

ORDINANCE NO. ORD-24-0009

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

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

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

3.80.261 Marijuana Businesses.

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

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

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

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 B. Business License Tax.

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

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

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

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

21 C. Business License Tax Rates.

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

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

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

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

24 4. Every marijuana business, whether medical or non-
25 medical, that is engaged in marijuana distribution, transport, processing, or
26 testing within the City, shall pay business tax at a rate of up to eight percent
27 (8%) of gross receipts. The tax which was initially set at a rate of six percent
28 (6%), is reduced and set at a rate of one percent (1%). The tax under this

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

14 5. In addition to the taxes set forth in paragraphs C.1.,
15 C.2., and C.4., every marijuana business, whether medical or non-medical,
16 engaged in marijuana cultivation shall pay a tax of up to fifteen dollars
17 (\$15.00) per square foot under cultivation, except equity businesses who
18 meet the eligibility criteria as stated in Section 5.92.1615, shall pay a
19 business tax at half the rate set for non-equity businesses. The tax which
20 was initially set at a rate of twelve dollars (\$12.00) per square foot under
21 cultivation and increased to fourteen dollars and ninety-six cents (\$14.96)
22 per annual adjustment as stipulated in paragraph E., is set to thirteen
23 dollars and nine cents (\$13.09). The City Council may by ordinance
24 increase any such tax rate from time to time, not to exceed the maximum
25 tax rate of fifteen dollars (\$15.00) per square foot under cultivation.

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

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

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

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

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

1 annually calculated change from the base year. The October 1, 2018,
2 adjustment shall be the change in the average CPI for the year ending
3 December 31, 2017, compared to the base year ending December 31,
4 2016.

5 F. Pilot Tax Program. Every medical and non-medical marijuana
6 business engaged in cultivation and non-medical marijuana business
7 engaged in retail sale or delivery, is eligible to apply for the Pilot Tax Credit
8 Program to receive a tax credit of 3% upon, meeting the good standing
9 requirements and eligibility criteria set by City Council. Under no
10 circumstances may a tax credit result in tax at a rate less than two percent
11 (2%).

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

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

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

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

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

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

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

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

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

14
15 Section 2. The City Clerk shall certify to the passage of this ordinance by
16 the City Council and cause it to be posted in three (3) conspicuous places in the City of
17 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
18 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 April 16, 2024, by the following vote:

Ayes: Councilmembers: Zendejas, Duggan, Supernaw, Kerr, Saro, Uranga, Ricks-Oddie.

Noes: Councilmembers: None.

Absent: Councilmembers: Allen, Austin.

Recusal(s): Councilmembers: None.


City Clerk


Mayor

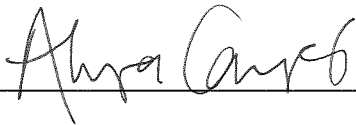
Approved: 4/23/24
(Date)

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long 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 19th day of April 2024, I posted three true and correct copies of Ordinance No. ORD-24-0009 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.



Subscribed and sworn to before me
This 19th day of April 2024.



CITY CLERK