

RESOLUTION NO. 2022-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, AMENDING THE BALLOT LABEL/BALLOT QUESTION FOR A GENERAL TAX MEASURE TO BE PLACED ON THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION BALLOT RELATING TO A PROPOSED ORDINANCE ESTABLISHING A TAX ON COMMERCIAL CANNABIS BUSINESSES OPERATING WITHIN THE CITY OF CORONA.

WHEREAS, on July 6, 2022, pursuant to California Proposition 218 (California Constitution, Article XIIC) and Section 9222 of the California Elections Code, the City Council adopted Resolution 2022-102, placing a measure on the November 8, 2022 general municipal election ballot for submission to Corona voters a proposed ordinance amending the Corona Municipal Code to establish a tax on commercial cannabis businesses operating within the City of Corona ranging from 3% of gross receipts to 15% of gross receipts; and

WHEREAS, on July 6, 2022, pursuant to Elections Code Section 10403, the City Council also adopted Resolution 2022-103, requesting the consolidation of the general municipal election with the Statewide General Election and requesting the services of the Riverside County Registrar of Voters to conduct the election on the City's behalf; and

WHEREAS, on July 6, 2022, the City Council also adopted Resolution 2022-104, establishing rules and deadlines for the submission of arguments and rebuttals for and against the proposed measure; and

WHEREAS, Resolution 2022-102 included the following ballot label/ballot question which is intended to be printed in the ballot received by voters at the election:

“Shall the City of Corona adopt an ordinance enacting a tax on commercial cannabis businesses of up to 9% of gross receipts for retail sale (including delivery), up to 7% of gross receipts for manufacturing and distribution, up to 3% of gross receipts for testing laboratories, and up to 15% of gross receipts for all other commercial cannabis businesses, generating approximately \$5,000,000 annually for general government use, such as police and emergency response, parks and youth/senior services, and street repair, until ended by voters?”	YES
	NO

WHEREAS, Elections Code Sections 13247 and 9051 provide that the ballot label/ballot question shall not exceed 75 words; and

WHEREAS, in order to comply with Elections Code Sections 13247 and 9051, the City Council desires to amend the ballot label/ballot question as set forth herein; and

WHEREAS, City staff has also identified minor formatting issues in Ordinance No. 3352, the ordinance to be submitted to the voters to establish the tax on commercial cannabis businesses; and

WHEREAS, the City Council desires to amend Ordinance No. 3352 to correct the formatting, as set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, AS FOLLOWS:

SECTION 1. Findings. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Amended Ballot Label/Ballot Question Language. The ballot label/ballot question to be submitted to Corona voters with regards to the commercial cannabis business tax measure shall be amended to read as follows:

“Shall the City of Corona adopt an ordinance enacting a gross receipts tax on commercial cannabis businesses of up to 9% for retail sale (including delivery), up to 7% for manufacturing and distribution, up to 3% for testing laboratories, and up to 15% for all other commercial cannabis businesses, generating approximately \$5,000,000 annually for general government use, such as police and emergency response, parks and youth/senior services, and street repair, until ended by voters?”	YES
	NO

SECTION 3. Amended Ordinance No. 3352. The text of the proposed Ordinance No. 3352 to be submitted to the voters and the specific terms relating to the commercial cannabis business tax are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit "A" and by this reference made an operative part hereof, and in accordance with all applicable laws.

SECTION 4. No Further Amendments by this Resolution. This Resolution only authorizes the amendment of Ordinance No. 3352 and the ballot label/ballot question for the commercial cannabis business tax measure that was placed on the November 8, 2022 general municipal election ballot by City Council Resolution 2022-102. Except as expressly provided herein, Resolution 2021-102 shall remain in full force and effect as adopted on July 6, 2022. Additionally, the ballot label/ballot question referenced in Resolution No. 2022-103 and

Resolution No. 2022-104 shall be interpreted to be the ballot label/ballot questions as amended by this Resolution.

SECTION 5. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 6. Filing with County. The City Clerk shall, not later than the 88th day prior to the General Municipal Election to be held on Tuesday, November 8, 2022, file with the Board of Supervisors and the County Clerk – Registrar of Voters of the County of Riverside, State of California, a certified copy of this Resolution.

SECTION 7. Public Examination. Pursuant to California Elections Code Section 9295, this Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The Clerk shall post notice in the Clerk’s office of the specific dates that the examination period will run.

SECTION 8. CEQA Exemption. The City Council hereby finds and determines that the ballot measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, section 15378(b)(5).

SECTION 9. Severability. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

SECTION 10. Effective Date. This Resolution shall become effective upon its adoption.

PASSED, APPROVED AND ADOPTED this 10th day of August 2022.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby certify that the foregoing Resolution was regularly introduced and adopted by the City Council of the City of Corona, California, at a special meeting thereof held on the 10th day of August, 2022 by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 10th day of August, 2022.

Sylvia Edwards, City Clerk

(SEAL)

EXHIBIT “A”

ORDINANCE NO. 3352

MEASURE “___”

AN ORDINANCE OF THE PEOPLE OF THE CITY OF CORONA, CALIFORNIA, ADDING CHAPTER 3.38 TO TITLE 3 (REVENUE AND FINANCE) OF THE CORONA MUNICIPAL CODE ESTABLISHING A TAX ON COMMERCIAL CANNABIS BUSINESSES OPERATING WITHIN THE CITY OF CORONA.

THE PEOPLE OF THE CITY OF CORONA, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Adoption of Chapter 3.38. Chapter 3.38 (Commercial Cannabis Business Tax) is hereby added to Title 3 (Revenue and Finance) of the Corona Municipal Code and shall read as follows:

**"CHAPTER 3.38
COMMERCIAL CANNABIS BUSINESS TAX**

Sections:

- | | |
|----------|--|
| 3.38.010 | Authority and purpose. |
| 3.38.020 | Definitions. |
| 3.38.030 | Tax imposed. |
| 3.38.040 | Authorization to adjust tax rate and repeal or amend tax and chapter; limit on rate and methodology. |
| 3.38.050 | Registration, reporting, and remittance of tax. |
| 3.38.060 | Payments and communications; Timely remittance. |
| 3.38.070 | Penalties and interest. |
| 3.38.080 | Refunds and procedures. |
| 3.38.090 | Administration of the tax. |
| 3.38.100 | Appeal procedure. |
| 3.38.110 | Enforcement; Action to collect. |
| 3.38.120 | Apportionment. |
| 3.38.130 | Audit and examination of premises and records. |
| 3.38.140 | Payment of tax does not authorize unlawful business. |
| 3.38.150 | Deficiencies and assessments. |
| 3.38.160 | Violations - Misdemeanor. |

3.38.010 Authority and purpose.

The purpose of this chapter is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon commercial cannabis businesses that

engage in business in the city. The commercial cannabis business tax is levied based upon business gross receipts. It is not a sales and use tax, a tax upon income, or a tax upon real property. The commercial cannabis business tax is a general tax enacted solely for general, governmental purposes of the city and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the city's general fund and be available for any lawful municipal purpose.

3.38.020 Definitions.

The following words and phrases shall have the meanings set forth below when used in this chapter:

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

(B) **"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" shall not include "industrial hemp," unless otherwise specified.

(C) **"Cannabis product"** 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. "Cannabis product" also means cannabis products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medicinal cannabis products.

(D) **"Commercial cannabis business"** means any business involving cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, cannabis products or of ancillary products and accessories, whether or not carried on for gain or profit.

(E) **"Commercial cannabis business tax"** means the tax due pursuant to this chapter for engaging in a commercial cannabis business in the city.

(F) **"Commercial cannabis permit"** means a permit issued by the city pursuant to Chapter 5.36 of this code to authorize that person to operate or engage in a commercial cannabis business within the city.

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

(H) **"Distribution"** means any activity involving the commercial procurement, sale, transfer and/or transport of cannabis and cannabis products from one commercial cannabis business to another commercial cannabis business for purposes authorized pursuant to state law.

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

(J) **"Engaged (Engaging) in a commercial cannabis business"** means the commencing, conducting, operating, managing or carrying on of a commercial cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the city or coming into the city from an outside location to engage in such activities. A person shall be deemed engaged in business within the city if:

1. Such person or person's employee maintains a fixed place of business within the city for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the city for business purposes;
3. Such person or person's employee regularly maintains a stock of tangible personal property in the city for sale in the ordinary course of business;
4. Such person or person's employee regularly conducts solicitation of business within the city; or
5. Such person or person's employee performs work or renders services in the city.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(K) **"Gross Receipts"** except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, slotting fee, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts where allowed and taken on sales;

2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

3. Such part of the sale price of 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;

4. 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;

5. Cash value of sales, trades or transactions between departments or units of the same business located in the city or if authorized by the Tax Administrator in writing in accordance with section 3.38.090;

6. 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 period 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;

7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;

8. 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 Tax Administrator 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;

9. Retail sales of t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, cannabis accessories such as pipes, pipe screens, vape pen batteries (without cannabis) or other personal tangible property which the Tax Administrator has excluded in writing by issuing an administrative ruling per section 3.38.090 shall not be subject to the commercial cannabis business tax under this chapter. However, any business activities not subject to this chapter as a result of an administrative ruling shall be subject to the appropriate business tax provisions of Title 5 or any other title or chapter of this code as determined by the Tax Administrator.

(L) **"Industrial hemp"** means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

(M) **"Manufacture"** or **"manufacturing"** means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(N) **"Microbusiness"** means a person engaged in manufacturing, distribution and the retail sale of cannabis on the same premises.

(O) **"Nursery"** means a facility or party of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

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

(Q) **"Retail sale"**, means and includes any retail sale, exchange, or barter. It shall also mean any transaction whereby, for any consideration, title to cannabis and/or cannabis products are transferred from one person to another and includes the delivery of cannabis and/or cannabis products pursuant to an order placed for the purchase of the same, but does not include the return of cannabis or cannabis products to the person or business from whom the cannabis or cannabis product, was purchased.

(R) **"State"** means the State of California.

(S) **"Tax Administrator"** means the Director of Finance of the City of Corona or his or her designee.

(T) **"Testing laboratory"** means a commercial cannabis business that: (1) offers or performs tests of cannabis or cannabis products; (2) offers no service other than such tests; (3) sells no products, excepting only testing supplies and materials; (4) is accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and (5) is registered with the Bureau of Cannabis Control or other state agency.

3.38.030 Tax imposed.

(A) **Applies to all commercial cannabis businesses.** Every person who is engaged in business as a commercial cannabis business within the City shall pay a commercial cannabis business tax at the rates set forth in this section. Such tax is payable regardless of whether the commercial cannabis business has been issued a business license or commercial cannabis permit to operate lawfully in the city or is operating unlawfully. The city's acceptance of a commercial cannabis business tax payment from a commercial cannabis business operating illegally shall not constitute the city's approval or consent to such illegal operations.

(B) **Maximum tax rate.** The maximum rate of the commercial cannabis business tax shall be calculated as follows:

(1) Retail Sale. For every person engaged in retail sale, the maximum tax rate shall be nine percent (9%) of gross receipts, or fractional part thereof, generated by the commercial cannabis business, subject to adjustment by the City Council pursuant to §3.38.040.

(2) Manufacturing and Distribution. For every person engaged in manufacturing or distribution, the maximum tax rate shall be seven percent (7%) of gross receipts, or fractional part thereof, generated by the commercial cannabis business, subject to adjustment by the City Council pursuant to §3.38.040.

(3) Testing Laboratory. For every person engaged in the operation of a testing laboratory, the maximum tax rate shall be three percent (3%) of gross receipts, or fractional part thereof, generated by the testing laboratory, subject to adjustment by the City Council pursuant to §3.38.040.

(4) Microbusiness. For every person engaged in the operation of a microbusiness, the maximum tax rate for the retail sale portion of the commercial cannabis business shall be nine percent (9%) of gross receipts, or fractional part thereof, generated by retail sales at the commercial cannabis business, and the maximum tax rate for the manufacturing and distribution portions of the commercial cannabis business shall be seven percent (7%) of gross receipts, or fractional part thereof, generated by manufacturing and distribution, subject to adjustment by the City Council pursuant to §3.38.040.

(5) All Other Commercial Cannabis Businesses & Illegal Cannabis Businesses. For every person engaged in the operation of a commercial cannabis business that is not otherwise subject to subsections (1) through (4) above, or is operating any commercial cannabis business in the city without a commercial cannabis permit duly approved and authorized by the city to operate lawfully in the city, the maximum tax rate shall be fifteen percent (15%) of gross receipts, or fractional part thereof, generated by the commercial cannabis business, subject to adjustment by the City Council pursuant to §3.38.040.

(C) **Registration and business license required.** Persons subject to the commercial cannabis business tax shall register with the city pursuant to § 3.38.050. They shall also be required to obtain a business license pursuant to Title 5 of this code.

3.38.040 Authorization to adjust tax rate and repeal or amend tax and chapter; limit on rate and methodology.

(A) **City council authority.** This chapter authorizes the maximum commercial cannabis business tax rate as identified in § 3.38.030 above. The City Council may, by ordinance, upwardly or downwardly adjust the rate of the tax imposed by this chapter as often as it so chooses, in fractional amounts either down to zero percent (0%) or up to the maximum rate provided in §

3.38.030 above, and may otherwise repeal, suspend, or amend this chapter without a vote of the People.

(B) **Constitutional rate and methodology limit.** Notwithstanding §3.38.040(A) above, as required by California Constitution Article XIII C (Proposition 218), voter approval is required for any amendment that would increase the maximum rate or methodology of any tax levied pursuant to this chapter.

(C) **Express authority without voter approval.** The People of the City of Corona affirm that the following actions shall not constitute an increase of the maximum rate or methodology of the commercial cannabis business tax requiring subsequent voter approval, regardless of the number of times such actions may be taken:

(1) **Adjustment upwards within maximum rate.** The upward adjustment of the tax rate applicable to any or all classes of commercial cannabis business, provided the rate does not exceed the maximum set forth in § 3.38.030;

(2) **Adjustment downwards to zero.** The downward adjustment of the tax rate applicable to any or all classes of commercial cannabis business, in any increment down to zero percent (0%);

(3) **Restoration of reduced tax.** The restoration of the tax to a rate that is no higher than the maximum set forth in § 3.38.030, if the City Council has previously acted to reduce the rate of the tax one or more times in any increment down to zero percent (0%);

(4) **Interpretation or clarification.** An action by the Tax Administrator or City Council that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as the interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

(5) **Exemptions.** The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception;

(6) **Repeal or suspension of tax or chapter.** The repeal of any tax imposed pursuant to this chapter, the repeal of this entire chapter, or the suspension of any such tax or this chapter for a temporary period of time.

(7) **Resumption of suspended tax.** Resuming collection of the tax imposed by this chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

3.38.050 Registration, reporting and remittance of tax.

(A) **Registration of commercial cannabis business.** All commercial cannabis businesses shall be required to annually register as follows:

(1) **Information required.** All persons engaged in a commercial cannabis business, whether an existing, newly established or acquired business shall register with the Tax Administrator within thirty (30) days of commencing operation. In registering, such persons shall furnish to the Tax Administrator a sworn statement, upon a form provided by the Tax Administrator, setting forth the following information:

- (a) The name of the business;
- (b) The names and addresses of each owner;
- (c) The exact nature or kind of business;
- (d) The place where such business is to be carried on; and
- (e) Any additional information which the Tax Administrator may require.

(B) **Payment of tax.** The commercial cannabis business tax imposed by this chapter shall be paid, in arrears, on a monthly basis. Each person owing a commercial cannabis business tax shall, on or before the last day of the month following the close of the prior month, file with the Tax Administrator a statement ("tax statement") of the tax owed for that calendar month and the basis for calculating that tax. The Tax Administrator may require that the tax statement be submitted on a form prescribed by the Tax Administrator. The tax for each calendar month shall be due and payable on that same date that the tax statement for the calendar month is due.

(C) **Payment upon cessation of business.** Upon cessation of a commercial cannabis business, tax statements and payments shall be immediately due for all calendar months up to the calendar month during which cessation occurred.

(D) **Alternative reporting periods.** The Tax Administrator may, at his or her discretion, establish alternative reporting and payment periods for any taxpayer as the Tax Administrator deems necessary to ensure effective collection of the commercial cannabis business tax. The Tax Administrator may require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.

(E) **Cash payments.** If a taxpayer expects to make payment of the commercial cannabis business tax in cash, the taxpayer shall make an appointment with the Tax Administrator prior to submitting the payment. The Tax Administrator may, at his or her discretion, require that the taxpayer arrange for adequate security measures to ensure the safety of city employees and the public.

3.38.060 Payments and communications; Timely remittance.

Whenever any payment, statement, report, request or other communication is due, it must be received by the Tax Administrator on or before the final due date. A postmark will not be

accepted as timely remittance. Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in § 3.38.050. If the due date would fall on a Friday, Saturday, Sunday, or a holiday observed by the city, the due date shall be the next regular business day on which the city is open to the public.

3.38.070 Penalties and interest.

(A) **Failure to pay tax.** Any person who fails or refuses to pay any commercial cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) Delinquency. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one-half percent (0.5%) per month.

(2) Delinquency exceeding one month. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty percent (20%) of the amount of the tax, plus interest at the rate of one-half percent (0.5%) per month on the unpaid tax and on the unpaid penalties.

(3) Fraud. If the Tax Administrator determines that the nonpayment of any commercial cannabis business tax due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise payable under this chapter and any other penalties allowed by law.

(4) Interest rate. Interest shall be applied at the rate of one-half percent (0.5%) per month on the first day of the month for the full month and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

B. **Insufficient funds.** Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this chapter, and any other amount allowed under state law.

3.38.080 Refunds and procedures.

(A) **Claim for refund.** Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Tax Administrator within one (1) year of the date the tax was originally due or paid, whichever came first.

(B) **Audit of books and records.** The Tax Administrator shall have the right to examine and audit all the books and business records of the claimant in order to determine the

eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Tax Administrator to do so.

(C) **Grounds for refund.** In the event that the commercial cannabis business tax was erroneously paid in an amount in excess of the tax due, and the error is attributable to the city, the city shall refund the amount of tax erroneously paid; provided that (i) a claim for refund has been timely filed with the Tax Administrator; and (ii) the refund cannot exceed, under any circumstance, the amount of tax overpaid during the twelve months preceding the last month for which the claim states the tax was overpaid.

(D) **Refund as a credit.** Any person entitled to a refund of taxes pursuant to this section may elect in writing to have such refund applied as a credit against a commercial cannabis business's taxes due in the future.

(E) **No refund for discontinuation of business.** No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a commercial cannabis business.

3.38.090 Administration of the tax.

(A) **Duty of Tax Administrator.** It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this chapter.

(B) **Promulgation of rules and regulations.** For purposes of administration and enforcement of this chapter generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

(C) **Administrative actions.** The Tax Administrator may take such administrative actions as needed to administer the commercial cannabis business tax, including but not limited to:

- (1) Provide to all commercial cannabis business taxpayers forms for the reporting of the tax;
- (2) Provide information to any taxpayer concerning the provisions of this chapter;
- (3) Receive and record all taxes remitted to the city as provided in this chapter;
- (4) Maintain records of taxpayer reports and taxes collected pursuant to this chapter;

- (5) Assess penalties and interest to taxpayers pursuant to this chapter;
- (6) Determine amounts owed under and enforce collection pursuant to this chapter.

3.38.100 Appeal procedure.

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this chapter may appeal to the City Manager by filing a notice of appeal with the City Clerk within thirty (30) calendar days of the serving or mailing of the Tax Administrator's determination of the amount due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such taxpayer at the last known place of address. The findings and determination of the City Manager shall be in writing and shall be final and conclusive. Any amount found to be due shall be immediately due and payable upon delivery of the City Manager's determination to the taxpayer.

3.38.110 Enforcement; Action to collect.

Any taxes, penalties and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the city. Any person owing money to the city under the provisions of this chapter shall be liable in an action brought in the name of the city for the recovery of such debt. The provisions of this section shall not be deemed a limitation upon the right of the city to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this chapter or the failure to comply with any of the provisions of this chapter.

3.38.120 Apportionment.

If a commercial cannabis business subject to the commercial cannabis business tax is operating both within and outside the city, it is the intent of the city to apply the commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the city. To the extent federal or state law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on his or her tax return. The Tax Administrator may promulgate administrative procedures for apportionment as he or she finds useful or necessary.

3.38.130 Audit and examination of premises and records.

(A) **Tax Administrator authority.** For the purpose of ascertaining the amount of commercial cannabis business tax owed or verifying any representations made by any taxpayer to the city in support of his or her tax calculation, the Tax Administrator shall have the power to audit and examine all books and records (including, but not limited to bookkeeping records, state and federal income tax returns, and other records relating to the gross receipts of the business) of persons engaged in commercial cannabis businesses. In conducting such investigation, the Tax

Administrator shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.

(B) **Retention of records.** It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

3.38.140 Payment of tax does not authorize unlawful business.

(A) **Compliance with code required.** The payment of a commercial cannabis business tax required by this chapter, and its acceptance by the city, shall not entitle any person to engage in a commercial cannabis business unless the person has complied with all of the requirements of this code and all other applicable state laws.

(B) **Unlawful businesses.** No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

3.38.150 Deficiencies and assessments.

(A) **Deficiency determination.** If the Tax Administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person ceases engaging in a commercial cannabis business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such commercial cannabis business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given pursuant to this section.

(B) **Failure to report; Nonpayment.** Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

- (1) If the person has not filed a complete tax statement required under the provisions of this chapter;
- (2) If the person has not paid the tax due under the provisions of this chapter; or

(3) If the person has not, after demand by the Tax Administrator, filed a corrected tax statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a tax statement already filed, or paid any additional amount of tax due under the provisions of this chapter.

(C) **Notice of assessment.** The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the commercial cannabis business and activities of the person assessed, to be due under each applicable provision of this chapter and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(D) **Service of notice of assessment.** The notice of assessment shall be served upon the person either by personal delivery, by overnight delivery by a nationally-recognized courier service, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the commercial cannabis business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purpose of this section, a service by overnight delivery shall be deemed to have occurred one (1) calendar day following deposit with a courier and service by mail shall be deemed to have occurred three (3) days following deposit in the United States mail.

(E) **Hearing request; Notice of hearing.** Within thirty (30) calendar days after the date of service of the notice of assessment the person may request, in writing, a hearing on the assessment. If request for a hearing before the Tax Administrator is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive. Within thirty (30) calendar days of the receipt of a request for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) calendar days after the receipt of the request, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than five (5) calendar days prior to such hearing.

(F) **Hearing.** At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence. The person requesting the hearing may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall determine and reassess (if necessary) the proper tax to be charged and shall give written notice of final assessment to the person in the manner prescribed in this section for giving notice of assessment. The decision of the Tax Administrator may be appealed pursuant to §3.38.100.

(G) **Payment of Assessment.** Unless appealed, payment of the final assessment as set forth in the notice of final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) calendar day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be at the rates set forth herein, along

with interest at the rate as set forth in this chapter, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid.

3.38.160 Violations - Misdemeanor.

(A) **Violations.** Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

(B) **Failure to report; fraudulent report.** Any person who fails or refuses to register as required herein, or to furnish any tax statement required to be made, or who fails or refuses to furnish other data required by the Tax Administrator, or who renders a false or fraudulent tax statement or claim, is guilty of a misdemeanor. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made is guilty of a misdemeanor.

(C) **Remedies cumulative.** All remedies and penalties prescribed by this chapter or which are available under any other provision of this code and any other provision of law or equity are cumulative. The use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.”

SECTION 2. Approval by the Voters; Effective Date. Pursuant to California Elections Code section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Corona voting at the General Municipal Election of November 8, 2022. It shall be deemed adopted when the City Council has certified the results of that election by resolution and shall take effect ten (10) days thereafter.

SECTION 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The People of the City of Corona hereby declare that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4. Certification/Summary. Following the City Clerk’s certification that the citizens of Corona have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book of original ordinances of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED and ADOPTED by the voters at the general municipal election on November 8, 2022. Election results were certified by the Corona City Council on the [INSERT DATE] day of [INSERT MONTH], 2022.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California