

**Santa Ana Municipal Code  
Chapter 21 - Licenses**

**Article XII. - Marijuana Collectives/Cooperatives**

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**Sec. 21-126. - Purpose.**

This article is required for the purpose of fixing the rate of taxation for marijuana collectives/cooperatives and for the purpose of providing a tax levy for the usual and current expenses of the City of Santa Ana. The taxes required to be paid under this article are declared to be required pursuant to the taxing power of the City of Santa Ana solely for the purpose of obtaining revenue and are not regulatory permit fees.

(Ord. No. NS-2864, § 5, 12-9-14)

**Sec. 21-127. - Marijuana collectives/cooperatives—Annual business license tax**

(a) Annual business license tax assessment for marijuana collectives/cooperatives.

(1) Every collective/cooperative whether it is organized or conducted as a "not for profit" business, a "non-profit" business, or a "for-profit" business, shall pay an annual business license tax in accordance with Chapter 21 of this Code and the sections and subsections

(2) For the purposes of this article, a marijuana collective/cooperative is defined in section 18-611 of this Code and is considered to be a business as that term is defined in section 21-3 of this chapter.

(3) For the purposes of this article, a collective/cooperative is not considered to be a religious or charitable organization.

(4) "Medical marijuana collective/cooperative" or "collective/cooperative" shall mean any activity regulated or permitted by Chapter 18 of this Code.

(5) For the purposes of this article, a marijuana collective/cooperative is not considered to be a business or person having a "specified exemption" or "specified exclusion" from business license taxation as set forth in sections 21-48 and 21-49 of this chapter.

(6) For the purposes of this article, a "nonprofit organization" shall mean any institution or organization that is exempted from taxes measured by income or gross receipts pursuant to Article XIII, Section 26 of the California Constitution as codified under Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code and Section 37101 (c) of the Government Code or Sub-Chapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986. An institution or organization operating as a collective/cooperative and claiming a gross receipts assessment business license tax exemption under this section shall have the burden of furnishing to the collector such information as the collector may require to validate the claim of exemption including but not limited to such a

determination by the California Franchise Tax Board or any other information requested by the collector.

(7) For the purposes of this article, "gross receipts" shall mean any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration including any monetary consideration for marijuana whatsoever, including, but not limited to, membership dues, reimbursements provided by members, regardless of form, or the total amount of cash or in-kind contributions, including all operating costs related to the growth, cultivation or provision of marijuana or any transaction related thereto. "Gross receipts" shall also include without limitation anything else of value obtained by a collective/cooperative. The term "gross receipts" shall also include the total amount of the sale price of all sales, the total amount charged or received for the performance of any act, service or employment of whatever nature it may be, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise, for which a charge is made or credit allowed, including all refunds, cash credits and properties of any amount or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom, on account of the cost of the property sold, the cost of materials used, the labor or service cost, interest paid or payable, losses, or any other expense whatsoever; provided that cash discounts allowed or payment on sales shall not be included. "Gross receipts" shall also include the amount of any federal, manufacturer's or importer's excise tax included in the price of property sold, even though the manufacturer or importer is also the retailer thereof and whether or not the amount of such tax is stated as a separate charge. "Gross receipts" shall not include the amount of any federal tax imposed on or with respect to retail sales whether or not the amount of such tax is stated as a separate charge. "Gross receipts" shall not include the amount of any federal tax imposed on or with respect to retail sales whether imposed upon the retailer or the consumer and regardless of whether or not the amount of federal tax is stated to customers as a separate charge, or any California state, city or city and county sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part payment on any property so accepted for resale. "Gross receipts" shall be calculated without any deduction on account of any of the following:

- (i) The cost of tangible property sold or bartered;
- (ii) The cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or
- (iii) The cost of transportation of the marijuana, or other property or product.

(b) Business license tax rates for marijuana collectives/cooperatives.

(1) Every collective/cooperative, excepting a qualified "nonprofit organization," whether it is organized or conducted as a "not for profit" business, a "non-profit" business, or a "for-profit" business, shall pay a separate business license tax at a rate of up to ten (10) percent of the gross receipts generated or otherwise received for each branch establishment or separate property location of the business. The gross receipts tax shall be initially set at a rate of five (5) percent. The maximum tax rate shall not exceed ten (10) percent of gross receipts. This tax shall not be adjusted for inflation pursuant to section 21-121 of this chapter.

(2) Notwithstanding the maximum tax rate of ten (10) percent of gross receipts imposed under subsection (b)(1), the city council may in its discretion at any time by ordinance implement a lower gross receipts tax rate for all marijuana collectives/cooperatives, as defined in such ordinance,

subject to the maximum rate of ten (10) percent of gross receipts. The city council may by ordinance increase any such gross receipts tax rate from time to time, not to exceed the maximum gross receipts tax rate established under subsection (b)(1).

(3) As part of the gross receipts tax imposed by this article, each collective/cooperative shall pay a minimum basic rate of two thousand dollars (\$2,000.00) annually for each separate branch location or separate property location of the business.

(c) Modification, repeal or amendment. The city council may repeal the ordinance codified in this article, or amend it in a manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. The city council may likewise by ordinance adopt and add additional provisions to any other article of this chapter and relate them to this article, or amend any existing provisions of any article of this chapter as they may already relate to this article in any manner which does not result in an increase in the tax or taxes imposed herein, without further voter approval. If the city council repeals said ordinance or any provision of this article, it may subsequently reenact it without voter approval, as long as the reenacted ordinance or section does not result in an increase in the tax or taxes imposed

(d) Administration—Rules, regulations, and guidelines; interpretation/clarification. In order to aid in the city's collection of taxes due under this article and to ensure that all marijuanacollectives/cooperatives are taxed consistently to the best of the city's ability, the collector, with the concurrence of the city attorney, may promulgate rules, regulations, and guidelines, to implement and administer this article including, but not limited to rules, regulations, and guidelines harmonizing other provisions of this chapter with the provisions of this article in any manner not inconsistent with the intent of this article and which does not result in an increase in the tax or taxes imposed herein. The collector may also, with the concurrence of the city attorney, interpret or clarify the methodology of the tax, or any definition applicable to the tax, so long as such interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this

(e) Occasional transactions—Exemptions.

(1) The provisions of this article shall not apply to persons having no fixed place of business within the City of Santa Ana who come into the city for the purpose of transacting a specific item of marijuana collective/cooperative business at the request of a specific patient, client or customer, provided that such person does not come into the city for the purpose of transacting business on more than five (5) days during any calendar year.

(2) For any person not having a fixed place of business within the City of Santa Ana who comes into the city for the purpose of transacting collective/cooperative activities, the business tax payable by such person may be apportioned by the collector in accordance with this chapter.

(f) Reporting and remittance. Beginning as set forth in subsection (k) below, and monthly thereafter, each marijuana collective/cooperative (except qualified nonprofit organizations exempt from taxes measured by income or gross receipts) required to pay a tax based on gross receipts under this article, shall report to the city any gross receipts received during the preceding monthly reporting period and shall likewise remit to the city the taxes due and owing during said period. For purposes of this section, month shall mean calendar month, and taxes shall begin to accrue on the date that a person or entity first receives a business license or other permit to operate as a collective/cooperative.

The payment of the two thousand dollars (\$2,000.00) minimum basic rate gross receipts tax required annually for each separate branch location or separate property location of the business in accordance subsection (b)(3), shall be made annually prior to the beginning of the fiscal year beginning April first of the current year and expiring on the 31st day of March of the following year. In the case of a new collective/cooperative the minimum basic rate gross receipts tax shall be paid in advance prior to any

new business activity being undertaken. Every new licensee shall pay in advance an amount equal to one-quarter (1/4) of the annual minimum basic rate gross receipts tax, for each quarter and fraction of a quarter remaining during the period for which the new license is issued.

(g) Delinquent date—Penalty. Any individual or entity who fails to pay the taxes required by this article when due shall be subject to penalties and interest as set forth in accordance with this chapter. The collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

(h) Payment of tax does not authorize unlawful business.

(1) The payment of a business tax required by this article, and its acceptance by the city, shall not entitle any person to carry on any collective/cooperative unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any collective/cooperative in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such collective/cooperative is in violation of any law.

(2) No tax paid under the provisions of this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any legal business in an illegal manner, or any business in violation of any ordinance of the city. Nothing in this article implies or authorizes that any activity connected with the distribution or possession of marijuana is legal unless otherwise authorized and allowed by California and federal law. Nothing in this section shall be applied or construed as authorizing the sale of marijuana.

(i) Business license tax certificate—Required. There are imposed upon all persons engaged in transacting and carrying on any collective/cooperative business activity in the city taxes in the amounts prescribed in this article. It shall be unlawful for any person, either for him or herself or for any other person, to commence, transact or carry on any business in the city without first having procured a business license from the city under this chapter and having paid the taxes set forth in this article, and without complying with any and all applicable provisions contained in this chapter. The carrying on of any collective/cooperative without complying with all the provisions of this article shall constitute a separate violation of this chapter for each and every day that such collective/cooperative is so carried on.

(j) Classification of business license assessment type—Term and renewal. The business license issued to marijuana collectives/cooperatives shall be classed as a gross receipts assessment type, issued for the same term of license as set forth in subsection 21-71(c) and shall be subject to renewal in accordance with sections 21-72(c), 21-73(c), and 21-77 of this chapter.

(k) Operative date. Upon the approval by the majority of the voters of the City of Santa Ana at the November 4, 2014 general election, the taxes imposed by this article shall become operative and shall be applied by the collector upon all marijuana collectives/cooperatives.

(Ord. No. NS-2864, § 5, 12-9-14)

#### **Sec. 21-128. - Effect of state and federal reference/authorization.**

Unless specifically provided otherwise, any reference to a state or federal statute in this article or chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law,

to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease. Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

To the extent that the city's authorization to collect or impose any tax imposed under this article is expanded or limited as a result of changes in state or federal law, no amendment or modification of this article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this article.

(Ord. No. NS-2864, § 5, 12-9-14)

**Sec. 21-129. - Violation deemed misdemeanor—Penalty.**

Any person violating any of the provisions of this article or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by the maximum penalties provided for in Penal Code Section 19.

(Ord. No. NS-2864, § 5, 12-9-14)

**Sec. 21-130. - Severability.**

Should any provision of this article, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this article or chapter or the application of this article or chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

(Ord. No. NS-2864, § 5, 12-9-14)