vertical and horizontal integration of commercial cannabis business licensees—Defined.**
The terms vertical integration and horizontal integration as used in this Article shall have the following meanings: Vertical integration shall refer to cannabis businesses operating at different points in the same supply chain from cultivation to retail sales, as long as they share at least 80% underlying common ownership, regardless of form of business structure, and are engaged in interparty sales and/or transfers of goods. Horizontal integration shall refer to cannabis businesses operating at the same point in the same supply chain, as long as they share at least 80% underlying common ownership, regardless of form of business structure, and are engaged in interparty sales and/or transfers of goods. For purposes of this Article the term “cannabis businesses” shall include medicinal marijuana collectives/cooperatives as defined in section 18-611 and commercial cannabis businesses as defined in section 40-2, but shall not include commercial cannabis businesses engaged in testing facilities or testing laboratory businesses.

Section 11. Section 21-80 of Article VII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-80. - Same—Not conclusive; audit of books.

No statement shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the collector, his or her revenue officers, or duly authorized employees or agents of the City, who are hereby authorized to examine, audit, and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the actual amount of license fee due.

All persons subject to the provisions of this Chapter shall keep complete and detailed records of business transactions, including, but not limited to the following: rent collected, daily sales, sales taxes collected and paid to the state, any and all city, state and federal taxes collected and remitted from cannabis sales, point of sales (POS) system detailed daily sales data base and summary monthly sales reports, receipts, purchases, and other expenditures, detailed general ledger, income statements, cash flow statements, balance sheets, sales journals, cash disbursement journals and ledgers including payroll journals, third-party staffing agency statements, lease agreements, and other reports regarding the number and types of persons employed and/or otherwise engaged in the business, and shall retain all such records for examination by the collector, his or her revenue officers, or duly authorized employees or agents of the City. Such records shall be maintained for the period of the current calendar year, and for a prior period of at least three (3) complete calendar years or from the commencement of business within the city, whichever period is least. In the event such records of any business are not maintained within the city and are not
reasonably made available for examination within the city, then such business shall be responsible for the actual travel and lodging cost in connection with the performance of said examination.

No person required to keep records under this section shall refuse to allow the collector, his or her revenue officers, or duly authorized employees or agents of the City to examine said records at reasonable times and places. Any person who willfully refuses to allow said examination on demand and at a reasonable time and place as herein provided shall be deemed guilty of a misdemeanor. In addition, such willful refusal shall be cause for suspension and/or revocation of such business' existing Santa Ana Business License as set out in section 21-86 of this Chapter.

Section 12. Section 21-80.1 of Article VII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-80.1. - Same—Audit deficiency; application of penalty and interest; voluntary compliance; — effect; — Abatement of penalty and interest; — application; Exception for business license taxes assessed on a monthly basis; audit service fees.

In the event that the collector or his or her designated agents, whether through an audit or otherwise, determine that any person has misstated their gross receipts amount, square footage amount, or other criteria upon which their current or prior years' business license tax has been calculated resulting in an underpayment of the tax amount owed, the collector shall separately calculate the deficiency for each distinct license period affected and issue a statement of tax deficiency and add delinquency penalties as applicable to the amount of the tax deficiency in accordance with Section 21-25, subsection (a) and Section 21-83, subsection (a), together with interest as provided under Sections 21-84 and 21-85, as applicable, until such time as the tax deficiency together with the accrued penalties and interest, are satisfied.

In the case of business license taxes which are assessed and payable on a monthly basis, an identical procedure shall be applied by the collector. Provided, however, that the provisions of Section 21-25 shall not apply.

Provided, however, that Except business license taxes which are assessed and payable on a monthly basis, where any person voluntarily reports a tax deficiency on business license taxes which are assessed and payable on an annual basis such person's penalty and interest assessment on said deficiency shall be abated until the combined amount of tax, penalty and interest due is equalized to an amount equivalent to the amount of current and prior years' taxes owing as computed or determined based upon the business license tax rates and charges in effect for the most current tax year. In computing the abatement of accrued penalties and interest to

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arrive at a combined amount of tax, penalty and interest equivalent to the amount of the current or prior years' taxes owing as computed or determined based upon the business license tax rates in effect for the most current tax year the collector in his or her discretion may retain a sufficient amount of accrued penalty alone, or a sufficient amount of accrued interest alone, or any sufficient combination of accrued penalty amount and accrued interest amount necessary.

Whenever the result of any audit performed pursuant to this Chapter, excluding audits performed in connection with any medicinal cannabis business or commercial cannabis business, determines that any licensee has, exclusive of penalties and interest, underpaid the amount of their business license tax by five (5) per cent or more of the total amount due, but not less than two hundred fifty dollars ($250.00), then an audit service fee in an amount as specified by resolution of the City Council shall be applied.

In the case of audits performed pursuant to this Chapter in connection with any medicinal cannabis business or commercial cannabis business that has, exclusive of penalties and interest, underpaid the amount of their business license tax by five (5) per cent or more of the total amount due, but not less than five thousand dollars ($5,000.00), then such cannabis business shall be responsible for the City's actual cost of performing said audit.

Section 13. Section 21-86 of Article VII of Chapter 21 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 21-86. - Same—Suspension and revocation of business license.

The collector shall suspend and/or revoke any business license issued or granted pursuant to this Chapter only upon those grounds set forth in Sections 21-45, 21-50, 21-55, 21-58, 21-59, 21-60, 21-80, 21-136 or upon conditions set forth in any written agreement executed pursuant to Section 21-83.

Provided further, that unless revocation is made upon conditions set forth in a written agreement executed pursuant to Section 21-83 or upon licensee's failure to comply with the requirements of Section 21-136, no licensee's business license shall be suspended and/or revoked for failure to pay the any annual business license tax as set forth in this Chapter, or any monthly business license tax as set forth in Article XII or Article XIII of this Chapter, or any other amount due pursuant to this Chapter until the penalties accruing for such failure to pay, exclusive of interest, equal one hundred (100) per cent of the business license tax due for such license have attained the maximum applicable amount permissible under the terms of this Chapter. Whereupon, the collector shall give a notice of suspension, which notice shall specify the grounds for suspension, and which notice shall be given by personal service or by depositing it in
the United States post office in the city, postage prepaid, addressed to the licensee at the address listed on the application of the licensee where he or she consented to receive mail concerning his or her license, to obtain a license or to pay any license tax due or the address listed on the most recent business license renewal affidavit or business license amendment statement; and/or conspicuously posting said notice upon the premises of the business. Service of notice shall be deemed completed upon the date of personal service of said notice, or the date of mailing of said notice, or the date of actual posting of said notice on the premises of the licensee whichever occurs first.

In the event said licensee fails, within a period of thirty (30) days' notice, to pay the business license tax due or any other amount due pursuant to this Chapter, or to request a hearing the procedure for which shall be as provided in Section 21-41, then and in that event the collector shall give a notice of revocation. The licensee shall be given at least ten (10) days' notice, which notice shall specify the grounds for revocation, and which notice shall be given pursuant to the hereinabove set forth procedure for giving notice.

In the event said licensee fails within the allotted ten (10) day period to request a hearing to show cause why his or her business license should not be revoked, then and in that event the collector shall revoke said person's license and give notice thereof to said person pursuant to the hereinabove set forth procedure for giving notice.

In the event said licensee fails to file within ten (10) days thereafter, an appeal pursuant to Chapter 3 of this Code, then the collector's action in revoking said person's business license shall be conclusive as to all matters involved, and the transacting and carrying on by any person of any business pursuant to said license shall thereafter be deemed a misdemeanor.

Section 14. Severability. 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 15. Effective Date. This Ordinance shall be effective thirty days after its adoption by the City Council of the City of Santa Ana.

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75F-31
ADOPTED this _____ day of __________, 2019.

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, NORMA MITRE, Acting 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: ________________________________

Acting Clerk of the Council
City of Santa Ana

75F-32
RESOLUTION NO. 2019-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA REDUCING THE COMMERCIAL CANNABIS GROSS RECEIPTS TAX FOR TESTING LABORATORIES FROM FIVE (5%) PERCENT TO TWO (2%) PERCENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

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

A. In November 2016, the California Marijuana Legalization Initiative, also known as the Adult Use of Marijuana Act (AUMA or Proposition 64) was approved by the voters of the State of California. The AUMA legalized recreational marijuana.

B. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) establishing state regulations and licensing for retail sales, manufacturing, distribution, delivery and testing of adult-use (also called recreational) marijuana.

C. On November 9, 2017, the City Council created Chapter 40 of the Santa Ana Municipal Code, allowing adult-use commercial cannabis retail businesses in the city, and amended certain sections of Chapters 18 and 21 of the Santa Ana Municipal Code to ensure consistency with State law and Chapter 40. Since 2014, the City has allowed medicinal marijuana collectives/ cooperatives to operate within the City pursuant to regulations set forth in Chapter 18 and Chapter 21 of the Santa Ana Municipal Code.

D. On March 20, 2018, the City Council adopted Ordinance NS-2941 and NS-2942, allowing and regulating commercial cannabis testing laboratories.

E. A general business license tax based on the gross receipts derived from commercial cannabis businesses and gross square footage would generate essential funds for protecting vital City services and facilities and place such businesses on more equal footing with existing City businesses, including medical marijuana businesses which already pay a business license tax.
The City Council is authorized to impose general and special taxes in order to fund municipal services and facilities, subject to requisite voter approval as set forth in Government Code section 53720.

The voters of the City of Santa Ana approved Measure Y (Ordinance NS-2962) on November 6, 2018, for the purpose of fixing the rate of taxation for commercial cannabis businesses including delivery, distribution, manufacturing, cultivation, testing and retail sales of cannabis and related products. The taxes required to be paid under this article are declared to be required pursuant to the taxing power of the City of Santa Ana solely for the purpose of obtaining revenue and are not regulatory permit fees.

The City of Santa Ana desires to remain at the forefront of commercial cannabis by allowing and regulating commercial cannabis business activities, routinely updating and amending its ordinances, and establishing commercial cannabis gross receipts tax rates that are competitive and provide for the needs of the Santa Ana community.

The City of Santa Ana has a compelling interest in ensuring that cannabis is not sold 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 businesses may operate, and in providing access to safe and tested cannabis to residents. To ensure safe and tested cannabis, the City desires to see the establishment and successful operation of testing facilities and testing laboratories in the City.

Section 21-133 (d) of Article XIII of Chapter 21 of the Santa Ana Municipal Code establishes the initial commercial cannabis testing facility of testing laboratory gross receipts tax rate at five (5%) percent.

Section 21-133 (c) of Article XIII of Chapter 21 of the Santa Ana Municipal Code allows the City Council by resolution to implement any lower tax rate it deems appropriate.

Section 2. The City Council hereby establishes the commercial cannabis testing facility/testing laboratory gross receipts tax rate at two (2%) percent, lowering it from five (5%) percent. The reduced two (2%) percent gross receipts tax rate shall become effective July 1, 2019.
ADOPTED this ___ day of ______________, 2019.

__________________________________________
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, Norma Mitre, Acting Clerk of the Council, do hereby certify the attached Resolution No. 2019 - _____ to be the original resolution adopted by the City Council of the City of Santa Ana on ________________________, 2019.

Date: ____________________

Acting Clerk of the Council
City of Santa Ana
RESOLUTION NO. 2019-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA ESTABLISHING A CANOPY MEASUREMENT SERVICE FEE AND AN ALLOCATED SQUARE FOOTAGE MEASUREMENT SERVICE FEE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

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

A. In November 2016, the California Marijuana Legalization Initiative, also known as the Adult Use of Marijuana Act (AUMA or Proposition 64) was approved by the voters of the State of California. The AUMA legalized recreational marijuana.

B. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) establishing state regulations and licensing for retail sales, manufacturing, distribution, delivery and testing of adult-use (also called recreational) marijuana.

C. On November 9, 2017, the City Council created Chapter 40 of the Santa Ana Municipal Code, allowing adult-use commercial cannabis retail businesses in the city, and amended certain sections of Chapters 18 and 21 of the Santa Ana Municipal Code to ensure consistency with State law and Chapter 40. Since 2014, the City has allowed medicinal marijuana collectives/ cooperatives to operate within the City pursuant to regulations set forth in Chapter 18 and Chapter 21 of the Santa Ana Municipal Code.

D. On March 20, 2018, the City Council adopted Ordinance NS-2941 and NS-2942, allowing and regulating commercial cannabis testing laboratories.

E. A general business license tax based on the gross receipts derived from commercial cannabis businesses and gross square footage would generate essential funds for protecting vital City services and facilities and place such businesses on more equal footing with existing City businesses, including medical marijuana businesses which already pay a business license tax.
F. The City Council is authorized to impose general and special taxes in order to fund municipal services and facilities, subject to requisite voter approval as set forth in Government Code section 53720.

G. The voters of the City of Santa Ana approved Measure Y (Ordinance NS-2962) on November 6, 2018, for the purpose of fixing the rate of taxation for commercial cannabis businesses including delivery, distribution, manufacturing, cultivation, testing and retail sales of cannabis and related products. The taxes required to be paid under such article are declared to be required pursuant to the taxing power of the City of Santa Ana solely for the purpose of obtaining revenue and are not regulatory permit fees.

H. The City of Santa Ana desires to remain at the forefront of commercial cannabis by allowing and regulating commercial cannabis business activities, routinely updating and amending its ordinances, and establishing commercial cannabis gross receipts tax rates that are competitive and provide for the needs of the Santa Ana community.

I. Section 21-133, subsection (j)(B)(B) of Article XIII of Chapter 21 of the Santa Ana Municipal Code states that the gross square footage of cultivation canopy shall be subject to independent measurement and calculation by duly authorized employees or agents of the City and that a corresponding canopy measurement fee amount be specified by resolution of the City Council.

J. Section 21-133, subsection (j)(B)(D) of Article XIII of Chapter 21 of the Santa Ana Municipal Code states that the gross square footage of allocated square footage amounts reported by commercial cannabis business owners/operators respectively for either distribution use or for manufacturing use, shall be subject to independent measurement and calculation by duly authorized employees or agents of the City and that a corresponding allocated square footage measurement fee amount be specified by resolution of the City Council.

K. The City Council conducted a duly noticed public hearing on June 4, 2019, to consider the proposed fee modifications.

Section 2. Pursuant to Santa Ana Municipal Code Section 21-133, subsection (j)(B)(B) the City Council hereby establishes a canopy measurement fee in the amount of $100.57 per hour. Said fee shall be added to the City’s Miscellaneous Fee Schedule and be subject to the Consumer Price Index changes annually. The canopy measurement fee amount shall become operational upon the effective date of Section 21-133, subsection (j)(B)(B).

Section 3. Pursuant to Santa Ana Municipal Code Section 21-133, subsection (j)(B)(D) the City Council hereby establishes an allocated square footage measurement fee in the amount of $100.57 per hour. Said fee shall be added to the City’s Miscellaneous Fee Schedule and be subject to the Consumer Price Index changes annually. The
allocated square footage measurement fee amount shall become operational upon the effective date of Section 21-133, subsection (j)(8)(D).

Section 4. The City Council finds that the fees adopted by this Resolution do not exceed the reasonable cost of providing the services for which the fees are charged.

ADOPTED this ___ day of ___________________, 2019.

__________________________
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, Norma Mitre, Acting Clerk of the Council, do hereby certify the attached Resolution No. 2019 - _____ to be the original resolution adopted by the City Council of the City of Santa Ana on ____________________, 2019.

Date: _______________________

Acting Clerk of the Council
City of Santa Ana