

ORDINANCE NO. ORD-23-0032

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY AMENDING SECTION 3.80.261 TO  
REDUCE THE ADULT-USE AND MEDICAL CANNABIS  
CULTIVATION AND RETAIL TAXES FOR EQUITY  
BUSINESSES

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

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

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

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

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

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

- 22 a. The cost of tangible property sold or bartered;
- 23 b. The cost of materials or products used, labor or  
24 service cost, interest paid, losses, or other expense; or
- 25 c. The cost of transportation of the marijuana, or  
26 other property or product.

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

1           taxation measured by income or gross receipts under Article XIII, Section  
2           26 of the California Constitution.

3                     4.       "Marijuana" shall mean all parts of the plant Cannabis  
4                     sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing  
5                     or not; the seeds thereof; the resin; whether crude or purified, extracted  
6                     from any part of the plant; and every compound, manufacture, salt,  
7                     derivative, mixture, or preparation of the plant, its seeds, or resin.

8                     "Marijuana" also means the separated resin, whether crude or purified,  
9                     obtained from marijuana. "Marijuana" also means the term as defined in  
10                    California Health and Safety Code Section 11018 and is not limited to  
11                    medical marijuana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 Section 2. Subsection 3.80.261.C of the Long Beach Municipal Code is  
8 amended to read as follows:

9 C. Business License Tax Rates.

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

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

28 3. If a marijuana business is engaged in retail sales or

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

11 4. Every marijuana business, whether medical or non-  
12 medical, that is engaged in marijuana distribution, transport, processing, or  
13 testing within the City, shall pay business tax at a rate of up to eight percent  
14 (8%) of gross receipts. The tax which was initially set at a rate of six percent  
15 (6%), is reduced and set at a rate of one percent (1%). The tax under this  
16 section shall not be increased on marijuana businesses unless and until the  
17 City Council by ordinance takes action, and the tax rate shall not exceed  
18 eight percent (8%) of gross receipts. If a marijuana business that is  
19 engaged in marijuana distribution, transport, processing, or testing, is also  
20 engaged in marijuana retail sale or delivery of the same marijuana and  
21 marijuana products, then it shall pay the business taxes set forth in  
22 paragraphs C.1. or C.2., as applicable, for retail sale or delivery of any  
23 marijuana or marijuana products and is not required to pay the business  
24 taxes set forth in this paragraph for marijuana distribution, transport,  
25 processing, or testing for the same marijuana and marijuana products. The  
26 marijuana business has the burden of proving that the marijuana or  
27 marijuana products involved in distribution, transport, processing, or testing  
28 are the same.

1                   5.       In addition to the taxes set forth in paragraphs C.1.,  
2                   C.2., and C.4., every marijuana business, whether medical or non-medical,  
3                   engaged in marijuana cultivation shall pay a tax of up to fifteen dollars  
4                   (\$15.00) per square foot under cultivation, except equity businesses who  
5                   meet the eligibility criteria as stated in Section 5.92.1615, shall pay a  
6                   business tax at half the rate set for non-equity businesses. The tax shall  
7                   initially be set at a rate of twelve dollars (\$12.00) per square foot under  
8                   cultivation. The City Council may by ordinance increase any such tax rate  
9                   from time to time, not to exceed the maximum tax rate of fifteen dollars  
10                  (\$15.00) per square foot under cultivation.

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

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

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

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of August 15, 2023, by the following vote:

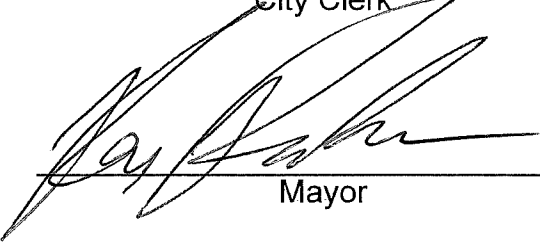
Ayes: Councilmembers: Zendejas, Allen, Kerr, Austin, Ricks-Oddie.

Noes: Councilmembers: None.

Absent: Councilmembers: Duggan, Supernaw, Saro, Uranga

Recusal(s): Councilmembers: None.

  
For Monique DeLaGarza  
City Clerk

  
Mayor

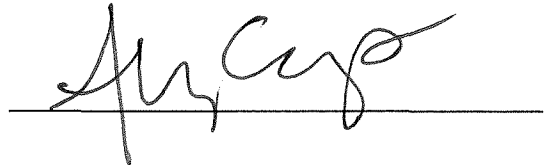
Approved: 8/23/17  
(Date)

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 W. Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA        ) ss  
COUNTY OF LOS ANGELES    )  
CITY OF LONG BEACH         )


Alyssa Campos being duly sworn says: That I am employed in the Department of the City Clerk of the City of Long Beach; that on the 17<sup>th</sup> day of August 2023, I posted three true and correct copies of Ordinance No. ORD-23-0032 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the lobby of City Hall in front of the Civic Chambers; one of said copies in the Billie Jean King Main Library; and one of said copies on the front counter of the City Clerk Department.



A handwritten signature in black ink, appearing to read 'Alyssa Campos', is written over a horizontal line.

Subscribed and sworn to before me

This 17<sup>th</sup> day of August 2023.



For Monique DeLaGarza  
CITY CLERK