RESOLUTION No. 2017- R________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 10, 2018, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE CITY CHARTER OF THE CITY OF CULVER CITY AND APPROVING BALLOT MEASURE TEXT TO BE SUBMITTED TO THE VOTERS OF THE CITY

WHEREAS, California voters approved a statewide initiative to permit patients who receive a recommendation from a licensed physician to use medicinal cannabis products to treat debilitating conditions, illnesses and diseases; and

WHEREAS, California voters also approved a statewide initiative to legalize the sale, cultivation, and distribution of cannabis products for adults over the age of 21; and

WHEREAS, the City of Culver City seeks to maintain community standards, safe neighborhoods and a strong local economy, which includes providing fast and effective 911 services, police and fire protection, road repairs, quality neighborhood parks and recreation areas, and other vital community services; and

WHEREAS, the City of Culver City seeks to require cannabis-related businesses pay their fair share of taxes to fund vital city services; and

WHEREAS, the City of Culver City seeks to ensure effective public oversight of cannabis-related businesses; and

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

WHEREAS, the City Council desires to seek to impose a supplemental license tax upon cannabis businesses, to be known as the “Cannabis Business Tax”; and

WHEREAS, the Cannabis Business Tax cannot be imposed without voter approval; and

WHEREAS, the City Council desires to submit a Cannabis Business Tax measure to the voters of the City at the General Municipal Election to be held on Tuesday, April 10, 2018; and

WHEREAS, the proposed Cannabis Business Tax is more completely described in the ordinance attached hereto as Attachment "A" and incorporated herein by reference (the "Tax Ordinance").

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the foregoing recitals are true and correct.

SECTION 2. That pursuant to the requirements of the City Charter related to General Municipal Elections, there is called and ordered to be held in the City of Culver City, California, on Tuesday, April 10, 2018, a General Municipal Election (the "Election") for the purposes of electing two (2) Members of the City Council for the full term of four (4) years and, pursuant to Section 9222 of the Elections Code, that a Cannabis Business Excise Tax Ordinance be submitted to the voters at that election.

SECTION 3. The City Council hereby proposes the Cannabis Business Tax.

SECTION 4. The question submitted by Section 3 of this Resolution shall appear on the ballot as follows:

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| Measure ___: To provide funding for fire/paramedic/police protection, road repairs, parks/recreation and other general municipal services shall Culver City tax commercial cannabis cultivation at $12.00 per square foot and gross receipts of cannabis businesses not to | YES___ |

| | |
|---|---|
| exceed the following rates: 6% manufacturing/distribution; 8% medicinal I retail; 10% adult use retail; and 1.5% testing; raising approximately $1,200,000 annually, until ended by voters, requiring annual audits and compliance with laws protecting public health, safety and community standards? | NO____ |

SECTION 5. That the proposed complete text of the Cannabis Business Excise Tax Ordinance Measure submitted to the voters is attached hereto as Exhibit "A."

SECTION 6. Pursuant to Section 2(b) of Article XIII A of the Constitution, this measure requires approval by a majority of those casting ballots on the measure.

SECTION 7. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 8. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Elections Code § 10242, except as provided in § 14401 of the Elections Code of the State of California.

SECTION 9. Pursuant to Elections Code § 12310, a stipend for services for the persons named as precinct board members is hereby fixed at the sum of one hundred dollars ($150.00) for each inspector and eighty dollars ($85.00) for each clerk for the election. In addition, the sum of twenty-five dollars ($25.00) will be given to each precinct board member to attend a training class. The rental rate for each polling place shall be the sum of twenty-five dollars ($25.00) for the election. When required, the compensation of the custodian of a building shall be twenty-five dollars ($25.00) for the election.

SECTION 10. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding general municipal elections.

SECTION 11. That notice of the time and place of holding the election is hereby given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 12. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 13. That pursuant to the City Charter, the City Clerk is empowered to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 14. That the City Clerk is directed to forward copies of all measures to be voted on at the General Election to the City Attorney for the preparation of impartial analyses in compliance with applicable law.

PASSED, APPROVED and ADOPTED ON ________________, 2017.

______________________________
JEFFREY COOPER, MAYOR
City of Culver City, California

ATTEST

______________________________
JEREMY GREEN, City Clerk

APPROVED AS TO FORM

______________________________
CAROL A. SCHWAB, City Attorney

**ORDINANCE NO. 2017-_____**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, AMENDING TITLE 11 OF THE CULVER CITY MUNICIPAL CODE TO ADD A NEW CHAPTER 11.32 ENTITLED "CANNABIS BUSINESS TAX"**

The People of the City of Culver City, California, **DO HEREBY ORDAIN** as follows:

**SECTION 1:** That Title 11 of the Culver City Municipal Code is hereby amended to add new Chapter 11.32, entitled "Cannabis Business Tax", and it shall read as follows:

## Chapter 11.32
## CANNABIS BUSINESS TAX

11.32.095 Other licenses, permits, taxes or charges.
11.32.100 Payment of tax does not authorize unlawful business.
11.32.105 Deficiency determinations.
11.32.110 Failure to report – nonpayment and fraud.
11.32.115 Tax assessment –notice of requirements.
11.32.120 Tax assessment – hearing, application, and determination.
11.32.125 Appeal procedure.
11.32.130 Conviction for violation – taxes not waived.
11.32.135 Violation deemed misdemeanor –penalty.
11.32.140 Remedies cumulative.
11.32.145 Amendment or repeal.

**§ 11.32.005 Title.**

This Chapter shall be known as the Cannabis Business Tax Ordinance and shall be applicable in the City of Culver City, California which shall be referred to herein as "City."

**§ 11.32.010 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 Cannabis Businesses that engage in business in the City. The Cannabis Business Tax is levied based upon business gross receipts and square footage of plant canopy. It is not a sales and use tax, a tax upon income, or a tax upon real property.

The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and be available for any legal municipal expenditure.

**§ 11.32.015 Intent.**

The intent of this Chapter is to levy a tax on Cannabis Businesses that are legal in the City, as well as any Cannabis Businesses that become legal subsequent to the adoption of this Ordinance or that otherwise operate in the City. Nothing in this Chapter shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

**§ 11.32.020 Definitions.**

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

A. Business. 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. Except as specified herein, all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

C. Cannabis concentrate. Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.

D. Cannabis products. Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.

E. Canopy. All areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site. The plant canopy does not need to be continuous on any premise in determining the total square footage which will be subject to tax.

F. Cannabis business or Commercial cannabis business. Any business or operation which engages in medicinal or adult-use commercial cannabis activity whether or not carried on for gain or profit.

G. Cannabis business tax or marijuana business tax. The tax due pursuant to this Chapter for engaging in commercial cannabis or marijuana business in the City.

H. Commercial cannabis cultivation. Cultivation conducted by, for, or as part of a commercial cannabis business.

I. Commercial cannabis business permit. A regulatory permit issued by the City of Culver City pursuant to Chapter 11.17 to a commercial cannabis business, and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of the Culver City Municipal Code and any regulations adopted by the City governing the commercial cannabis activity at issue.

J. Cultivation. Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

K. Delivery. The commercial transfer of cannabis or cannabis products to a customer. Delivery also includes the use by a retailer of any technology platform owned and controlled by the retailer.

L. Distribution. The procurement, sale, and/or transport of cannabis and cannabis products between licensees.

M. Employee. Each person who renders any service, with or without compensation, for the owner, permittee, or agent of either an owner or permittee of a commercial cannabis business. For purposes of this Chapter, the term Employee shall include part-time, full-time, temporary, or permanent employees.

N. Engaged in business as a cannabis business. The commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, 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;

5. Such person or person's employee performs work or renders services in the City; and

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

O. Evidence of doing business. Evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the City.

P. Fiscal year. July 1 through June 30 of the following calendar year.

Q. Gross Receipts. Except as otherwise specifically provided, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits 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;

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 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 non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or

   b. Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or

c. At least eighty percent of the voting and non-voting 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 deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

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.

R. Manufacture. To compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

S. Nursery. A person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

T. Person. 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.

U. Sale. Includes any sale, exchange, or barter or other transaction for any consideration.

V. Square foot or square footage. The maximum amount of canopy for commercial cannabis cultivation authorized by a City permit issued to a person engaging in commercial cannabis business shall be the basis for the tax base for cultivation.

W. State. The State of California.

X. State license or license. A license issued by the State of California, or one of its departments or divisions, pursuant to California Business & Professions Code Section 26000, *et seq.* and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

Y. Tax Administrator. The Chief Financial Officer of the City of Culver City, his or her designee(s), or any other City officer charged with the administration of the provisions of this Chapter.

Z. Testing laboratory. A facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and
2. Licensed by the State of California.

**§ 11.32.025 Tax imposed.**

A. There is established and imposed upon each person who is engaged in business as a cannabis business an annual Cannabis Business Tax at the rates set forth in this Chapter.

B. Tax on retail medicinal commercial cannabis businesses.

The Cannabis Business Tax upon every person who engages in business in the City as a retail medicinal commercial cannabis business shall be at the following annual rate:

1. The tax rate effective July 1, 2018 through June 30, 2020 shall be five percent (5%) of the gross receipts.
2. Beginning on July 1, 2020, such tax rate may increase by resolution adopted by the City Council but is shall not exceed the maximum tax rate of eight percent (8%) without voter approval.

C. Tax on retail adult-use commercial cannabis businesses.

The Cannabis Business Tax upon every person who engages in business in the City as a retail adult-use commercial cannabis business shall be at the following annual rate:

1. The tax rate effective July 1, 2018 through June 30, 2020 shall be six percent (6%) of the gross receipts.

2. Beginning on July 1, 2020, such tax rate may increase by resolution adopted by the City Council but is shall not exceed the maximum tax rate of ten percent (10%) without voter approval.

D. Tax on commercial manufacturing cannabis businesses.

The Cannabis Business Tax upon every person who engages in business in the City as a commercial manufacturing cannabis business shall be at the following annual rate:

1. The tax rate effective July 1, 2018 through June 30, 2020 shall be four percent (4%) of the gross receipts.

2. Beginning on July 1, 2020, such tax rate may increase by resolution adopted by the City Council but is shall not exceed the maximum tax rate of six percent (6%) without voter approval.

E. Tax on commercial cannabis distribution businesses.

The Cannabis Business Tax upon every person who engages in business in the City as a commercial cannabis distribution business shall be at the following annual rate:

1. The tax rate effective July 1, 2018 through June 30, 2020 shall be two percent (2%) of the gross receipts.

2. Beginning on July 1, 2020, such tax rate may increase by resolution adopted by the City Council but is shall not exceed the maximum tax rate of six percent (6%) without voter approval.

F. Tax on testing laboratories.

The Cannabis Business Tax upon every person who engages in business in the City as a cannabis testing laboratory shall be at the following annual rate:

1. The tax rate effective July 1, 2018 through June 30, 2020 shall be one percent (1%) of the gross receipts.

2. Beginning on July 1, 2020, such tax rate may increase by resolution adopted by the City Council but shall not exceed the maximum tax rate of one and one-half percent (1.5%), without voter approval.

G. Tax on commercial cannabis cultivation.

The Cannabis Business Tax upon every person who is engaged in commercial cannabis cultivation in the City shall be at the following annual rate:

1. The tax rate effective July 1, 2018 through June 30, 2020 shall be twelve dollars ($12.00) per square foot of canopy space.
2. Beginning on July 1, 2020 and on July 1 of each succeeding fiscal year thereafter, the tax rate per square foot of canopy space shall increase from the tax rate effective in the prior fiscal year shall increase by the percentage change between January of the calendar year prior to such increase and January of the calendar year of the increase in the Consumer Price Index ("CPI") for all urban consumers in the Los-Angeles-Riverside-Orange County areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made.
3. For purposes of this subdivision (B) the square feet of canopy space for a business shall be rebuttably presumed to be the maximum square footage of canopy allowed by the business's City permit for commercial cannabis cultivation. Should a City permit be issued to a business which cultivates only for certain months of the year, the City shall prorate the tax as to sufficiently reflect the period in which cultivation is occurring at the business. In no case shall canopy square footage which is authorized by the City commercial cannabis permit but not utilized for cultivation be deducted for the purpose of determining the tax for cultivation, unless the Tax Administrator is informed in writing and authorizes such reduction for the purpose of relief from the tax prior to the period for which the space will not be used, that such space will not be used.

**§ 11.32.030 Reporting and remittance of tax.**

The Cannabis Business Tax imposed by this Chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

A. Each person owing a Cannabis Business Tax shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Tax Administrator and remit to the Tax Administrator the tax due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time pay the tax due for the entire fiscal year.

B. Tax statements and payments for all outstanding taxes owed the City are immediately due to the Tax Administrator upon cessation of business for any reason.

C. The Tax Administrator may, at his or her discretion, establish shorter reporting and payment periods for any taxpayer as the Tax Administrator deems necessary to insure collection of the tax.

**§ 11.32.035 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. If the due date falls on Saturday, Sunday holiday, or a day City Hall is closed, the due date shall be the next regular business day on which City Hall is open to the public.

**§ 11.32.040 Payment - when taxes deemed delinquent.**

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 Sections 11.32.030 and 11.32.035.

**§ 11.32.045 Notice not required by the City.**

The City may as a courtesy send a tax notice to the business however, the Tax Administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

**§ 11.32.050 Non-payment of Cannabis Business Tax; Penalties and interest established by resolution.**

A. Any person who fails or refuses to pay any Cannabis Business Tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest established by resolution of the City Council. This penalty provision shall not be construed to preclude or limit the enforcement of the penal provision of this Chapter.

B. Whenever a check or electronic payment is submitted in payment of a Cannabis Business Tax and the payment is subsequently returned unpaid by the bank 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.

**§ 11.32.055 Refunds and credits.**

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 11.32.060.

B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

**§ 11.32.060 Refunds and procedures.**

A. Whenever the amount of any 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, or credited towards a future tax liability, provided that a written claim for refund is filed with the Tax Administrator within one year of the date the tax was originally due and payable.

B. The Tax Administrator, his or her designee or any other City officer charged with the administration of this Chapter shall have the right to examine and audit all the books and business records of the claimant 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. If the Cannabis Business Tax was erroneously paid and the error is attributable to the City, the City shall refund the amount of tax erroneously paid up to one year from when the error was identified.

**§ 11.32.065 Exemptions from the tax.**

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

**§ 11.32.070 Administration of the tax.**

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Tax Administrator may from time to time promulgate such administrative 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. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all Cannabis Business Tax taxpayers forms for the reporting of the tax;

2. Increase tax rates in accordance with this Chapter;

3. Provide information to any taxpayer concerning the provisions of this Chapter;

4. Receive and record all taxes remitted to the City as provided in this Chapter;

5. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;

6. Assess penalties and interest to taxpayers pursuant to this Chapter;

7. Determine amounts owed and enforce collection pursuant to this Chapter.

**§ 11.32.075 Enforcement - action to collect.**

A. 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 Chapter 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.

B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the City under this Chapter is not paid when due, the Tax Administrator may, within three years after the amount is due, record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the individual or business as it appears on the records of Tax Administrator. The lien shall also specify 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 thereon, constitutes a lien upon all real property in the City owned by the individual or business, or subsequently acquired by the individual or business before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten years from of filing of the certificate unless sooner released or otherwise discharged.

C. At any time within three years after any individual or business is delinquent in the payment of any amount herein required to be paid or within three years after the last recording of a certificate of lien under Subsection C of this Chapter, 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 the Sheriff 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, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The Tax Administrator shall approve the fees for publication in the newspaper.

D. At any time within three years after recording a lien against any individual or business, if the lien is not discharged and released in full, the Tax Administrator may forthwith seize any asset or property, real or personal (including bank account), of the operator and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the business subject to seizure and sale subject to this Chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

**§ 11.32.080 Apportionment.**

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

**§ 11.32.085 Constitutionality and legality.**

This tax is intended to be applied in a manner consistent with the United States Constitution and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitution of the United States or the State of California or a violation of any other provision of the Culver City Charter or state law.

**§ 11.32.090 Audit and examination of records and equipment.**

A. The Tax Administrator shall have the power to audit and examine all books, records, accounts, inventory and onsite operations of persons engaged in cannabis businesses specific to the Business., including examination of both state and federal income tax returns, sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the City, for the purpose of ascertaining the amount of Cannabis Business Tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter.

B. It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of the later of four years from the due date of the return or the date the return is filed, 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 duly authorized designee shall have the right to inspect at all reasonable times. All records for any period being audited by the City shall be retained until the audit is complete.

**§ 11.32.095 Other licenses, permits, taxes, fees or charges.**

A Cannabis Business subject to the provisions of this Ordinance shall also be subject to the business tax requirements defined in Section 11.01 of the Culver City Municipal Code. Nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other Chapter of this Code or any other ordinance or resolution of the City. Any references made or contained in any other Chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Chapters of this code.

**§ 11.32.100 Payment of tax does not authorize unlawful business.**

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

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

**§ 11.32.105 Deficiency determinations.**

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 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 discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such 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 under Section 11.32.115.

**§ 11.32.110 Failure to report--nonpayment, fraud.**

A. 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 statement required under the provisions of this Chapter;
2. If the person has not paid the tax due under the provisions of this Chapter;
3. If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter; or
4. If the Tax Administrator determines that the nonpayment of any 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 stated in this Chapter and any other penalties allowed by law.

B. 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 business and activities of the person assessed, to be due under each applicable Chapter of this Title, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

**§ 11.32.115 Tax assessment - notice requirements.**

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the 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 purposes of this Chapter, a service by mail is complete at the time of deposit in the United States mail.

**§ 11.32.120 Tax assessment - hearing, application and determination.**

A. Within 30 days after the date of service the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive.

B. Within 30 days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than 30 days after the receipt of the application, 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 days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing, the Tax Administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 11.32.120 for giving notice of assessment.

C. The decision of the Tax Administrator under this Section may be appealed to the City Manager as set forth in Section 11.32.125 of this Chapter.

**§ 11.32.125 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 30 days of the serving or mailing of the determination of tax due. The City Clerk shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to the taxpayer at the last known place of address. The finding of the City Manager shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this Chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

**§ 11.32.130 Conviction for violation - taxes not waived.**

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

**§ 11.32.135 Violation deemed misdemeanor.**

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and shall be punishable therefore as provided in Chapter 1.01 of this Code.

**§ 11.32.140 Remedies cumulative.**

The penalties set forth in this Chapter are cumulative and in addition to all other remedies, violations, and penalties set forth in the City's Code, or in any other ordinance, laws, rules or regulations of the City, County, or the State of California.

**§ 11.32.145 Amendment or repeal.**

This Chapter may be repealed or amended by the City Council without a vote of the people to the extent allowed by law. However, as required by Title XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter. The people of the City of Culver City affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the City Council has acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or

C. The collection of the tax imposed by this Chapter, even if the City had, for some period of time, failed to collect the tax.

**SECTION 2**: If any provision, section, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid, illegal or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, such unconstitutionality illegality or invalidity shall only affect such provision, section, paragraph, sentence, phrase or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases or words, or the application of this Ordinance to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to be the intention of the City that that Ordinance would have been adopted has such unconstitutional illegal or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

**SECTION 3. EFFECTIVE DATE**. This ordinance relates to the levying and collecting of the Cannabis Business Tax by the City and shall be in full force and effect ten days after the certification by the City Council of the election returns indicating passage of this Ordinance by a majority of the voters casting votes on the measure.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Culver City voting on the xx day of April, 2018.

JEFFREY COOPER, Mayor
City of Culver City, California

ATTEST:

JEREMY GREEN ,
City Clerk

APPROVED AS TO FORM:

CAROL A. SCHWAB
City Attorney