

JUL 03 2018

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By: [REDACTED]  
DEPUTY CLERK

RESOLUTION NO. 2018 - 070

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
SETTING A MEASURE ON THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION  
BALLOT SEEKING VOTER APPROVAL OF A PROPOSED ORDINANCE AMENDING SAN  
CARLOS MUNICIPAL CODE CHAPTER 8.09 – REGULATION OF COMMERCIAL  
CANNABIS ACTIVITIES, ESTABLISHING AN EXCISE TAX OF UP TO 10% ON  
CANNABIS BUSINESSES FOR UNRESTRICTED GENERAL REVENUE PURPOSES AND  
AUTHORIZING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.**

**WHEREAS**, a General Municipal Election on Tuesday, November 6, 2018 has been called by Resolution 2018-055 adopted by the San Carlos City Council on June 11, 2018; and

**WHEREAS**, California Constitution Article XIII C, Section 2, provides that no local government may increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote, and that the a measure proposing to adopt a general tax must be consolidated with a regularly scheduled General Municipal Election for members of the City Council; and

**WHEREAS**, the City Council desires, on its own motion, to amend the San Carlos Municipal Code Chapter 8.09 to enact an excise excess tax on cannabis businesses of up to 10% with the funds to be deposited in the City's General Fund and be used for general City purposes and services, including but not limited to offset the costs of public safety, community development and parks and recreation; and

**WHEREAS**, the San Carlos City Council is authorized by California Elections Code Section 9222 to place measures before the voters; and

**WHEREAS**, on the basis of the foregoing, the City Council determines it is appropriate to place a measure before the voters at the November 6, 2018 municipal election regarding adoption of an excise tax on cannabis businesses.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of San Carlos hereby approves as follows:

**SECTION 1.** Findings. On November 13, 2017, the City Council adopted Ordinance 1525 allowing commercial cultivation, manufacturing and testing of cannabis within the city limits. Commercial businesses typically don't pay sales tax since their transactions are business to business and would fall under the resale sales tax exemption. Therefore, even if one of these businesses were to open, the City would not receive any sales tax revenue. Unlike sales taxes, the local excise tax would apply to all businesses regardless of whether or not they have a resale tax exemption. The additional annual revenue generated from the excise cannabis tax will help offset the costs of public safety, community development and parks and recreation. The additional revenue could also be used to help offset the costs of rising infrastructure needs related to streets and storm drains

**SECTION 2.** Placement of Measure on the Ballot. Pursuant to California Elections Code Section 9222, the City Council hereby resolves to submit to the voters at the November 6, 2018 General Municipal Election the following ballot question:

**SAN CARLOS CANNABIS BUSINESS TAX MEASURE**

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To protect the quality of life in San Carlos by providing services and improvements needed to accommodate residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted establishing an ongoing excise tax on any cannabis business that opens, up to 10% of gross receipts of each business, estimated to provide approximately \$200,000 annually per cannabis business?	Yes
	No

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**SECTION 3.** Proposed Ordinance. The Ordinance authorizing an excise tax of up to 10% of gross receipts for unrestricted general revenue purposes on cannabis businesses to be approved by the voters pursuant to Section 1 is as set forth in Exhibit 1 hereto. The City Council hereby approves the Ordinance, the form thereof, and its submission to the voters of the City at the November 6, 2018 General Municipal Election. The Ordinance specifies that the tax would be imposed on cannabis businesses authorized to operate within the city by Chapter 8.09 of the Municipal Code; the tax rate would be up to 10% of the gross receipts of those businesses; the tax would be collected per Municipal Code Section 8.09.170(H); and the tax shall be approved if the measure receives at least a simple majority of affirmative votes at the November 6, 2018 election.

**SECTION 4.** Consolidation with Statewide General Election. The Board of Supervisors of San Mateo County is hereby requested, pursuant to Election Code Sections 10400 *et seq.*, to consolidate the election on the proposed measure with the Statewide General Election to be conducted on November 6, 2018, and to conduct the election on behalf of the City. This measure shall be designated by letter by the County Elections Office. The City requests that the County Elections Office set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance as set forth below, together with the primary arguments and rebuttal arguments (if any) for and against the measure.

**THE ORDINANCE WOULD AUTHORIZE A CANNABIS BUSINESS TAX OF UP TO TEN PERCENT (10%) OF GROSS RECEIPTS FOR UNRESTRICTED GENERAL REVENUE PURPOSES. THE CITY COUNCIL IS ALLOWED TO IMPOSE A LOWER RATE THAN AUTHORIZED BY THE VOTERS BY DULY ADOPTED RESOLUTION. THE CITY COUNCIL MAY AMEND THE ORDINANCE UNLESS THE AMENDMENT WOULD RESULT IN THE TAX BEING IMPOSED, EXTENDED OR INCREASED. THE ORDINANCE SPECIFIES THAT THE CANNABIS BUSINESS TAX WOULD BE IMPOSED ON CANNABIS BUSINESSES, AS DEFINED IN THE ORDINANCE. THE TAX WOULD BE PAID BY CANNABIS BUSINESSES PER THE CITY MUNICIPAL CODE SECTION 8.09.170(H). THE TAX IS APPROVED IF THE MEASURE RECEIVES AT LEAST A SIMPLE MAJORITY OF VOTERS (FIFTY PERCENT PLUS ONE) AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION. ADDITIONAL INFORMATION ON THIS MEASURE CAN BE FOUND AT [WWW.CITYOFSANCARLOS.ORG/CANNABISBUSINESSTAXMEASURE](http://WWW.CITYOFSANCARLOS.ORG/CANNABISBUSINESSTAXMEASURE).**

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**SECTION 5. Conduct of Election.** The City Clerk is authorized, instructed and directed to work with the County Elections Office as needed to properly and lawfully conduct the election on the measure. The ballots to be used in the election shall be in form and content as required by law. The County Elections Office is authorized to canvass the returns of the General Municipal Election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

✓ **SECTION 6. Elections Services.** The Board of Supervisors is requested to instruct the County Elections Office to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

**SECTION 7. Filing of Resolution with County.** The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the Elections Office of the County of San Mateo, together with the attached ballot measure.

**SECTION 8. No Change in City's Boundaries.** The jurisdictional boundaries of the City have not changed since the last General Municipal Election.

**SECTION 9. Compliance with the California Environmental Quality Act.** The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

**SECTION 10. Publication of Measure.** The City Clerk is hereby directed to cause notice of the measure to be published once in an official newspaper of general circulation for the City of San Carlos, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

**SECTION 11. Impartial Analysis.** That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected.

- a. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure.

- b. The analysis shall include a statement indicating that the measure was placed on the ballot by the governing body of the City.
- c. The impartial analysis shall be filed by August 17, 2018.

**SECTION 12. Effective Date.** This Resolution shall become effective immediately upon its passage and adoption and the City Clerk is directed to send certified copies of this Resolution to the San Mateo County Board of Supervisors, County Clerk-Recorder, and County of San Mateo Election Department.

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I, Crystal Mui, hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 25<sup>th</sup> day of June 2018, by the following vote:

**AYES, COUNCILMEMBERS:** COLLINS, JOHNSON, OLBERT, GRASSILLI

**NOES, COUNCILMEMBERS:** GROCOTT

**ABSENT, COUNCILMEMBERS:** NONE

[Redacted Signature]  
CITY CLERK of the City of San Carlos

APPROVED:  
[Redacted Signature]  
MAYOR of the City of San Carlos

I hereby certify this to be a full, true and correct copy of the document it purports to be as the same is on file in my office.

Dated June 28, 2018  
[Redacted Signature]  
City Clerk of the City of San Carlos

## San Carlos Cannabis Business Tax Measure's Full Text Amended

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The Ordinance would authorize a Cannabis Business Tax of up to ten percent (10%) of gross receipts for unrestricted general revenue purposes. The City Council is allowed to impose a lower rate than authorized by the voters by duly adopted Resolution. The City Council may amend the Ordinance unless the amendment would result in the tax being imposed, extended or increased. The Ordinance specifies that the Cannabis Business Tax would be imposed on cannabis businesses, as defined in the Ordinance. The tax would be paid by cannabis businesses per the City Municipal Code Section 8.09.170(H). The tax is approved if the Measure receives at least a simple majority of voters (fifty percent plus one) at the November 6, 2018 General Municipal Election. Additional information on this Measure can be found at [www.CityofSanCarlos.org/CannabisBusinessTaxMeasure](http://www.CityofSanCarlos.org/CannabisBusinessTaxMeasure).

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**FILED** IN THE OFFICE OF THE  
CHIEF ELECTIONS OFFICER  
OF SAN MATEO COUNTY, CALIF.

JUL 03 2018

MARY CHURCH, Chief Elections Officer

By \_\_\_\_\_

DEPUTY CLERK

**ORDINANCE NO. 1533**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
AMENDING SAN CARLOS MUNICIPAL CODE CHAPTER 8.09 - REGULATION OF  
COMMERCIAL CANNABIS ACTIVITIES AND IMPOSING AN EXCISE TAX OF UP TO 10%  
OF GROSS RECEIPTS ON CANNABIS BUSINESSES FOR UNRESTRICTED GENERAL  
PURPOSES SUBJECT TO THE APPROVAL OF THE VOTERS.**

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**WHEREAS**, the tax to be submitted to the voters, if approved, would be imposed on any cannabis businesses authorized to operate within the city by Chapter 8.09 of the Municipal Code; the tax rate would be up to 10% of the gross receipts of those businesses; the tax would be collected according per Municipal Code Section 8.09.170 H; and the tax shall be approved if the measure receives at least a simple majority of affirmative votes at the November 6, 2018 election.

The City Council of the City of San Carlos does ordain as follows:

**SECTION 1.** The San Carlos Municipal Code is hereby amended by enacting and adopting Chapter 8.09 as set forth in Exhibit A.

**SECTION 2.** Use of Tax Revenue. The tax authorized by this Ordinance is a general tax, revenue from which may be spent for unrestricted general revenue purposes.

**SECTION 3.** Amendment. This Ordinance may only be amended by a vote of the People of the City of San Carlos, if the amendment would result in the tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the People. The City Council may establish rules that are necessary and desirable for implementation of this Ordinance and may amend any aspect of the Ordinance as long as such amendment does not result in an increase in the authorized tax rate or imposition of the tax on someone not previously subject to it.

**SECTION 4.** Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5.** Effective Date. This Ordinance relates to the levying and collecting of an excise tax on cannabis businesses and shall be in full force and effect 10 days after the certification by the City Council of the election returns indicating passage of the Ordinance codified in this article by a majority of the voters casting votes in November 6, 2018 election.

**SECTION 6.** Declaration. Compliance with the California Environmental Quality Act. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax imposed by the adoption of this Ordinance is general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would

have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

**SECTION 5.** City Council Approval. The City Council of the City of San Carlos approved this Ordinance for placement on the November 6, 2018 ballot by Resolution 2018-070 adopted by a four-fifths vote of all members.

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This Ordinance was introduced by the City Council of the City of San Carlos on the 25<sup>th</sup> day of June, 2018, and was submitted to the People of the City of San Carlos at the November 6, 2018 election. It was adopted by the following vote of the People:

YES: \_\_\_\_\_

NO: \_\_\_\_\_

Adopted as an Ordinance of the City of San Carlos at a regular meeting of the City Council held the \_\_\_\_ day of \_\_\_\_\_, 2018, by Declaration of the results of the November 6, 2018, by the following vote of the City Council of the City of San Carlos:

**AYES COUNCILMEMBERS:** \_\_\_\_\_

**NOES COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
**CITY CLERK** of the City of San Carlos

APPROVED:

\_\_\_\_\_  
**MAYOR** of the City of San Carlos

**Chapter 8.09**  
**REGULATION OF COMMERCIAL CANNABIS ACTIVITIES—PERMIT REQUIRED**

Sections:

- 8.09.010 Purpose and intent.**
- 8.09.020 Zoning compliance and commercial cannabis business permit required.**
- 8.09.030 Exceptions.**
- 8.09.040 Definitions.**
- 8.09.050 Compliance with State and local licensing requirements.**
- 8.09.060 General provisions for commercial cannabis activities.**
- 8.09.070 Additional regulations for dispensary retail sales.**
- 8.09.080 Additional regulations for commercial cannabis delivery services.**
- 8.09.090 Additional requirements for manufactured cannabis businesses.**
- 8.09.100 Additional requirements for cannabis testing laboratory businesses.**
- 8.09.110 Additional requirements for cannabis distribution businesses.**
- 8.09.120 Additional requirements for cannabis cultivation businesses.**
- 8.09.130 Microbusiness commercial cannabis activity.**
- 8.09.140 Commercial cannabis business permit selection process.**
- 8.09.150 Enforcement.**
- 8.09.160 Limitations on the City's liability.**
- 8.09.170 Fees and taxes.**
- 8.09.180 Severability.**

**8.09.010 Purpose and intent.**

It is the purpose and intent of this chapter to:

- A. Regulate commercial cannabis business activities in order to ensure the health, safety and welfare of the residents of San Carlos; and
- B. Establish regulations necessary for a commercial cannabis business to obtain and maintain a commercial cannabis business permit (CCBP); and
- C. Provide that any commercial cannabis businesses operating in the City shall at all times be in compliance with current State law and this chapter; and
- D. Provide that all commercial cannabis facilities shall operate in accordance with the

regulations in this chapter and with the conditions of approval associated with the applicable zone for the parcel of real property upon which the commercial cannabis activities are conducted; and

E. Provide that any commercial cannabis business shall qualify for and receive a CCBP as provided by this chapter, a business registration from the City as provided in Title 5, Business Taxes, Licenses and Regulations, and operate only in a zone as provided in Title 18, Zoning, before commencing any commercial cannabis activity, and that any commercial cannabis business without a CCBP is in violation of this chapter; and

F. To impose a tax on the privilege of cultivating, transporting, dispensing, manufacturing, producing, processing, preparing, storing, testing, providing, donating, selling, or distributing cannabis or cannabis products by commercial cannabis businesses in the City/, pursuant to the state Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code sections 26000, *et seq.*, which legalized and regulates recreational cannabis in California, and other applicable law as it now exists or may hereafter be adopted

G. The ordinance codified in this chapter, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, SB 94 (Cannabis: medicinal and adult use), Proposition 64, and the California Health and Safety Code (collectively referred to as "State law"), does not interfere with the right to use cannabis or medical cannabis as authorized under State law, nor does it criminalize the possession or commercial activities of cannabis or medical cannabis as authorized under State law.

**8.09.020 Zoning compliance and commercial cannabis business permit required.**

Certain commercial cannabis businesses are allowed with a zoning clearance, pursuant to the provisions of Chapter 18.28, Zoning Clearance, or, if required, a minor use permit, pursuant to the provisions of Chapter 18.30, Use Permits, in certain industrial and commercial zoning districts, as well as planned development zones that have the equivalent General Plan land use designations of industrial and commercial; commercial cannabis activities are expressly prohibited in all other zoning districts. No commercial cannabis business may operate in San Carlos without a CCBP. As a requisite for obtaining a CCBP, commercial cannabis businesses shall conduct business only in the appropriate zones as described in Title 18, Zoning.

### **8.09.030 Exceptions.**

No permit for commercial cultivation of cannabis, other than nurseries or as a component of a microbusiness, shall be issued in the City; provided, however, that six plants may be cultivated indoors for personal use in compliance with all applicable local and State regulations as referenced in Section 8.09.010, Purpose and intent. Cannabis cultivation for personal use shall not be visible from any public right-of-way.

### **8.09.040 Definitions.**

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

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

B. "Business registration" means an annual tax for doing business within the incorporated area of the City. Every person or entity in a trade, calling, business, exhibition, avocation or occupation within the City limits shall have a business registration certificate in accordance with Title 5, Business Taxes, Licenses, and Regulations.

C. "Cannabis" means all parts of the plant *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" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

D. "Cannabis business" means any natural or legal person, business, corporation, partnership, or collective engaged in commercial cannabis activity.

E. "Cannabis business operator" means any person issued a CBPP.

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

G. "Canopy" means all of the following:

1. The designated area(s) at licensed premises that will contain mature plants at any point in time; and
2. 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; and
3. Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least ten feet of open space; and
4. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

H. "City" means the City of San Carlos.

I. "Commercial cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the California Business and Professions Code, related to qualifying patients and primary caregivers.

J. "Commercial cannabis business permit (CCBP)" means a permit issued by the City pursuant to this chapter to a commercial cannabis business.

K. "Commercial vehicle" means a vehicle as defined in California Vehicle Code Section 260.

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

M. "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

N. "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 or controlled by the retailer.

O. "Delivery employee" means an individual employed by a licensed dispensary who delivers cannabis goods from the licensed dispensary premises to a qualified purchaser at a physical address.

P. "Director" means the Community Development Director of the City of San Carlos or his or her designee.

Q. "Dispensary" means premises where cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

R. "Display" means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.

S. "Display case" means a container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.

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

U. "Distributor" means a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code.

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

W. "Free sample" means any amount of cannabis goods provided to a cannabis patient, or purchaser of cannabis, or primary caregiver without cost or payment or exchange of any other thing of value.

X. "Gross receipts" except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation 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; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. 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 property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts allowed and taken on sales
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included in gross receipts;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
7. Cash value of sales, trades or transactions between departments or units of the same business;
8. 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;

9. Transactions between a partnership and its partners;

10. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

a. The voting and nonvoting stock of which is owned at least eighty percent (80%) by such other corporation with which such transaction is had, or

b. Which owns at least eighty percent (80%) of the voting and nonvoting stock of such other corporation, or

c. At least eighty percent (80%) of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

11. Transactions between a limited liability company and its member (s), provided the limited liability company has elected to file as a subchapter k entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection 9 above;

12. Receipts of refundable deposits, except that such deposit is when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);

13. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

Y. "Gross receipts" subject to the cannabis business tax shall be that portion of gross receipts relating to commercial cannabis activity conducted within the city.

Z. "License" means a permit issued by the State of California, or one of its departments or divisions, under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

AA. "Licensee" means any partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit to which the State of California, or one of its departments or divisions, has issued a permit under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

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

CC. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

DD. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, as defined in this section, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid State license pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act.

EE. "Medical cannabis goods" means medical cannabis, including dried flower, and manufactured medical cannabis products.

FF. "Medical cannabis patient" shall have the meaning given that term by the California Health and Safety Code and possesses a valid physician's recommendation and is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

GG. "Microbusiness" means the cultivation of cannabis on an area less than ten

thousand square feet and to act as a licensed distributor, Level 1 manufacturer as defined by the State, and retailer, provided such licensee can demonstrate compliance with all requirements imposed by the State on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. While the State microbusiness permit may allow retail cannabis sales, retail cannabis sales are prohibited in the City.

HH. "Mixed light" means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority only as a component of a microbusiness.

II. "Nursery" means a commercial cannabis licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. Retail sales by a cannabis nursery are prohibited.

JJ. "Operating hours" means the hours within a day during which a licensed business may conduct business.

KK. "Ownership interest" means an interest held by a person who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of twenty percent or more.

LL. "Package" and "packaging" mean any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. "Package" and "packaging" do not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

MM. "Permittee" means any partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit to which the City has issued a commercial cannabis business permit.

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

OO. "Pest" means undesired insect, rodent, nematode, fungus, bird, vertebrate,

invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.

PP. "Physician's recommendation" means a recommendation by a physician or surgeon that a patient use cannabis in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code.

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

RR. "Pre-roll" means dried cannabis flower rolled in paper prior to retail sale.

SS. "Primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

TT. "Private security officer" has the same meaning as that term is defined in the California Business and Professions Code Section 7574.01.

UU. "Publicly owned land" means any building or real property that is owned by a city, county, State, Federal, or other government entity.

VV. "Purchase" means obtaining cannabis goods in exchange for consideration.

WW. "Purchaser" means a person who is engaged in a transaction with a licensee for purpose of obtaining cannabis goods.

XX. "Quarantine" means the storage or identification of cannabis goods, to prevent distribution or transfer of the cannabis goods, in a physically separate area clearly identified for such use.

YY. "Retail area" means a building, room, or other area upon the licensed dispensary premises in which cannabis goods are sold or displayed.

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

AAA. "Sell," "sale," and "to sell" mean any transaction whereby, for any consideration,

title to cannabis is transferred from one person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

BBB. "Sublet" means to lease or rent all or part of a leased or rented property.

CCC. "State" means the State of California.

DDD. "Tax Administrator" means the Administrator Services Director of the City or his or her designee.

EEE. "Testing laboratory" means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.

FFF. "Vehicle alarm system" is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.

GGG. "Wholesale" means the sale of cannabis goods to a distributor for resale to one or more dispensaries.

HHH. "Zoning Administrator" means the Zoning Administrator of the City of San Carlos, or his or her designee.

#### **8.09.050 Compliance with State and local licensing requirements.**

A. Any dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility, or any other commercial cannabis activity as defined by the State of California or the City shall operate in conformance with all regulations and standards set forth in this chapter to assure that the operations of the dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City are in compliance with local and State laws, and which have been established to mitigate any adverse secondary effects from its operations.

B. Cannabis operators shall be required to obtain a State license, and shall comply with any applicable State licensing requirements, such as operational standards and zoning criteria.

C. Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City and only if all uses proposed are allowed pursuant to Title 18, Zoning.

**8.09.060 General provisions for commercial cannabis activities.**

A. Commercial Cannabis Business Permit Required.

1. It shall be unlawful for any person, association, partnership, or corporation to engage in, conduct, or carry on, in or upon any premises within the City any commercial cannabis activity without a CCBP. A cannabis business shall register and obtain a CCBP from the City prior to operation. The CCBP applicant shall pay a nonrefundable regulatory fee in an amount and at a frequency established by the City Council.

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

3. A CCBP shall be valid for one year or until December 31st each year, unless sooner revoked. No permit granted herein shall confer any vested right to any person or for more than the above-referenced period.

4. A CCBP shall not be issued to an individual or a business entity associated with an individual who has violated California Health and Safety Code Section 11590 and its provisions.

5. The CCBP shall be issued to the specific person or persons listed on the CCBP application.

6. A CCBP is not transferable, and does not run with the land or with the business. Any change to the business location, organizational structure, or ownership requires a new application with associated fees.

B. Maintenance of Records and Reporting. All records for the commercial cannabis business of the following activities shall be maintained and available to the City for at

least seven years. Records shall be produced within twenty-four hours of a request by an authorized City representative. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.

1. The business shall obtain and maintain a valid seller's permit from the State Department of Tax and Fee Administration or any subsequent State successor agency assigned to issue seller's permits.
2. Financial records, including, but not limited to: bank statements; sales invoices; receipts; tax records; audits; and all records required by the California Department of Tax and Fee Administration under Title 18 of California Code of Regulations Section 1968.
3. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, confirmation of background check or Live Scan completion, and date of termination of employment, if applicable.
4. Training records, including, but not limited to, the content of the training provided and the names of the employees that received the training.
5. Contracts with other licensees regarding commercial cannabis activity.
6. Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity.
7. Proof of liability and workers' compensation insurance.

C. Operational Standards for All Commercial Cannabis Business Activities.

1. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record twenty-four hours a day at a minimum of twenty frames per second.
2. The surveillance system storage device or cameras shall be transmission

control protocol/TCP capable of being accessed through the internet by the local law enforcement. The business shall also provide the local law enforcement with the URL address of any on-site web-based video surveillance to monitor remotely at any time without a warrant, subpoena or court order.

3. All controlled access areas, security rooms, points of ingress/egress to limited access areas, and point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet. Camera video recordings shall be maintained unaltered in a secure location for a period of not less than thirty calendar days, and be available for inspection at any time.

4. Recorded images shall clearly and accurately display the time and date. Recordings shall be maintained, unaltered, for a period of not less than thirty calendar days and shall be stored digitally. The City or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.

5. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within twenty-four hours of the system being available.

6. No cannabis dispensary, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a six-hundred-foot radius from a school, day care home, recreational center, youth center, library, or public park as required by Section 11362.768 of the California Health and Safety Code.

7. The commercial cannabis business shall provide adequate interior and exterior lighting for safety and security as determined by the local law enforcement.

8. The commercial cannabis business shall minimize nuisances such as trash, litter and graffiti to the greatest extent practicable.

9. Any and all signage, packaging, and facilities shall not be "attractive," as it is defined by the State, to minors.

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

11. A commercial cannabis business entity that remains inoperative for more than ninety calendar days after commencing business operations shall be deemed "abandoned" and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director.

12. The cannabis business shall comply with all State and City regulations regarding testing, labeling, and storage of all cannabis products.

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

14. The cannabis business shall conform to all State regulations regarding the use of appropriate weighing devices.

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

16. The cannabis business shall comply with the City's most recently adopted version of the California Building Code Series.

17. The cannabis business shall ensure a building permit application is submitted to the Building Division for review and approval prior to commencement of tenant improvement work associated with the cannabis business.
18. The cannabis business shall maintain comprehensive general liability and workers' compensation insurance in amounts consistent with City policy and name the City of San Carlos as additional insured.
19. No free samples of any cannabis or cannabis product may be distributed at any time.
20. All agents, employees, or persons acting for a licensee shall complete a Live Scan background check.
21. All agents, private security officers, or other persons acting for or employed by a licensee shall display a laminated identification badge at least two inches by two inches in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license number, the employee's first and last name, and a color photo of the employee that shows the full front of the employee's face.
22. The commercial cannabis business shall have a centrally-monitored fire and burglar alarm system that shall include all perimeter entry points and perimeter windows.
23. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system. The alarm company shall obtain a City business registration.
24. The commercial cannabis business shall meet all State deadlines for applying for a State license and receive a State license.
25. All persons hiring employees to engage in commercial cannabis activities shall document compliance with employee safety practices including, but not limited to:
  - a. Emergency action response planning as necessary;

- b. Employee accident reporting and investigation policies;
  - c. Fire prevention;
  - d. Hazard communication policies, including maintenance of material safety data sheets;
  - e. Materials storage and handling policies;
  - f. Personal protective equipment policies;
  - g. Operation manager contacts;
  - h. Emergency responder contacts; and
  - i. Poison control contacts.
26. All cannabis products available for sale shall be securely locked and stored.
27. Exterior signage shall conform to standards set forth in Title 18, Zoning.
28. Shipments of cannabis goods may only be accepted during regular business hours.
29. During nonbusiness hours inventory shall be secured using a lockable storage system approved by local law enforcement.
30. No cannabis product shall be visible from the exterior of the business.
31. All required labeling shall be maintained on all products, as required by State law, at all times.
32. All outdoor lighting used for security purposes shall be shielded and downward facing.
33. The use of vending machines (i.e., a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is strictly prohibited.

**8.09.070 Additional regulations for dispensary retail sales.**

Retail cannabis sales and retail cannabis sales facilities, including but not limited to

microbusinesses and dispensaries, are prohibited within the City limits, regardless of the location's compliance with any other section specified in this chapter.

**8.09.080 Additional regulations for commercial cannabis delivery services.**

- A. No commercial cannabis deliveries may originate from the City. Commercial cannabis deliveries may be made only from a commercial cannabis dispensary in compliance with all State regulations.
- B. All employees who deliver cannabis in the City shall have valid identification and a copy of the dispensary's City business registration at all times while making deliveries.
- C. Any commercial cannabis delivery shall be made in compliance with State law and any required documentation shall be made available upon request by local law enforcement officers.
- D. The maximum limit of any cannabis goods carried by a delivery vehicle at any time may not exceed three thousand dollars or as established by City Council resolution.

**8.09.090 Additional requirements for manufactured cannabis businesses.**

- A. A licensed cannabis manufacturing facility may conduct all activities permitted by the State and local regulations. This includes, but is not limited to, volatile and nonvolatile extractions, repackaging and relabeling, infusions, and extractions.
- B. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- C. At all times, the cannabis manufacturing facility shall be compliant with all State and local regulations for cannabis manufacturing, including California Health and Safety Code Section 11362.775 and as it may be amended.
- D. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours.
- E. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

**8.09.100 Additional requirements for cannabis testing laboratory businesses.**

- A. A licensed cannabis testing facility shall comply with all State and local regulations.
- B. Any cannabis testing facility shall maintain all certifications required by the State.
- C. A licensed cannabis testing facility business, its owners, and employees may not hold an interest in any other cannabis business except another testing business.
- D. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours.

**8.09.110 Additional requirements for cannabis distribution businesses.**

- A. A licensed cannabis distribution facility shall comply with all State and local regulations.
- B. Any cannabis distribution facility shall provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.
- C. Inspections by the City or designee may be conducted anytime during the business's regular business hours.

**8.09.120 Additional requirements for cannabis cultivation businesses.**

- A. All cannabis cultivation businesses are prohibited in the City except for nurseries and cultivation conducted by the holder of a State microbusiness license. Retail sales by a cannabis nursery are prohibited.
- B. A licensed cannabis cultivation facility shall comply with all State and local regulations.
- C. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.
- D. All commercial cannabis cultivation shall occur indoors using artificial lighting or mixed light.
- E. From the public right-of-way, there shall be no exterior evidence of cannabis cultivation.

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

G. The cannabis business shall comply with Section 13149 of the California Water Code, as enforced by the State Water Resources Control Board.

H. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

I. Inspections by the City or City Fire Chief or designees may be conducted anytime during the business's regular business hours.

**8.09.130 Microbusiness commercial cannabis activity.**

A. Under no circumstance shall the holder of a State microbusiness license conduct retail cannabis sales as these facilities are prohibited within the City limits.

B. Allowable activities for the City, as defined by this chapter, shall be in compliance with all State and local regulations as previously stated.

**8.09.140 Commercial cannabis business permit selection process.**

A. Commercial Cannabis Business Permit Selection Process Overview.

1. The CCBP selection process will be conducted in two phases, Phase 1 and Phase 2.
2. In Phase 1, each applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council and the application will be reviewed for completeness by the Director.
3. In Phase 2, the applicant will pay an application fee in an amount established by the City Council and a complete background check of the business owner and review of the business plans will be conducted by the Zoning Administrator to ensure compatibility with State and local regulations.
4. Prior to issuing a CCBP, the City will provide all public notices and conduct a public hearing as described in California Government Code Sections 65090 and 65091. No CCBP shall be issued otherwise.

5. If any of the items listed in the application process are not met, the Director or Zoning Administrator shall notify the applicant of the deficiency within thirty calendar days, after which the applicant will have ten calendar days from receipt of notice to correct the deficiency. If the deficiency is not corrected within ten calendar days, the Director or Zoning Administrator may deny the permit and notify the applicant of this determination in writing within ten calendar days.

B. Commercial Cannabis Business Permit Selection—Phase 1—Initial Review.

1. The Director shall determine whether each application demonstrates compliance with the minimum requirements to be eligible and proceed to the Phase 2 selection process. These requirements include, but are not limited to:

- a. All application documents required in the City's application package;
- b. Application forms are filled out completely;
- c. Business owner(s)/applicant(s) referenced on the application complete a Live Scan;
- d. Phase 1 application fee is paid; and
- e. A signed zoning clearance letter or an application for a minor use permit that has been deemed complete from the Planning Division.

C. Commercial Cannabis Business Permit Selection—Phase 2—Final Review.

1. The Director, after reviewing the applications in Phase 1 and determining they are complete, will forward the applications to the Zoning Administrator.
2. Phase 2 applicants shall pay the Phase 2 application fee in an amount established by the City Council and complete a comprehensive owner background check.
3. Subsequent to the public hearing, the Zoning Administrator will make the final decision of successful applicants.
4. A CCBP will only be issued once the applicant has obtained the appropriate land use authorization. Nothing in this chapter shall prevent a potential applicant from applying for a land use permit prior to any selection process.

D. Appeal of Denial of Commercial Cannabis Business Permit.

1. The Zoning Administrator will complete the final review of all CCBP applications and all other relevant information, and determine if a CCBP should be granted. If the Zoning Administrator determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant.

2. The decision of the Zoning Administrator may be appealed to the Planning Commission. The applicant shall have ten calendar days from the date of the receipt of the written denial to appeal the reasons for denial and request in writing reconsideration of permit issuance. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant.

3. The decision of the Planning Commission may be appealed to the City Council. The applicant shall have ten calendar days from the date of the receipt of the written denial to appeal the reasons for denial and request in writing reconsideration of permit issuance. If the City Council determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The decision of the City Council shall be dispositive of the matter subject to judicial review and the applicant shall be notified in writing.

E. Commercial Cannabis Business Permit Annual Renewal.

1. Applications for the renewal of a permit shall be filed with the Director at least sixty calendar days before the expiration of the current permit. Any permittee allowing his or her permit to lapse, or which permit expired during a suspension, shall be required to submit a new application, pay the corresponding original application fees, and be subject to all aspects of the selection process.

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

F. Appeal of Denial of Commercial Cannabis Business Permit Renewal.

1. The Director will review all CCBP renewal applications and all other relevant information, and determine if a renewal CCBP should be granted. If the Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have ten calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Director will approve or deny the permit by providing written notice to the applicant.

2. An applicant who disagrees with the Director's decision may appeal such decision to the Zoning Administrator by submitting a written appeal within ten calendar days from receipt of the written denial. Following review of the amended permit application, the Zoning Administrator will approve or deny the permit by providing written notice to the applicant. This shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review.

G. Revocation of Commercial Cannabis Business Permit.

1. The Zoning Administrator may suspend or revoke a CCBP when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

a. Any act that would be considered a ground for denial of the permit in the first instance.

b. Violates any other provision of this section or any City or State law, statute, rule, or regulation relating to the business's permitted activity.

c. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee.

d. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.

e. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems,

creation of a public or private nuisance, or obstruction of the operation of another business.

f. Violates or fails to comply with the terms and conditions of the CCBP.

2. Prior to suspension or revocation of the CCBP, the Zoning Administrator shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.

3. Any permittee aggrieved by the decision of the Zoning Administrator in suspending or revoking a CCBP may, within ten calendar days, appeal to the Planning Commission by filing a written notice with the City Clerk. During the pendency of the appeal to the Commission, the CCBP shall remain in effect. If such appeal is not taken within ten days, the decision of the Zoning Administrator shall be final subject to judicial review as set forth in this section.

#### **8.09.150 Enforcement.**

A. A violation of the regulations in this chapter by an act, omission, or failure of an agent, officer, or other person acting for or employed by a licensee within the scope of their employment or office, shall be deemed the act, omission, or failure of the licensee or permittee.

B. A permitted commercial cannabis business shall notify the local law enforcement of the City upon discovery of any of the following situations:

1. A discrepancy of more than one thousand dollars in inventory over a period of twenty-four hours or three thousand dollars over period of seven days.

2. A reason to suspect diversion, loss, theft, or any other criminal activity pertaining to the operation of the business.

3. The loss or alteration of records related to cannabis goods, registered medical cannabis patients, caregivers, or the employees or agents of the licensed cannabis business.

4. Any other reason to suspect any other breach of security.

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

D. City officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance with this chapter. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this chapter, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, State or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

**8.09.160 Limitations on the City's liability.**

To the fullest extent permitted by law, the City of San Carlos shall not assume any liability whatsoever with respect to approving any CCBP pursuant to this chapter or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a CCBP as provided in this chapter, the applicant or its legal representative shall:

A. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the commercial

cannabis facility or the prosecution of the applicant or licensee or its members for violation of Federal or State laws;

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

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

D. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a CCBP; and

E. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a CCBP. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

**8.09.170 Fees and taxes.**

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

A. Deposit. The cannabis business applicant shall pay a deposit of actual costs as determined by the City, and in line with the City's cost of services fee schedule.

B. Initial Application Fees. The cannabis business applicant shall submit a deposit to cover the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review (Phase 2).

C. Application Renewal Fees. The cannabis business operator shall submit a non-refundable fee to cover the cost of processing an application renewal annually.

D. Business Registration Fee. The cannabis business operator shall at all times maintain a current and valid business registration and pay all business taxes required by Title 5, Business Taxes, Licenses and Regulations.

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

review under CEQA.

F. Commercial Cannabis Regulatory Fee. The cannabis business operator shall pay an annual regulatory fee ("regulatory fee"), with deposit to cover the costs of monitoring and anticipated enforcement relating to the commercial cannabis operation. The amount of the fee shall be set by resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the commercial cannabis operation. The regulatory fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The regulatory fee may be amended from time to time based upon actual costs.

G. Required Taxes. All required taxes including sales and use taxes, business, payroll, etc.

H. Cannabis Business Tax. In addition to the fees and taxes in this section, including but not limited to the business registration fee and business license tax required by the Title 5 of this Code, every person engaged in commercial cannabis activity in the City shall pay a business tax at a rate of up to ten percent (10%) of gross receipts. The tax under this chapter shall not be imposed on cannabis businesses unless and until the City Council, by resolution, takes action to set a tax rate not to exceed ten percent (10%) of gross receipts. The tax imposed by this paragraph is an excise tax upon commercial cannabis businesses for the privilege of conducting commercial cannabis activities in the city. It is not a sales or use tax and shall not be calculated or imposed as such. A commercial cannabis business may identify the tax on receipts, invoices, or other documents evidencing a transaction.

Notwithstanding the maximum tax rate of ten percent (10%) of gross receipts imposed under above paragraph, the City Council may, in its discretion, at any time by resolution, implement a lower tax rate for all cannabis businesses or establish different tax rates for different categories of cannabis businesses subject to the maximum rate of ten percent (10%) of gross receipts. The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent (10%) of gross receipts.

#### 1. When Payment is Due

Each cannabis business shall, on or before the last day of the month following the close of each calendar month, submit a tax return to the Tax Administrator,

on forms provided by the Tax Administrator, of the total gross receipts for that calendar month. Tax returns and payments for all outstanding taxes owed the City are immediately due the Tax Administrator upon cessation of the business for any reason.

## 2. Delinquent returns and nonpayment

Taxes required to be paid pursuant to Section 8.09.170(H) shall be deemed delinquent if not paid on or before the due date. Failure to timely pay the cannabis business tax is subject to penalties. Any person or operator who fails or refuses to furnish any tax return required to be made, or who fails to file a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as provided in Chapter 1.2 of this Code.

- a) Late Payment Penalty. Any cannabis business operator who fails to remit any Cannabis Business Tax due within the time required shall pay a penalty of 10% of the amount of the tax in addition to the amount of the tax.
- b) Second Delinquency Penalty. Any cannabis business operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the 10% penalty first imposed.
- c) Penalty for Fraud. If the Tax Administrator determines that the nonpayment of any remittance is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in subsections a) and b) of this section.
- d) Interest. In addition to the penalties imposed, any cannabis business operator who fails to remit any portion of the cannabis business tax imposed by this chapter shall pay interest at the rate of 1% per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

- e) Penalty Part of Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the cannabis business tax required to be paid by this chapter.
  
- f) Recording Certificate – Lien. If any amount of the cannabis business tax required to be paid to the City is not paid when due, the Tax Administrator may, within three years after the amount is due, file for record in the office of the County Recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the Tax Administrator of the cannabis business operator liable for the same and the fact that the Tax Administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest, constitutes a lien upon all real property in the County owned by the cannabis business operator or afterwards and before the lien expires acquired by the cannabis business operator. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged.
  
- g) Priority and Lien of Tax.
  - 1. The amounts required to be paid by any cannabis business operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:
    - i. Whenever the person is insolvent;
    - ii. Whenever the person makes a voluntary assignment of his assets;
    - iii. Whenever the estate of the person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased; or
    - iv. Whenever the estate and effects of an absconding, concealed or absent person required to pay the cannabis business tax under this chapter are levied by process of law. This chapter does not give the City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

2. The preference given to the City by this subsection shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.
- h) Warrant for Collection of Tax. At any time within three years after any cannabis business operator is delinquent in the payment of any amount of cannabis business tax required in this chapter to be paid or within three years after the last recording of a certificate of lien, the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this chapter. The warrant shall be directed to any Sheriff, Marshal or Constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the sheriff, marshal or constable, the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The Tax Administrator, and not the court, shall approve the fees for publication in a newspaper.
  - i) Seizure and Sale. At any time within three years after any cannabis business operator is delinquent in the payment of any amount, the Tax Administrator may forthwith collect the amount in the following manner: The Tax Administrator shall seize any property, real and/or personal, of the cannabis business operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect cannabis business taxes due shall be only of the property of the cannabis business operator not exempt from execution under the provisions of the Code of Civil Procedure.
  - j) Successor's Liability—Withholding by Purchaser. If any cannabis business operator liable for any amount of cannabis business tax or related interest, fines, or costs under this chapter sells out his or her business or quits the business, his or her successor or assignee shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Tax Administrator showing that it has been paid or a certificate stating that no amount is due.

- k) Liability of Purchaser—Release. If the purchaser of a cannabis business fails to withhold purchase price as required, the purchaser shall become personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price, valued in money. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety days after receiving the request, the Tax Administrator shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Tax Administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the Tax Administrator to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his business or at the times that the determination against the cannabis business operator becomes final, whichever event occurs later.

### 3. Refunds

Whenever the cannabis business tax or any related interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City, it may be refunded provided a claim in writing therefor, stating under penalty of perjury the specific ground upon which the claim is founded, is filed with the Tax Administrator within one year of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

### 4. Appeal Procedures

Any person aggrieved by a decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk within fifteen business days of serving or mailing of the determination of tax due. The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such cannabis business operator at his last known place of address. The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable

upon the service of notice.

#### 5. Administration of Cannabis Business Tax

- a) The Tax Administrator may promulgate administrative rules and procedures consistent with the purpose, intent, and terms of this chapter as he or she deems necessary to implement or clarify it to or aid in its enforcement. He or she shall give notice of those regulations as required for ordinances and such regulations shall take effect upon such notice unless otherwise provided by a particular regulation.
- b) The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to any of the enforcement actions listed in this section or authorized by this Code.

I. Any other Cannabis-Specific Taxes approved by the voters of the City.

J. Code Enforcement. The City shall be entitled to recover its cost of enforcement, including but not limited to its attorney's fees, expert witness fees and costs of suit.

#### **8.09.180 Severability.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter and adopted this chapter and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional.

JUL 03 2018

MA [REDACTED]  
By [REDACTED]  
DEPUTY CLERK

**RESOLUTION NO. 2018 - 071**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
SETTING PRIORITIES FOR THE FILING OF WRITTEN ARGUMENTS RELATING TO A  
MEASURE TO BE SUBMITTED TO VOTERS OF THE CITY AT THE CONSOLIDATED  
MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, PROPOSING  
AN EXCISE TAX OF UP TO 10% OF GROSS RECEIPTS ON CANNABIS BUSINESSES.**

**WHEREAS**, a General Municipal Election is to be held in the City of San Carlos, California, on November 6, 2018, at which there will be submitted to the voters the following measure:

<b>SAN CARLOS CANNABIS BUSINESS TAX MEASURE</b>	
To protect the quality of life in San Carlos by providing services and improvements needed to accommodate residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted establishing an ongoing excise tax on any cannabis business that opens, up to 10% of gross receipts of each business, estimated to provide approximately \$200,000 annually per cannabis business?	Yes
	No

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of San Carlos, California, does declare, determine and order as follows:

**SECTION 1.** That the City Council authorizes the following member(s) of its body

Councilmember Ron Collins and Mayor Bob Grassilli

to file a written argument not exceeding 300 words regarding the City measure as specified above), accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement to be filed by author(s) of argument.

In the event that the City Council approves the filing of rebuttal arguments, and arguments for and against the measure are filed, the Councilmember(s) designated above is/are also authorized to submit a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.

\*\*\*\*\*

I, Crystal Mui, hereby certify the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 25<sup>th</sup> day of June, 2018, by the following vote:

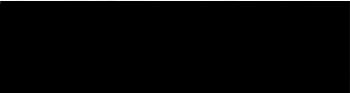
**AYES, COUNCILMEMBERS:** COLLINS, JOHNSON, OLBERT, GRASSILLI

**NOES, COUNCILMEMBERS:** GROCOTT

**ABSENT, COUNCILMEMBERS:** NONE

  
CITY CLERK of the City of San Carlos

APPROVED:

  
MAYOR of the City of San Carlos

I hereby certify this to be a full, true and correct copy of the document it purports to be as the same is on file in my office.

Dated June 28, 2018

  
City Clerk of the City of San Carlos

JUL 03 2018

M  
By: [REDACTED]  
DEPUTY CLERK

RESOLUTION NO. 2018 - 072

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS RELATING TO A MEASURE  
TO BE SUBMITTED TO VOTERS OF THE CITY AT THE CONSOLIDATED MUNICIPAL  
ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, PROPOSING AN EXCISE  
TAX OF UP TO 10% OF GROSS RECEIPTS ON CANNABIS BUSINESSES.**

**WHEREAS**, a General Municipal Election is to be held in the City of San Carlos, California, on November 6, 2018, at which there will be submitted to the voters the following measure:

<b>SAN CARLOS CANNABIS BUSINESS TAX MEASURE</b>	
To protect the quality of life in San Carlos by providing services and improvements needed to accommodate residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted establishing an ongoing excise tax on any cannabis business that opens, up to 10% of gross receipts of each business, estimated to provide approximately \$200,000 annually per cannabis business?	Yes
	No

**WHEREAS**, § 9282 of the Elections Code of the State of California provides for written arguments to be filed in favor of or against city measures not to exceed 300 words in length; and

**WHEREAS**, § 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for City measures submitted at municipal elections.

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of San Carlos, California does hereby declare, determine and order as follows:

**SECTION 1.** That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure (not exceeding 300 words each) which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

- a. The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.
- b. A rebuttal argument may not be signed by more than five authors.
- c. The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for

filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement to be filed by author(s) of argument.

- d. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**SECTION 2.** That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

**SECTION 3.** That the provisions of Section 1 shall apply only to the election to be held on November 6, 2018, and shall then be of no further force and effect.

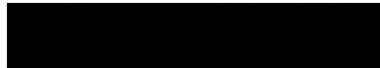
\*\*\*\*\*

I, Crystal Mui, hereby certify the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 25<sup>th</sup> day of June, 2018, by the following vote:

**AYES, COUNCILMEMBERS:** COLLINS, JOHNSON, OLBERT, GRASSILLI

**NOES, COUNCILMEMBERS:** GROCOTT

**ABSENT, COUNCILMEMBERS:** NONE

  
**CITY CLERK** of the City of San Carlos

APPROVED:   
**MAYOR** of the City of San Carlos