

City Council Meeting: July 26, 2022

Santa Monica, California

RESOLUTION NUMBER 11451 (CCS)
(City Council Series)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA SUBMITTING TO THE VOTERS A MEASURE TO
ESTABLISH A COMMERCIAL CANNABIS BUSINESS TAX
AND TO IMPOSE SUCH TAX ON CANNABIS BUSINESSES
OPERATING WITHIN SANTA MONICA

WHEREAS, California Government Code Sections 37101 and 37100.5 authorize the City of Santa Monica to levy a license tax, for revenue purposes, upon business transacted in the City; and

WHEREAS, the voters of California authorized the use of cannabis for medicinal purposes with the passage of the Compassionate Use Act of 1996 (Proposition 15), and authorized the use of cannabis for recreational purposes with the passage of the Adult Use of Marijuana Act of 2016 (Proposition 64); and

WHEREAS, on October 24, 2017, the City Council of the City of Santa Monica adopted Ordinance No. 2747, which established a regulatory framework for commercial medicinal cannabis uses in Santa Monica; and

WHEREAS, every person or entity operating a commercial business in the City of Santa Monica is required to obtain a business license and to pay the City's business license tax; and

WHEREAS, the City is currently processing business licenses and regulatory permits for two medicinal cannabis retailers that expect to begin their operations in Santa Monica this year; and

WHEREAS, the City does not impose a cannabis specific tax upon cannabis businesses, which are currently only subject to the City's standard business license tax and other generally applicable municipal taxes; and

WHEREAS, as cannabis businesses grow in number and become approved to operate in the City, they are likely to create demands upon City services and resources; and

WHEREAS, the City desires to impose a cannabis specific license tax upon all cannabis businesses operating in the City, to be known as the “Cannabis Business Tax”; and

WHEREAS, commercial nonmedicinal cannabis activities are currently prohibited in the City of Santa Monica, and the passage of the proposed Cannabis Business Tax by Santa Monica voters will not authorize or legalize commercial nonmedicinal cannabis activities in Santa Monica; and

WHEREAS, the Santa Monica City Council may decide, at a later date and after having held a public hearing, to authorize and legalize commercial nonmedicinal cannabis business activities in the City of Santa Monica; and

WHEREAS, pursuant to California Elections Code Section 10403, the City Council has previously requested that the County of Los Angeles consent and agree to the consolidation of all aspects of a General Municipal Election with the Statewide General Election scheduled for Tuesday, November 8, 2022, for the purpose of electing members of the Santa Monica City Council, the Santa Monica Rent Control Board, the Santa Monica-Malibu Unified School District, and the Santa Monica College Community College District.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES RESOLVE AND PROCLAIM AS FOLLOWS:

SECTION 1. At the General Municipal Election called for November 8, 2022, the following measure shall be submitted to the qualified electors of the City of Santa Monica:

| | |
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| <p>Measure “__”:</p> <p>Shall the measure to establish a business tax on every licensed cannabis business (including adult-use nonmedicinal cannabis retailers, distribution, manufacturing, cultivation, laboratory testing, or any other licensed cannabis business) and retailers of products containing psychoactive cannabinoids, including cannabinoids derived from industrial hemp, up to 10% of gross receipts on cannabis and/or hemp-derived psychoactive products sold in the City, which all together could generate an estimated \$3-5 million annually until repealed, be adopted?</p> | <p>YES _____</p> <p>NO _____</p> |
|---|----------------------------------|

SECTION 2. That the City Clerk shall file a certified copy of this resolution with the Board of Supervisors and with the county election department of the County of Los Angeles.

SECTION 3. The City of Santa Monica recognizes additional costs may be incurred by the County by reason of the addition of this measure to the ballot and agrees to reimburse the County for any additional costs.

SECTION 4. The City Clerk shall transmit to the City Attorney, in accordance with applicable law, a copy of the proposed measure. The City Attorney shall prepare an impartial analysis of it, which shall not exceed 500 words in length. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments. In accordance with applicable law, not less than 10 calendar days before the City Clerk submits the official election materials for printing, the City Clerk shall make a copy of all applicable election materials available for public examination in the City Clerk's office.

SECTION 5. The City Council authorizes its members, as follows, to file written

arguments for or against the measure described above and which is contained in Exhibit 1 to this Resolution, which Exhibit is incorporated by reference herein:

FOR: _____

AGAINST: _____

All written arguments filed by any person in favor of or against any measure, including any rebuttal arguments, shall be accompanied by the names and signatures of the persons submitting the argument as required by applicable law, and any names, signatures and arguments may be filed until the time and date fixed by the City Clerk in accordance with applicable law, after which no change may be submitted to the City Clerk unless permitted by law.

SECTION 6. The City Clerk shall cause the text of the measure, which is contained in Exhibit 1, together with the City Attorney impartial analysis, and any arguments for or against the measure, as well as any rebuttal, to be mailed to all qualified voters with the sample ballot. In addition to other notices and publications required by law, the City Clerk, not less than forty (40) days and not more than sixty (60) days before the General Municipal Election, shall cause the text of the measure to be published once in the official newspaper and in each edition thereof during the day of publication. The City Clerk is authorized to give such notices and to fix such times and dates as are required by law or which are appropriate to conduct properly the election.

SECTION 7. The provisions of Resolution Numbers 11425 (CCS) and 11426 (CCS) are referred to and incorporated into this resolution for more particulars concerning the conduct of General Municipal Election to be held on November 8, 2022, and in all respects the election shall be held and conducted as provided for by applicable law. The City Clerk is authorized and directed to procure and furnish any official ballots, notices,

printed materials and all supplies or equipment that may be necessary in order to properly and lawfully conduct the election.

SECTION 8. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

APPROVED AS TO FORM:

DocuSigned by:

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Douglas Sloan, City Attorney

Exhibit 1

CITY COUNCIL PROPOSED MEASURE TO ADD CHAPTER 6.204 OF THE SANTA MONICA MUNICIPAL CODE TO ESTABLISH A COMMERCIAL CANNABIS BUSINESS TAX AND TO IMPOSE SUCH TAX ON CANNABIS BUSINESSES OPERATING WITHIN SANTA MONICA

WHEREAS, California Government Code Sections 37101 and 37100.5 authorize the City of Santa Monica to levy a license tax, for revenue purposes, upon business transacted in the City; and

WHEREAS, the voters of California authorized the use of cannabis for medicinal purposes with the passage of the Compassionate Use Act of 1996 (Proposition 15), and authorized the use of cannabis for recreational purposes with the passage of the Adult Use of Marijuana Act of 2016 (Proposition 64); and

WHEREAS, on October 24, 2017, the City Council of the City of Santa Monica adopted Ordinance No. 2747 which established a regulatory framework for commercial medicinal cannabis uses in Santa Monica; and

WHEREAS, every person or entity operating a commercial business in the City of Santa Monica is required to obtain a business license and to pay the City's business license tax; and

WHEREAS, the City is currently processing business licenses and regulatory permits for two medicinal cannabis retailers who expect to begin their operations in Santa Monica this year; and

WHEREAS, the City does not impose a cannabis specific tax upon cannabis businesses, which are currently only subject to the City's standard business license tax and other generally applicable municipal taxes; and

WHEREAS, as cannabis businesses grow in number and become approved to operate in the City, they are likely to create demands upon City services and resources;

and

WHEREAS, the City desires to impose a cannabis specific license tax upon all cannabis businesses operating in the City, to be known as the “Cannabis Business Tax”;

and

WHEREAS, commercial nonmedicinal cannabis activities are currently prohibited in the City of Santa Monica and the passage of the proposed Cannabis Business Tax by Santa Monica voters will not authorize or legalize commercial nonmedicinal cannabis activities in Santa Monica; and

WHEREAS, the Santa Monica City Council may decide, at a later date and after having held a public hearing, to authorize and legalize commercial nonmedicinal cannabis activities in the City of Santa Monica; and

WHEREAS, under applicable law, the City Council of the City of Santa Monica must present a proposed Cannabis Business Tax to the electorate of the City of Santa Monica for adoption by majority vote of the electorate.

NOW, THEREFORE:

SECTION 1. Chapter 6.204 CANNABIS BUSINESS TAX is hereby added to the Santa Monica Municipal Code to read as follows:

Chapter 6.204 CANNABIS BUSINESS TAX

6.204.010 Title and Purpose.

(a) This Chapter shall be known as the “Cannabis Business Tax.”

(b) The purpose of this Chapter is to adopt a business license tax, for general revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon commercial cannabis businesses that engage in business in the City of Santa Monica. The Cannabis Business Tax is levied based upon business gross receipts. It is

not a sales and use tax, a tax upon income, or a tax upon real property.

(c) The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the revenue received by the City from the tax imposed by this Chapter shall be placed into the City's general fund.

6.204.020 Intent.

The intent of this Chapter is to impose a business license tax applicable to Cannabis Businesses that operate in the City of Santa Monica, regardless of whether such business would have been legal at the time this Chapter was adopted. Nothing in this Ordinance shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

6.204.030 Definitions.

The following words and phrases shall have the meanings set forth below, which shall govern the application and interpretation of this Chapter.

(a) "Adult-use Non-Medicinal" means the use of Cannabis or Cannabis products by individuals twenty-one (21) years of age and older without the need for a physician's recommendation or prescription.

(b) "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to their employer.

(c) "Business License Tax" refers to the "Business License Fee" or business license tax set forth in Chapters 6.04, 6.08, and 6.12 of the Code.

(d) “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from Cannabis. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, Cannabis shall also include “industrial hemp” or “hemp” products or products containing psychoactive cannabinoids, including cannabinoids derived from industrial hemp.

(e) “Cannabis Business” means any commercial activity involving Cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of Cannabis or Cannabis products, whether or not carried on for gain or profit.

(f) “Cannabis Business Tax” or “Tax” means the tax due pursuant to this Chapter 6.204 for operating a Cannabis Business in Santa Monica or otherwise engaging in commercial Cannabis activity within in the City.

(g) “Cannabis product” means raw Cannabis that has been transformed into a concentrate, an edible product, or a topical product. It also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical Cannabis products.

(h) "Canopy" means all areas occupied by any portion of a cannabis plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area.

(i) "City" means the City of Santa Monica.

(j) "Code" means the Santa Monica Municipal Code.

(k) "Cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis and includes, but is not limited to, the operation of a nursery.

(l) "Delivery" means the commercial transfer of Cannabis or Cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

(m) "Director" means the Director of Finance for the City of Santa Monica or the Director of Finance's designee(s).

(n) "Distribution" means the procurement, sale, and transport of Cannabis and Cannabis products between persons engaged in commercial Cannabis activity.

(o) "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

(p) "Engaged in business" means the commencing, conducting, operating, managing, or carrying on of a Cannabis Business, whether done as an owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a

fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business if any of the following apply:

- (1) Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
- (2) Such person or person's employee owns or leases real property within the City for business purposes;
- (3) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
- (4) Such person or person's employee regularly conducts solicitation of business within the City; or
- (5) Such person or person's employee performs work or renders services in the City.
- (6) The foregoing specified activities shall not be a limitation on the meaning of "engaged in business".

(q) "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in business in the City for the purpose of operating a Cannabis Business.

(r) "Gross receipts" shall include the total of amounts actually received or receivable from all sales and the total of amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is

made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses, or other expense whatsoever. Excluded from "gross receipts" shall be the following:

- (1) Cash discounts allowed and taken on sales;
- (2) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (3) Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
- (4) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered; and
- (5) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded.

(s) "Industrial Hemp" or "Hemp" means an agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa* L. and any part of that plant as defined in Section 81000 of the State Food & Agricultural Code or Section 11018.5 of the State Health & Safety Code.

(t) "Manufacturer" means a person that conducts the production, propagation, compounding, blending, extracting, infusing, or otherwise causes to be prepared a Cannabis product. A person engaged in light manufacturing is a Manufacturer for purposes of this Chapter 6.204.

(u) "Marijuana" means Cannabis, as that term is defined in this Chapter 6.204.

(v) "Medicinal Use" means the use of Cannabis or Cannabis products pursuant to a physician's recommendation or prescription to treat a medical condition.

(w) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

(x) "Sale" means any sale, exchange, or barter or other transaction for any consideration.

(y) "State" means the State of California.

(z) "Testing Laboratory" means a Cannabis Business that: (i) offers or performs tests of Cannabis or Cannabis products; (ii) offers no service other than such tests; (iii) sells no products, excepting only testing supplies and materials; (iv) is accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and (v) is registered with the State Department of Public Health.

6.204.040 Tax Imposed.

(a) Upon the effective date of this Chapter there is established and imposed upon each person who is engaged in business as a Cannabis Business an annual Cannabis Business Tax at the rates set forth in this Chapter. Such Tax is payable regardless of whether the business has been issued a permit and is operating lawfully in

the City, or is operating unlawfully. The City's acceptance of payment of the Cannabis Business Tax required herein from a Cannabis Business operating unlawfully in the City shall not constitute the City's approval or consent to such unlawful operations.

(b) **Adult-Use Non-Medicinal Cannabis Retailers.** The Cannabis Business Tax upon every person who engages in business as a retailer of Adult-use Non-Medicinal Cannabis or Adult-use Non-Medicinal Cannabis products shall be at the tax rate of three-percent (3%) of the gross receipts derived from the retail sale of Adult-use Non-Medicinal Cannabis or Adult-use Non-Medicinal Cannabis products. Such tax rate may increase or decrease by resolution adopted by the City Council but shall not exceed the maximum tax rate of ten percent (10%) without voter approval.

(c) **Medicinal Cannabis Retailers.** The Cannabis Business Tax upon every person who engages in business as a retailer of Medicinal Cannabis or Medicinal Cannabis products shall be at the tax rate of two-percent (2%) of the gross receipts derived from the retail sale of Medicinal Cannabis or Medicinal Cannabis products. Such tax rate may increase or decrease by resolution adopted by the City Council but shall not exceed the maximum tax rate of ten percent (10%) without voter approval.

(d) **Distribution, Manufacturing, Cultivation, or Laboratory Testing.** The Cannabis Business Tax upon every person who engages in business and where such business primarily involves the distribution, or the manufacturing, or the cultivation, or laboratory testing of Cannabis or Cannabis products, shall be at the tax rate of one-percent (1%) of the gross receipts derived from such distribution, manufacturing, cultivation, or laboratory testing of Cannabis or Cannabis products. Such tax rate may increase or decrease by resolution adopted by the City Council but shall not exceed the maximum tax rate of 10 percent (10%) without voter approval.

6.204.050 Exemptions.

The provisions of this Chapter shall not apply to personal Cannabis cultivation as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act. This Chapter shall not apply to personal use of Cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

6.204.060 Reporting and Remittance of Tax.

The Cannabis Business Tax established under this Chapter shall be imposed and payable on an annual basis, and shall be subject to arrears, and collected by the Director in a manner consistent with the following:

(a) Each Cannabis Business shall, on or before June 30th of each fiscal year, prepare and submit a tax statement on the form prescribed by the Director and remit to the Director the Cannabis Business Tax due.

(b) Tax statements and payments for all outstanding Cannabis Business Tax owed to the City are immediately due and payable to the Director upon the cessation of a Cannabis Business.

(c) The Director may, at his or her discretion, establish shorter reporting and payment periods for any taxpayer as the Director reasonably deems necessary to ensure collection of the Tax.

6.204.070 Penalties, Interest, and Delinquent Date

(a) Any person who fails or refuses to pay any Cannabis Business Tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties as follows:

(1) A penalty of twenty percent of the Cannabis Business Tax due, in addition to the amount of the Tax, who fail to pay the Cannabis Business Tax prior to September 1st (“Delinquent Date”).

(2) An additional penalty of ten percent of the Cannabis Business Tax due shall be added for each month or portion thereof that said Tax remains unpaid after the Delinquent Date. In no case, however, shall the penalty exceed one hundred percent of the original Cannabis Business Tax due.

(b) To the extent permitted by law, the Director may establish rules and regulations that establish an applicable interest rate. The Director of Finance shall have the power to reduce or waive any penalty or interest applicable under this Chapter so long as such reduction or waiver is in writing and in compliance with any City-issued rules or regulations concerning this Chapter. Any request for reduction or waiver of any penalty or interest assessed pursuant to this Chapter shall be made in writing no later than thirty days following the assessment of such penalty or interest.

(c) Whenever a check or electronic payment is submitted in payment of a Cannabis Business Tax and the payment is subsequently returned unpaid by the bank, the taxpayer will be liable for the Tax amount due plus any fees, penalties, and interest as provided for in this Chapter, and any other amount allowed under State law.

6.204.080 Administration of the Tax.

(a) It shall be the duty of the Director to collect the taxes, penalties, interest, and fees provided for herein, and to perform the duties required by this Chapter.

(b) For purposes of the administration and enforcement of this Chapter, the Director may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this Chapter as he

or she deems reasonably necessary to implement or clarify such provisions or aid in enforcement, including but not limited to:

- (1) Provided to all Cannabis Business taxpayers forms for the reporting of the Tax;
- (2) Provide information to any taxpayer concerning the provisions of this Chapter;
- (3) Receive and record all taxes remitted to the City as provided in this Chapter;
- (4) Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
- (5) Assess penalties and interest to taxpayers pursuant to this Chapter;
- (6) Determine amounts owed and enforce collection pursuant to this Chapter; and
- (7) Identify a designee of the Director for any section of this Chapter referring to the Director.

(c) The Director may as a courtesy send a tax notice to the Cannabis Business. However, the Director is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

6.204.090 Right of Appeal.

The procedure for challenging a Business License Tax, as provided in Chapter 6.16 of the Code, shall apply to the Cannabis Business Tax established by this Chapter. Subject to the limitations provided in Chapter 6.16, any appeal relating to a Cannabis Business Tax must be taken within the time and manner set forth in Chapter 6.16.

6.204.100 Constitutionality and Legality.

This Tax is intended to be applied in a manner consistent with the Constitution of the United States and the Constitution of California and California law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or the due process clauses of the Constitutions of the United States or California, or a violation of any other provision of California law. If a person believes that the Cannabis Business Tax, as applied to him or her, is impermissible under applicable law, he or she may request that the Director release him or her from the obligation to pay the impermissible portion of the Tax.

6.204.110 Apportionment.

If a Cannabis Business subject to the tax required under this Chapter is operating both within and outside the City, it is the intent of the City to apply the Cannabis Business Tax so that the measure of the Tax fairly reflects the proportion of the taxed activity actually carried on in the City. To the extent federal or State law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on his or her tax return. The Director may promulgate administrative procedures for apportionment as he or she finds reasonably useful or necessary.

6.204.120 Audit and Examination of Records and Equipment.

(a) For the purpose of ascertaining the amount of Cannabis Business Tax owed, or verifying any representations made by any taxpayer to the City in support of his or her tax calculation, the Director shall have the power to inspect any location where commercial Cannabis activity occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, State and federal income tax returns, and other records relating to the gross receipts of the business) of persons engaged in

Cannabis Business. In conducting such investigation, the Director shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.

(b) It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of at least five (5) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Director shall have the right to inspect at all reasonable times.

6.204.130 Payment of Tax Does not Authorize Unlawful Business.

(a) The payment of a Cannabis Business Tax required by this Chapter, and its acceptance by the City, shall not entitle any person to carry on any Cannabis Business unless the person has complied with all of the requirements of this Code and all other applicable State laws.

(b) No Tax paid under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or State law.

6.204.140 Other Licenses, Permits, Taxes, Fees, or Charges.

(a) Nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City Council, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee, or other charge imposed, assessed or required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City Council. Any references made or contained in any other Chapter of this Code to any

licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Chapter of this Code.

(b) Notwithstanding subsection (a) of this Section, a Business subject to the Cannabis Business Tax shall not be required to pay the Business License Tax required by Section 6.12.010 of Chapter 6.12 of this Code, solely with respect to business activities that are subject to the Cannabis Business Tax. A Business that engages in activities that are subject to the Cannabis Business Tax and activities that are not subject to the Cannabis Business Tax must: (1) obtain business licenses for each location or business activity as provided in Chapter 6.04 of the Code; and (2) pay the Business License Tax, as applicable, to the activities that are not subject to the Cannabis Business Tax.

6.204.150 Deficiency Determinations.

(a) If the Director is not satisfied with the return or returns of Cannabis Business Taxes, or the amount of the taxes paid to the City by any person, the Director may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within the Director's possession or that may come into the Director's possession. One or more deficiency determinations may be made of the amount due for one or more than one period. The amount of each deficiency determination is immediately due and payable. Each determination shall become final and delinquent one calendar month after notice thereof as herein provided. The Director shall give written notice of a deficiency determination to each person against whom a determination is made. The notice may be served personally, electronically, or by US mail. In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the mail.

(b) If any person fails or refuses to make, within the time provided in this Chapter, any return or payment of said tax or any portion thereof required by this Chapter, or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the Director shall proceed in such manner as he or she may deem best to obtain facts and information on which to estimate the taxes due. As soon as the Director procures facts and information upon which to base the assessment of any tax imposed by this Chapter, the Director shall determine and assess against such person the taxes, interest and penalties provided for by this Chapter. When such a determination is made, the Director shall give written notice of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the Director of any fraud, intent to evade, or failure to file a return. The amount of each deficiency determination is immediately due and payable. Any determination shall become final and delinquent one calendar month after notice thereof as herein provided.

(c) If the Director believes that the collection of any Cannabis Business Tax will be jeopardized by delay, or if any determination will be jeopardized by delay, the Director shall thereupon make a determination of the taxes due. The amount determined is immediately due and payable. If the amount specified in the determination is not paid within ten (10) days after service of notice thereof upon the person against whom the determination is made, the amount becomes final and delinquent, and the delinquency penalty or penalties and the interest provided in Section 6.204.070 shall attach to the amount of the taxes, unless a petition for redetermination is filed within the ten (10) days.

6.204.160 Redeterminations.

(a) Any person directly interested may request a redetermination within one calendar month after service of notice thereof. If a request for redetermination is not filed

within the applicable period, the determination becomes final and delinquent at the expiration of the period.

(b) If a request for redetermination is made within the applicable period, the Director shall reconsider the determination, and, if the person has so requested in their petition, shall grant the person an oral hearing and shall give the person ten days' notice of the time and place of the hearing. The Director may continue the hearing from time to time as may be necessary.

(c) The Director may decrease or increase the amount of the determination before it becomes final but the amount may be increased only if a claim for the increase is asserted by the Director at or before the hearing.

(d) The decision of the Director upon a petition for redetermination becomes final and delinquent fifteen days after service upon the petitioner of notice thereof.

6.204.170 Failure to Report; Nonpayment; Fraud.

(a) Under any of the following circumstances, the Director may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at any time:

- (1) If the person has not filed a complete statement required under Section 6.204.060;
- (2) If the person has not paid the Cannabis Business Tax due under the provisions of this Chapter;
- (3) If the person has not, after notice from the Director, filed a corrected statement, or furnished to the Director adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter; or

(4) If the Director determines that the nonpayment of any Cannabis Business Tax is due to fraud, a penalty of twenty-five percent (25%) of the amount of the Tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and other penalties allowed by law.

(b) The notice of assessment shall separately set forth the amount of any tax known by the Director to be due or estimated by the Director, after consideration of all information within the Director's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

6.204.180 Tax Assessment; Notice Requirements.

The notice of tax assessment in Section 6.204.170 shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the City for the purpose of receiving notice under this Chapter; or, should the person have no address registered with the Director for such purpose, then to such person's last known address. For the purposes of this Section, service by mail shall be deemed to have occurred at the time of deposit in the mail.

6.204.190 Refunds.

(a) Whenever the amount of any Cannabis Business Tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Director within one year of

when the payment was made, and all applicable provisions of this Chapter are satisfied.

(b) The Director shall have the right to examine and audit all the books and business records of the claimant for a refund under this Chapter, in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Director to do so. In the event that the Cannabis Business Tax was erroneously paid and the error is attributable to the City, the City shall refund the amount of tax erroneously paid up to one year from when the error was identified.

6.204.200 Conviction for Violation; Taxes not Waived.

The conviction and punishment of any person for failure to pay the required Cannabis Business Tax shall not excuse or exempt such person from any civil action for the Tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any State law requiring the payment of all taxes.

6.204.210 Violation Deemed Misdemeanor.

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

6.204.220 Remedies Cumulative and Not Exclusive.


All remedies and penalties prescribed by this Chapter, or which are available under any other provision of the Santa Monica Municipal Code and any other provision of law or equity, are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

SECTION 2. Any provision of the Santa Monica Municipal Code inconsistent with the provisions of this measure, to the extent of such inconsistencies and no further, is

hereby repealed or modified to that extent necessary to effect the provisions of this measure.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this measure is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The City Council hereby declares that it would have placed this measure and the resulting Santa Monica Municipal Code amendment, and the voters declare that they would have adopted this measure and the resulting Santa Monica Municipal Code amendment, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion may be subsequently declared invalid or unconstitutional.

Adopted and approved this 26th day of July 2022.

DocuSigned by:

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Sue Himmelrich, Mayor

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that Resolution No. 11451 (CCS) was duly adopted at a meeting of the Santa Monica City Council held on the 26th day of July 2022, by the following vote:

AYES: Councilmembers Brock, De la Torre, Negrete, Parra,
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: Councilmember Davis

ATTEST:

DocuSigned by:

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Denise Anderson-Warren, City Clerk