

ORDINANCE NUMBER O- 21441 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 09 2022

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 4,
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 34.0103 AND 34.0112, RELATING TO
THE CITY'S CANNABIS BUSINESS TAX.

WHEREAS, on November 8, 2016, voters in California voted on the statewide initiative titled "Control, Regulate, and Tax Adult Use of Marijuana Act" (Adult Use Act) which, among other things, legalized the non-medical use and sale of marijuana and marijuana products in the State of California; and

WHEREAS, concurrent with the statewide vote on the Adult Use Act, on November 8, 2016, voters in the City of San Diego (City) approved Measure N, which imposed a gross receipts tax on all non-medical cannabis businesses (Cannabis Business Tax); and

WHEREAS, commencing December 12, 2016, the Council of the City of San Diego (Council) established a Cannabis Business Tax for all non-medical cannabis businesses (Cannabis Businesses) of five percent of Gross Receipts under San Diego Municipal Code (SDMC) section 34.0112(a); and

WHEREAS, under SDMC section 34.0112(b), the Council may, in its discretion, at any time by ordinance, implement a lower tax rate for all Cannabis Businesses or establish differing tax rates for different categories of Cannabis Businesses subject to the maximum rate of 15 percent of Gross Receipts; and

WHEREAS, commencing July 1, 2019, the Cannabis Business Tax rate increased to eight percent of Gross Receipts under SDMC section 34.0112(c); and

WHEREAS, pursuant to Ordinance O-20859, effective November 17, 2017, the City began permitting commercial cultivation, distribution and storage, and production of medical and

recreational cannabis and cannabis products, including Cannabis Production Facilities (CPFs);
and

WHEREAS, City staff has confirmed the City's current tax rate of eight percent far exceeds the tax rates of other cities in the region and across the state of California, thus making the City less competitive; and

WHEREAS, although the City has issued all 40 CPF permits it is authorized to issue, only 19 CPFs are currently operational; and

WHEREAS, advocates, analysts, and permit-holders have cited the high tax rate as the main barrier to beginning to operate a CPF, and have identified this as the main reason why the City only had 19 CPFs when 40 are allowed; and

WHEREAS, the City wishes to reduce the Cannabis Business Tax rate for CPFs to incentivize CPF permit holders to commence operations, which will help increase the number of CPFs remitting taxes to the City, support the local economy and local job creation, reduce Greenhouse Gas emissions by reducing transport of product from outside of the City, and support the presence of a legal and regulated industry; and

WHEREAS, the City now wishes to amend the SDMC to reduce the current Cannabis Business Tax rate for CPFs from eight percent to two percent; and

WHEREAS, the Cannabis Business Tax rate for all other Cannabis Businesses shall remain unchanged; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 3, Article 4, Division 1 of the San Diego Municipal Code is amended by amending sections 34.0103 and 34.0012, to read as follows:

§34.0103 Definitions

Except where the context otherwise requires, the definitions given in this section shall govern the application and interpretation of this Article. Each word or phrase defined in this Division appears in the text of this Division in italicized letters.

“*Cannabis*” through “*Cannabis Business Tax*” [No change in text.]

“*Cannabis production facility*” has the same meaning as in San Diego Municipal Code section 42.1502.

“*Employee*” through “*Tax Administrator*” [No change in text.]

§34.0112 Amount of Business Tax Owed

(a) through (b) [No change in text.]

(c) Commencing on July 1, 2019, except as set forth in subsection 34.0112(d), the *Cannabis Business Tax* rate shall be set at eight percent of *Gross Receipts* unless the City Council, by ordinance, takes action to set a different tax rate, not to exceed 15 percent of *Gross Receipts*.

(d) Commencing on May 1, 2022, the *Cannabis Business Tax* rate for a *Cannabis production facility* shall be set at two percent of *Gross Receipts* unless the City Council, by ordinance, takes action to set a different tax rate, not to exceed 15 percent of *Gross Receipts*.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ David L. Powell
David L. Powell
Deputy City Attorney

DLP:jdf
11/22/2021
02/15/2022 COR. COPY
Or.Dept: CD7
Doc. No.: 2821466_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 01 2022.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 3/9/22
(date)

[Signature]
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAR 01 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 09 2022

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

FEB 15 2022, and on MAR 09 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

Office of the City Clerk, San Diego, California
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