

**“Pot Luck”
Santa Ana’s Monopoly on Licensed
Retail Adult-Use Cannabis
in Orange County**



GRAND JURY 2020-2021

TABLE OF CONTENTS

SUMMARY	1
BACKGROUND	1
Federal Cannabis Laws	1
Legislation in California	1
REASON FOR STUDY	2
METHOD OF STUDY	3
INVESTIGATION AND ANALYSIS	3
Santa Ana City Council Says “Yes”	3
Dispensary Application and Licensing Process	3
<i>Cannabis Community Benefits Program</i>	4
Community Safety	4
<i>Site Visits</i>	5
Financial Impact	6
Communication	7
COMMENDATIONS	7
FINDINGS	7
RECOMMENDATIONS	8
RESPONSES	9
RESPONSES REQUIRED	10
APPENDIX	11
APPENDIX 1 – Approved and Operating Adult-Use Cannabis Dispensaries	11
APPENDIX 2 – Commercial Cannabis Application Process	12
APPENDIX 3 – Phase 1 and Phase 2 Application and Permit Process	13
APPENDIX 4 – Commercial Cannabis Application Information	14
APPENDIX 5 – Santa Ana Ordinance No. NS-2959	16
GLOSSARY	20
BIBLIOGRAPHY	21

SUMMARY

Santa Ana was the first city in Orange County, California to approve the retail sale of Adult-Use Cannabis. This action has added significant revenue to the city with no reported increase in criminal activity. Through interviews and investigation, the Orange County Grand Jury has discovered that the revenue generated by the Retail Adult-Use Cannabis business has provided much needed funds to the City of Santa Ana. These funds have not only increased the city’s general fund account but have also been used for enhanced police services and code enforcement efforts as well as funding for additional youth programs through the Parks, Recreation, and Community Services Agency.

The Orange County Grand Jury does not express an opinion on the use of Cannabis.

BACKGROUND

Cannabis use has long been a subject of controversy in the United States. Once commonly grown for hemp, made from fibers from the plant and used in a variety of products such as rope and paper, cannabis was later discovered to have medicinal purposes and subsequently became a criminalized product. Over the last six decades there has been much debate and many propositions introduced to decriminalize and/or regulate cannabis and allow it to be legally sold and used for medicinal as well as recreational purposes.

Federal Cannabis Laws

Despite a cannabis legalization trend sweeping the country, the federal government still classifies cannabis as a Schedule 1 drug. The federal government considers drugs in this class to be some of the most dangerous.

A Schedule 1 classification puts cannabis in the same class as heroin, which means the federal government considers cannabis more dangerous than Schedule 2 drugs like cocaine and methamphetamine.

At the present time, the United States Department of Justice (“DOJ”) is not prosecuting most cannabis users and businesses that follow state and local cannabis laws, as long as those laws do not conflict with certain federal requirements. These requirements include preventing minors from using cannabis and preventing cannabis from being transported across state lines.

Legislation in California

Proposition 19 (1972) also known as “The California Marijuana Initiative” was a ballot initiative on the November 7, 1972 California Statewide Ballot. California became the first state to vote on a ballot measure seeking to legalize cannabis. If it had passed, the measure would have removed penalties in the State of California for persons 18 years of age or older for using,

possessing, growing, processing, or transporting marijuana for personal use. The initiative was defeated by the voters with 66.5% No votes to 33.5% Yes votes.

Proposition 215 (1996) also known as “The Compassionate Use Act of 1996” made it legal under California law for individuals of any age to use cannabis for medicinal purposes. Individuals must have a recommendation from a doctor to use medical cannabis. The act passed by a vote of 55.58% Yes votes to 44.42% No votes.

Proposition 19 (2010) also known as “The Regulate, Control, and Tax Cannabis Act of 2010” was defeated by the voters with 53.5% No votes to 46.5% Yes votes. If it had passed, Proposition 19 would have legalized various cannabis-related activities in California and authorized local governments to control these activities. In addition, the Proposition would have granted local governments the right to impose and collect cannabis-related fees & taxes, and authorized various criminal and civil penalties.

Proposition 64 (2016) also known as “The Adult-Use of Marijuana Act” passed by a vote of 57.13% to 42.87%. The measure:

- Legalized adult use of cannabis for recreational, non-medical purposes
- Created a system for regulating Retail Adult-Use Cannabis businesses
- Imposed taxes on Retail Adult-Use Cannabis sales
- Changed penalties for cannabis-related crimes

Once Proposition 64 was passed, cities in California were granted the opportunity to approve Retail Adult-Use Cannabis and begin the process of granting licenses to shops within their city limits.

REASON FOR STUDY

The selling of cannabis for “Adult-Use” or “recreational” purposes has been legal in the State of California since January 1, 2018 and yet, until July 2020, Santa Ana was the only city in Orange County that had approved licensing for this type of business. The Orange County Grand Jury (OCGJ) was interested in investigating how the decision to move forward with this licensing impacted Santa Ana and if there were any significant issues.

The Grand Jury felt it was important to investigate this matter in order to make the public aware of the potential gains or pitfalls other cities in the county might encounter should they move forward with Retail Adult-Use Cannabis licensing.

This report focuses only on the licensing and selling of Retail Adult-Use Cannabis in the City of Santa Ana and does not address medicinal sales, cultivation, distribution, or any issues related to the use of cannabis products.

METHOD OF STUDY

The OCGJ conducted extensive internet research on the legal status of Retail Adult-Use Cannabis, both nationwide and in California, by reviewing and analyzing relevant legislation as well as the numerous California propositions that culminated in the passage of Proposition 64. In addition, the OCGJ reviewed City of Santa Ana documents including staff reports, commission reports, Requests for City Council Actions, and ordinances that authorized and established conditions for the sale of cannabis products for Adult-Use.

The OCGJ also interviewed current and former Santa Ana City Council members and City employees who work in agencies directly involved with or impacted by the licensing and sale of Retail Adult-Use Cannabis products in Santa Ana. In addition, OCGJ interviewed professional experts not employed by the City, including licensed Retail Adult-Use Cannabis dispensary proprietors and employees. The OCGJ visited several licensed Retail Adult-Use Cannabis dispensaries in Santa Ana to observe the facilities, amenities, staff, clientele, and operations.

INVESTIGATION AND ANALYSIS

Santa Ana City Council Says “Yes”

In response to the November 2016 passage of Proposition 64 in California, the Santa Ana City Council began to consider licensing and regulating the retail sale of cannabis for adults. After multiple meetings and discussions and after thorough staff analysis, on October 17, 2017, the City Council introduced ordinance number NS-2929 for a first reading. The ordinance was identified as “An Ordinance of the City Council of the City of Santa Ana creating Chapter 40 of the Santa Ana Municipal Code, ‘Regulation of Commercial Cannabis’, to Regulate Commercial Cannabis Activities, excepting Medicinal Retail.”

On November 9, 2017, the ordinance was introduced for a second reading and approved with amendments by a vote of 5-0 (two City Council members were absent). Santa Ana has remained the only city in Orange County issuing business licenses and regulating the retail sale of Adult-Use Cannabis for the years 2018, 2019, and 2020.

Dispensary Application and Licensing Process

Santa Ana Ordinance number NS-2929 allows up to 30 Retail Adult-Use Cannabis stores within the City. As of April 15, 2021, there were 23 dispensaries open and operating in the City of Santa Ana (see Appendix 1). The ordinance sets forth operational standards, permit procedures, and an operating agreement to address collection of operating fees.

To ensure fairness and impartiality in the selection process, the City devised a system of “Retail Adult-Use Cannabis merit-based criteria and possible points” (see Appendix 2) to evaluate applicants who sought to operate a dispensary offering Adult-Use Cannabis products. This led to the Commercial Cannabis Application (Phase I and Phase II) and Permit Process (see Appendix 3), a comprehensive evaluation process that each Retail Adult-Use Cannabis dispensary applicant had to follow and pass before being allowed to open for business.

After completion of the application process, each applicant was required to obtain a Regulatory Safety Permit (RSP) which is a permit issued by the City of Santa Ana pursuant to Chapter 40 of its municipal code. The RSPs issued for Phase I and Phase II had fees associated with each phase of the process. The fees charged were based on city processing costs as follows: Phase I, initially \$1,690, was subsequently raised to \$1,752; Phase II, initially \$12,086, was later raised to \$12,530.

The City’s Planning and Building Agency drafted a two-page Phase I and Phase II applicants’ information form advising interested parties of the steps in the application process (see Appendix 4).

Cannabis Community Benefits Program

All parties seeking a license to operate a cannabis dispensary in Santa Ana must submit a written operating agreement titled “Operating Agreement for Adult use (Non-Medicinal) Cannabis Retail Business.” One section of the agreement is entitled “Public Benefit.” In this section, the applicant for the proposed dispensary is encouraged to submit a “Community Benefit and Sustainable Business Practices Plan” (PLAN). The plan serves as a goodwill program sponsored by the dispensary for the benefit of the Santa Ana community.

A review of the PLANs submitted by the applicants revealed a wide variety of current community service projects such as sponsoring a local debate team, supporting a community garden, organizing and/or funding toy/clothing/food drives, diversion or prevention educational programs, and neighborhood clean-up efforts.

While these programs are a step towards goodwill in the community, there is no oversight or confirmation by the City that the dispensary operator is participating in the plan. It is up to each dispensary owner to decide how and to whom they will provide a “benefit.” There are no specific requirements in terms of money or volunteer hours that a dispensary must donate, and there is no obligation to provide proof of participation in the plan to the City.

The OCGJ has concluded that there should be some process in place to set standards for and document participation in the Community Benefits Program. In addition, the benefits provided by the Retail Adult-Use Cannabis dispensaries should be reported to the City Council and made available to the general public.

Community Safety

The OCGJ learned through interviews with City officials and staff that there had been more than 120 unlicensed dispensaries operating illegally in Santa Ana before ordinance NS-2929 went into effect. That number has since been reduced to “less than a handful,” due to enforcement efforts by the City, especially the Planning and Building Agency, including Code Enforcement, and the Santa Ana Police Department.

One third of the taxes and fees that the City receives from Retail Adult-Use Cannabis dispensaries is dedicated to Police and Code Enforcement. This money provides funding for a vice unit, including a sergeant and four officers. Other City agencies, such as Planning and

Building and the City Attorney’s Office, also receive funding because of their role in ensuring Retail Adult-Use Cannabis compliance with regulations.

The reality is that shutting down the unlicensed, illegally operating dispensaries will increase business for the licensed facilities, thereby increasing the City’s tax revenues. Closing unlicensed facilities is a win-win for both the licensed dispensaries and the City of Santa Ana.

It should be noted that the licensed Retail Adult-Use Cannabis dispensaries must meet the quality standards for their merchandise that comply with requirements set forth by the State of California’s Bureau of Cannabis Control (BCC). Consumers have no such protections when products are purchased from unlicensed shops.

Ordinance number NS-2929, Section 1, subparagraph K, states: “The City of Santa Ana has a compelling interest in ensuring that cannabis is not sold in an illicit manner, in protecting the public health, safety, and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these businesses may operate, and in providing access of cannabis to residents.”

The OCGJ further learned through interviews with both Police Department and Code Enforcement staff that there has been no apparent increase in criminal activity in the areas surrounding the Retail Adult-Use Cannabis dispensaries. It should be noted that all licensed dispensaries are required to have security guards in place during hours of operations, and 24/7 video surveillance protecting their facilities, employees, and customers. Additionally, all dispensaries are required to secure all inventory in a locked safe, unless open for business.

Site Visits

During its investigation, the OCGJ interviewed cannabis dispensary owners and visited Retail Adult-Use dispensary sites. The OCGJ would like to note that it received full cooperation from the dispensary owners and staff while touring their locations.

The dispensary sites the OCGJ visited appeared to be well managed, with clean public areas that were adequately illuminated and well-appointed. The shelves were fully stocked with products. All products were marked with California approval code stamps, indicating that the products conformed to quality control standards approved by the BCC.

Sites visited had the required security guards; the OCGJ noted that there were two security guards at each site visited. Each store had 24-hour video surveillance cameras covering the interior and exterior. One of the store owners mentioned that their external video surveillance is so extensive and of such high quality that they were able to assist law enforcement with investigations into criminal activities at nearby properties. Inside, stores were well furnished, had appropriate security doors, and all products were locked up at night in secured structures, vaults, or safes.

Financial Impact

In November 2018, residents of the City of Santa Ana approved Measure Y by a vote of 71% Yes to 29% No. Measure Y is a tax on Retail Adult-Use Cannabis businesses operating in the City that provides for a tax of 25 cents to 35 dollars based on the gross square footage of the business and a sales tax of up to 10% for retail sales. The City estimates that Measure Y will generate \$11-14 million a year to fund city services.

On December 4, 2018, the Santa Ana City Council adopted Ordinance NS-2959 (see Appendix 5), establishing a “Cannabis Public Benefit Fund”. The fund derives almost all of its money from Measure Y and requires that the city allocate all money received from the sale of Retail Adult-Use Cannabis as follows: one third to the General Fund, one third to Enforcement Services, and the final third to Youth Services.

Some of the City of Santa Ana Council members and staff interviewed by OCGJ informed the OCGJ that there is no true, viable oversight regarding disbursement and use of cannabis money received. The OCGJ learned that there is no clearly identifiable accounting for residents to see how this money is spent. Furthermore, the COVID pandemic has caused a shifting of money from previously planned programs to others.

Money received by the Retail Adult-Use Cannabis businesses for the last two years from the Measure Y tax has been in excess of \$20 million. The General Fund money can be allocated to projects or programs in any City department, and expenditures from this fund cannot be specifically attributed to the Cannabis Public Benefit Fund. It has also been difficult to secure specific information about how the money for Enforcement Services has been used. Interviews with City staff indicated that various departments rely on Measure Y funds for their enforcement efforts. For example, the Police Department has funded the Vice Unit with Measure Y proceeds and the Planning and Building Agency, especially the Code Enforcement Division, also relies on Cannabis Public Benefit Fund money to staff some positions. However, the OCGJ has not received a clear breakdown of how the Enforcement Services money has been used by the various city agencies.

Expenditures related to Youth Services are much more transparent. The following programs and projects are anticipated to be funded from the Cannabis Public Benefit Fund and undertaken in the following year for the benefit of Santa Ana youth:

- Library Services
 - Book/Techmobile
 - Digital Collection for Teens
 - Laptop Dispenser Kiosks
 - Wireless Hotspots
- Library Improvements at the Newhope Branch Library
- Library Playground at the Main Branch

- Parks and Recreation
 - Anti-Drug Education Program
 - Fitness Courts
 - Goat Encounter at Santa Ana Zoo
 - Santa Anita Park Soccer Field Renovation
 - Splash pads for six City parks
 - Third Party youth programs
 - Traveling Zoo Exhibit
 - Year-Round Aquatics
 - Youth and Teen Excursion
 - Youth Programs and Services
 - Zoo and You Program
- Community Development Agency youth paid internships
- Contribution to the Deferred Action for Childhood Arrival Defense Fund

The OCGJ, through its investigation of the use of Cannabis Public Benefit funds, concluded that the youth of Santa Ana have benefited greatly and will continue to benefit as a result of the decision to license Retail Adult-Use Cannabis dispensaries in the City.

Communication

During the investigation of the Retail Adult-Use sale of cannabis in Santa Ana, the OCGJ noted that there are several independent City departments involved in the licensing and regulation process. While the expertise of each department may be required to ensure compliance with all City ordinances and to process all necessary documents and fees, multiple points of contact can make it difficult to obtain information when needed.

COMMENDATIONS

The City of Santa Ana received more than \$20 million in revenue during the first three years of licensed Retail Adult-Use Cannabis sales. Santa Ana was the first city in Orange County to begin licensing for these dispensaries and has remained the only city for several years, giving it a “monopoly” on Retail Adult-Use Cannabis business in Orange County.

The City of Santa Ana saw a significant drop in the number of illegal/unlicensed cannabis shops as the number of licensed dispensaries increased. This reduction in illegal/unlicensed shops has improved community safety for both consumers and residents.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2020-21 Grand Jury requires responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation described here, the 2020-21 Orange County Grand Jury has arrived at the following principal findings:

- F1. There is no clearly identifiable accounting of where all the Enforcement Services money received from Retail Adult-Use Cannabis licensing in accordance with Santa Ana Municipal Ordinance number NS-2959, section 13-203 was spent.
- F2. The legalization of Retail Adult-Use Cannabis by the City of Santa Ana and the resulting increase in city revenue have allowed the city to significantly expand its youth services programs.
- F3. There are multiple departments within the City of Santa Ana responsible for various aspects of Retail Adult-Use Cannabis oversight. The decentralized nature of the oversight within the City makes information difficult to obtain.
- F4. The number of unlicensed cannabis dispensaries in Santa Ana has significantly declined since the business licensing of Retail Adult-Use Cannabis dispensaries.
- F5. The Orange County Grand Jury did not receive evidence of an increase in crime as a result of the licensing of Retail Adult-Use Cannabis dispensaries.
- F6. The *Cannabis Community Benefits Program* motivates local dispensaries to contribute funds and/or staff volunteer hours for the benefit of the City of Santa Ana.

RECOMMENDATIONS

In accordance with California Penal Code Sections 933 and 933.05, the 2020-21 Grand Jury requires responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation described herein, the 2020-21 Orange County Grand Jury makes the following recommendations:

- R1. The Orange County Grand Jury recommends that the Santa Ana City Council require an annual report specifically detailing all Retail Adult-Use Cannabis money spent each fiscal year. This report should be presented to the Santa Ana City Council and made public. This should be completed by December 31, 2021, for fiscal year 2020-21, and by September 30 following each fiscal year thereafter. (F1)
- R2. The Orange County Grand Jury recommends that the City of Santa Ana designate an individual to oversee and provide centralized coordination of Retail Adult-Use Cannabis activity commencing January 1, 2022. (F3)
- R3. The Orange County Grand Jury recommends that the City of Santa Ana create a process to report to the Santa Ana City Council and the residents of Santa Ana detailed information about the participation of Retail Adult-Use Cannabis dispensaries in the Community Benefits Program by December 31, 2021 and yearly thereafter. (F6)

RESPONSES

The following excerpts from the California Penal Code provide the requirements for public agencies to respond to the Findings and Recommendations of this Grand Jury report:

§933

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

§933.05.

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding in which case, the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

RESPONSES REQUIRED

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code Section 933.05 are required from:

Responses are required from the following governing body within 90 days of the date of the publication of this report:

90 Day Required Responses	F1	F2	F3	F4	F5	F6
Santa Ana City Council	x	x	x	x	x	x

90 Day Required Responses	R1	R2	R3
Santa Ana City Council	x	x	x

APPENDIX

APPENDIX 1 – Approved and Operating Adult-Use Cannabis Dispensaries

Approved and Operating Adult-Use Cannabis Dispensaries
4-15-2021 Update

Count	Applicant Name	DBA Name	Business Activity	Business Address
1	Vertical, Inc.	420 Central	Retail (Adult-Use)	420 W. Central Ave.
2	The Gamy Five, LLC	ASHE Society	Retail (Adult-Use)	3601 W. Gary Ave.
3	AAA Health Center	Kannadise	Retail (Adult-Use)	1525 E St Gertrude
4	Bud & Bloom	Farmacy Santa Ana	Retail (Adult-Use)	1327 E. St. Gertrude Pl.
5	Hand & Hand Patient Care	Catalyst - Santa Ana	Retail (Adult-Use)	2400 S. Pullman St.
6	STPC Enterprise, Inc	Evergreen	Retail (Adult-Use)	1320 E. Edinger Ave.
7	DBO Investments SA LLC	From The Earth	Retail (Adult-Use)	3023 S. Orange Ave.
8	Fairfax Enterprises, Inc.	Herban Kulture	Retail (Adult-Use)	3210 S. Standard Ave.
9	55 OC Collective, Inc	Jungle Boys	Retail (Adult-Use)	2911 Tech Center Dr.
10	Jason Lily, LLC.	Kannabis Works	Retail (Adult-Use)	2106 S. Susan St.
11	The Source - Santa Ana	MedMen OC	Retail (Adult-Use)	2141 S. Wright St.
12	Monex Place Wellness, Inc	Mr. Nice Guy	Retail (Adult-Use)	730 E. Dyer Rd
13	OCG SYSTEMS	New Generation	Retail (Adult-Use)	3700 W. Segerstrom Ave. #A
14	SOAR Collective	OC3	Retail (Adult-Use)	3122 S. Halladay St. #A
15	People's First Choice LLC	Peoples OC	Retail (Adult-Use)	2721 S. Grand Ave.
16	SCSA Group, Inc.		Retail (Adult-Use)	1900 E. Warner Ave., #A-1
17	Halladay Healing Group	Super Clinic	Retail (Adult-Use)	2525 S. Birch St.
18	Green Rose Green Leaf Care Inc.	Speedy Weedy	Retail (Adult-Use)	1325 E. St. Andrew Pl. #B
19	The 10 Spot, Inc	The Spot	Retail (Adult-Use)	3242 S. Halladay St. #101
20	WCW Organization	Tropicanna	Retail (Adult-Use)	2700 S. Shannon St.
21	Healthy Healing Holistic Options, Inc	Weden	Retail (Adult-Use)	1628 S. Grand Ave
22	2015 Halladay Wellness Inc.	West Clinic	Retail (Adult-Use)	1625 E. St. Gertrude Pl.
23			Retail (Adult-Use)	2110 S. Yale St., #A

APPENDIX 2 – Commercial Cannabis Application Process

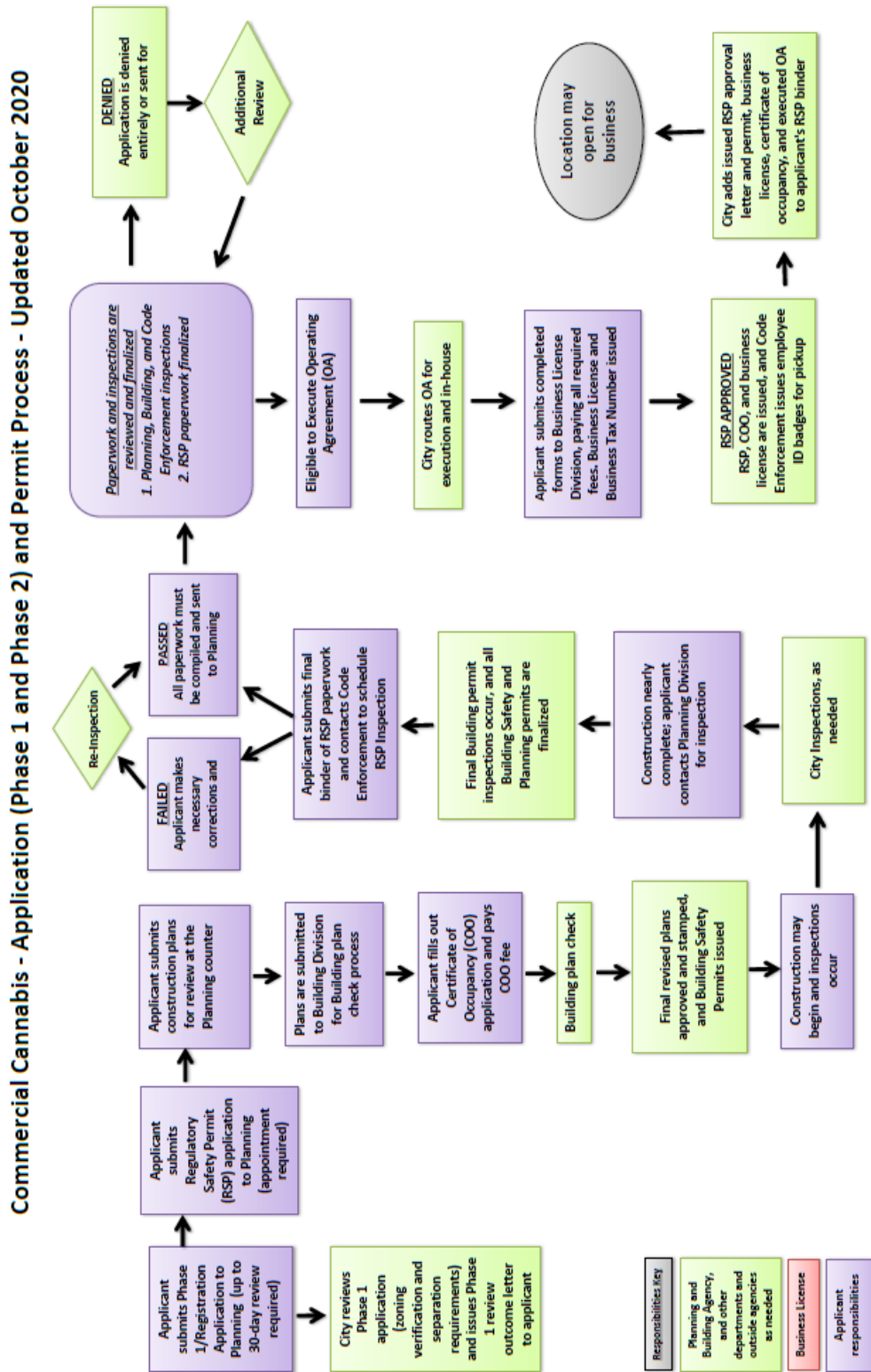
Adult-Use Retail Cannabis Merit-Based Criteria and Possible Points		
All applications for a Regulatory Safety Permit (RSP) will be evaluated using the merit criteria outlined below. Applicants must submit supplemental documentation or references with the RSP application that support the statements below for review by the City.		
No.	Merit Criteria	Points
1	Applicant demonstrates control of a site that is in full compliance with the requirements of Chapter 18 and/or Chapter 40 of the Santa Ana Municipal Code (base requirement ¹).	Up to 20
2	Applicant demonstrates experience in operating a permitted or licensed commercial cannabis activity within the United States (base requirement ¹).	Up to 20
3	Applicant demonstrates past experience in and commits to any of the following ² : <i>This criteria evaluates the items listed below.</i> <ul style="list-style-type: none"> • Local hiring and sourcing practices³ • Sustainable business or building practices • Community benefit and/or youth programs in Santa Ana 	Up to 30
4	Applicant is currently on the Measure BB lottery waitlist.	Up to 10
5	Applicant's principal officer's, director's, or owner's primary residence is in the City of Santa Ana and the person has been residing at the primary residence for at least 12 consecutive months immediately preceding the date of the application; OR have been operating a business in the City of Santa Ana for at least 12 consecutive months immediately preceding the date of the application.	Up to 10
6	Applicant, entity, or premises: <i>This criteria evaluates the items listed below.</i> <ul style="list-style-type: none"> • Has no previous record of failing to make timely reporting or remitting of their Santa Ana medical marijuana and/or commercial cannabis business license taxes or any other payments required by their entitlements if operating in another jurisdiction • Is not the subject of any outstanding code enforcement activity 	Up to 10
Maximum Possible Points		100

¹ Base requirement indicates that the applicant must satisfy a portion of each criteria (nos. 1 and 2) in order to qualify for consideration and scoring

² A community benefits plan will be reviewed and incorporated into the required operational agreement for any selected commercial cannabis business operating in Santa Ana.

³ Note: Pursuant to Chapter 40, any facility employing two or more individuals is required to enter into a labor peace agreement.

APPENDIX 3 – Phase 1 and Phase 2 Application and Permit Process



APPENDIX 4 – Commercial Cannabis Application Information



Planning and Building Agency
Planning Division
20 Civic Center Plaza
P.O. Box 1988 (M-20)
Santa Ana, CA 92702
(714) 647-5804
www.santa-ana.org



Commercial Cannabis **Non-Retail** Business Phase 1 & Phase 2 Application Information

Thank you for your interest in submitting an application to operate a non-retail commercial cannabis in Santa Ana.

What applications do I need to submit?

All commercial cannabis businesses are required to submit a Phase 1/Registration Application and a Phase 2/Regulatory Safety Permit (RSP) Application.

How much are the application processing fees?

The Phase 1 processing fee is \$1,752.02. The Phase 2/RSP processing fee is \$12,529.56. Please note that the Phase 2 permit and fee must be renewed annually.

Are there any other fees?

All commercial cannabis businesses are required to execute an operating agreement. The operating agreement preparation fee is \$2,500.00, payable within 30 days if the Phase 2/RSP is approved.

Commercial cannabis businesses in Santa Ana are also subject to following taxes following the passage of Measure Y, approved by Santa Ana voters in November 2018.

Commercial Cannabis Business Type	Tax
Adult-Use Retail	8% of gross receipts or \$25 per square foot (annually), whichever is higher.
Testing Laboratory	1% of gross receipts or \$1.50 per square foot (annually), whichever is higher.
Cultivation and Manufacturing	6% of gross receipts or \$10 per square foot (annually), whichever is higher.
Distribution	6% of gross receipts or \$4 per square foot (annually), whichever is higher.
Medicinal Retail (subject to separate tax approved in 2014)	6% of gross receipts

Is there a cap or limit on the number of permits?

There is limit of 30 adult-use retailer RSPs and 20 medicinal retailer RSPs. The application period for adult-use retailers ended March 1, 2018, and no new applications are being accepted. There is no limit on the number of RSPs for “non-retail” commercial cannabis businesses (testing laboratory, cultivation, manufacturing, and distribution).

When and how can I submit an application?

Applications for “non-retail” commercial cannabis businesses (testing laboratory, cultivation, manufacturing, and distribution) are accepted year-round. Applications are only accepted in digital format. Additional information is provided in each application.



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Commercial Cannabis **Non-Retail** Business Phase 1 & Phase 2 Application Information

Can I submit Phase 1 and Phase 2 applications together?

Yes. Applicants are encouraged to submit Phase 1 and Phase 2 applications concurrently, which can save up to 30 days of processing time.

Do I need a submittal appointment?

Phase 1 submittals do not require an appointment. Phase 1 applications can be submitted during regular Planning Division counter hours. If submitting both Phase 1 and Phase 2 applications together, please contact cannabis@santa-ana.org for a submittal appointment. Phase 2 submittals require an appointment.

How long is the review period?

Phase 1 applications require up to 30 days to process, after which the applicant is informed of the outcome. Phase 2 includes the full background checks of all business owners, managers, employees, and volunteers, as well as plan-check, construction, buildout, and inspections. Because each site will have different plan-check and buildout requirements, the Phase 2 timeframe is more difficult to estimate. The City offers expedited plan-check and overtime inspections if requested by an applicant.

Is there a reason my applications would be denied?

There is no limit for non-retail commercial cannabis businesses and there no selection process (evaluation, lottery, etc.). Non-retail applications must meet all zoning and buffer requirements, and all owners, managers, employees, and volunteers must meet the Santa Ana Municipal Code (SAMC) requirements for background checks listed in Chapters 18 and 40 [SAMC Sec. 18-613 (n) and 40-8 (3) (x)], as well as any other applicable sections of the SAMC.

Is there a flowchart explaining Santa Ana’s permit process?

Yes. A flowchart explaining the entire application review and permitting process is available online at: <http://santa-ana.org/commercialcannabis/default.asp> .

Is Santa Ana’s RSP the same as a State license?

No. The City of Santa Ana issues RSPs, which are local permits. The State issues licenses to conduct commercial cannabis business activity. For information on State licenses and the application process, please visit <http://bcc.ca.gov/> .

Where can I find additional details or information?

Additional information on application requirements are contained in the Phase 1 and Phase 2 applications, as well as in the commercial cannabis ordinances available online at <https://www.santa-ana.org/cannabis>. For additional information, please contact cannabis@santa-ana.org.

APPENDIX 5 – Santa Ana Ordinance No. NS-2959

SRC 11/20/18

ORDINANCE NO. NS-2959

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA, CALIFORNIA, ADDING ARTICLE XX TO CHAPTER 13 OF THE SANTA ANA MUNICIPAL CODE TO ESTABLISH A CANNABIS PUBLIC BENEFIT FUND

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section XX is hereby added to Chapter 13 of the Santa Ana Municipal Code and shall read as follows:

ARTICLE XX.- CANNABIS PUBLIC BENEFIT FUND.

Sec. 13-200. - Establishment of the Fund.

There is hereby established within the City of Santa Ana the "Cannabis Public Benefit Fund", which shall be two sub-funds, one for Enforcement Services and one for Youth Services, within the City's General Fund (the "Cannabis Fund").

Sec. 13-201.- Purpose.

The Cannabis Fund shall be used to fund new or additional Youth Services, as of the date of the fund creation, for City of Santa Ana residents. The Cannabis Fund shall not be used to supplement existing Youth Services. The Cannabis Fund shall also be used to fund community enforcement and code enforcement.

Sec. 13-202.- Definitions.

For the purposes of this Article, the following words and phrases shall be construed as having the following definitions:

Adult Use- shall have the same meaning as that set forth in Santa Ana Municipal Code ("SAMC") section 40-2(2) as may be periodically amended. At the time of adoption of this Article, meaning cannabis or cannabis products that are intended to be used for non-medicinal purposes by a person twenty-one (21) years of age or older.

Commercial Cannabis Activity – shall have the same meaning as that set forth in SAMC section 40-2(9) as may be periodically amended. At the time of adoption of this Article, meaning the cultivation, possession, manufacture, distribution, processing, storing, laboratory, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products as provided for in this Chapter

Ordinance No. NS-2959
Page 1 of 4

[Chapter 40]. Permitted commercial cannabis activities are listed in Land Use Table 40-5 of this Chapter [Chapter 40].

Enforcement Services – any and all services provided by City staff for the prevention, detection, investigation and violations of the City’s codes and ordinances intended to prevent public nuisances or activities that are detrimental to the health, safety and welfare of the community.

Medicinal/Medical Cannabis- shall have the same meaning as that set forth in SAMC section 40-2(27) as may be periodically amended. At the time of adoption of this Article, meaning cannabis or a product containing cannabis, including, but not limited to, concentrates, and extractions, intended to be sold for use by medicinal cannabis patients in California pursuant to the Compassionate Use Act of 1996, found at Section 11362.5 of the California Health and Safety Code. Medical cannabis retail is regulated by Chapter 18 and Chapter 21 of the Santa Ana Municipal Code.

Operating Agreement- shall have the same meaning as that set forth in SAMC section 40-1C as may be periodically amended. At the time of adoption of this Article, meaning a legally binding written agreement between each commercial cannabis business operator and the City, executed by the City Manager, or his or her designee, and in a form or substance satisfactory to the Executive Director of Planning and Building and the City Attorney, and containing those provisions necessary to ensure that the requirements of this article are satisfied. A distinct Commercial Cannabis Operating Agreement shall be required for each location and type of commercial cannabis business activity taking place at an approved Commercial Cannabis Business.

Youth Services- any and all services provided to residents of the City under the age of 24 for athletic, recreational, health, educational, or human services, directly by City staff or through partnerships with third parties. This may include City facility improvements, maintenance and equipment needs related to youth services.

Sec. 13-203. - Cannabis Revenue Funding.

A. Automatic Deposit of Cannabis Tax Revenues into the Cannabis Fund. The Cannabis Fund shall be funded by an automatic deposit of one-third (1/3) of all cannabis tax revenues generated each year for Enforcement Services and one-third (1/3) of all cannabis tax revenues generated each year for Youth Services, commencing with the Fiscal Year Budget for 2018-20 and continuing thereafter in the budget for each Fiscal Year, from all of the following: 1) Operating Agreements for Commercial Cannabis businesses and 2) Any newly adopted Cannabis Business License Tax. For purposes of this subsection, in addition to the descriptions provided directly above in this paragraph, the phrase “cannabis tax revenues” means all revenues generated from any new or increased cannabis tax which has been approved by the voters of the City on or after the effective date of this Chapter and any increase of the cannabis tax

authorized by the Santa Ana Municipal Code and approved by the City Council. Tax revenue from Medicinal/Medical Cannabis shall not go into the Cannabis Fund. Funds in these sub-funds shall be carried over from year-to-year.

B. Discretionary Deposits into Cannabis Fund Not Prohibited. Nothing in this Chapter shall prohibit the City Council, as part of the budgeting process, from contributing additional revenues to the Cannabis Fund, as determined in the City Council's sound legislative discretion.

C. Expenditures from the Cannabis Fund. Funds in the Cannabis Fund shall be restricted to 1) Youth Services: expenditures for new, additional or enhanced, as of the date the Cannabis Fund is created, Youth Services for City of Santa Ana residents and 2) Enforcement Services: expenditures for Enforcement Services.

Sec. 13-204.- Presentation to City Council.

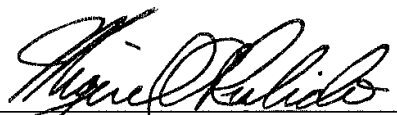
At least two times per year the City Manager shall make a presentation to the City Council and report on the revenue that has been deposited in the Cannabis Fund and expenditures from the Cannabis Fund.

Sec. 13-205.- Procedure for Amending, Suspending or Rescinding Ordinance.

This ordinance may only be amended, suspended or rescinded by an affirmative vote of at least two-thirds of the City Council after making findings that a structural deficit exists in the same manner as required to access the Economic Uncertainty Account as set forth in the City's Budget and Financial Policy.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ADOPTED this 4th day of December, 2018.


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:

By: *Sonia R. Carvalho*
Sonia R. Carvalho
City Attorney

AYES: Councilmembers: Benavides, Pulido, Martinez, Solorio, Tinajero, Villegas (6)

NOES: Councilmembers: None (0)

ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: Sarmiento (1)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2959 to be the original ordinance adopted by the City Council of the City of Santa Ana on December 4, 2018, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: 12/11/2018

Maria D. Huizar
Maria D. Huizar
Clerk of the Council
City of Santa Ana

GLOSSARY

Adult-Use	Terminology used for “recreational” use to distinguish from “medicinal” use.
BCC	California Bureau of Cannabis Control
Cannabis	Cannabis refers to a group of three plants with psychoactive properties, known as <i>cannabis sativa</i> , <i>cannabis indica</i> , and <i>cannabis ruderalis</i> . When the flowers of these plants are harvested and dried, it becomes one of the most common drugs in the world. It is also referred to as weed, pot, or marijuana.
Cannabis Public Benefit Fund	The fund created by ordinance NS-2959 for revenue received in accordance with Measure Y.
Community Benefits Program	A voluntary, good-will program for dispensary owners and employees to provide donations or volunteer hours to the City of Santa Ana.
DOJ	United States Department of Justice
Dispensary	A retail store or business that sells Cannabis products.
Medicinal	Use specifically for medical purposes such as treating PTSD or for relieving nausea caused by chemotherapy.
OCGJ	Orange County Grand Jury
PLAN	Community Benefit and Sustainable Business Practices Plan
Regulatory Safety Permit (RSP)	A permit used by the City of Santa Ana pursuant to Chapter 40 of its Municipal Code.
Unlicensed	Also known as “illegal” or “black market.” Dispensaries not licensed or legally authorized to sell Cannabis products to the public.

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