

## **Model Cannabis Tax Credit Program for Municipalities**

### **Section 1. Findings**

The City of \_\_\_\_\_, hereby finds, determines, and declares as follows....

[In addition to the City's policy findings and other whereas clauses:]

- x. On [xx date] the voters of [City] authorized a tax on cannabis businesses to fund public safety, parks, youth, and senior services, among other general City services.
- x. The City recognizes the encouraging high road employment in its boundaries promotes public health, safety and welfare of its youth, residents and businesses.
- x. The City recognizes that promoting high road employment in the cannabis industry is one manner of addressing the historic injustices created by the War on Drugs in certain communities.

### **Section 2 Qualified Employer Requirements<sup>1</sup>**

- A. Must be licensed by both the local licensing agency and State licensing agencies and in compliance with local regulations and Business and Professions Code 26000 et. seq.
- B. Employed Qualifying Employees
- C. Workforce consisted of Qualifying Employees, 60% of which were hired for full-time work (paid hourly wages for an average of at least 32 hours per week or 1,664 hours per year).
- D. Is not an Excluded Licensee
- E. Maintains a written social equity policy that describes:
  - (i) how the Applicant aims to recruit, hire, and retain employees who reside in low-income census tracts in Santa Ana where at least fifty-one percent of the current residents have a household income at or below eighty percent of the County Area Median Income;
  - (ii) how the Applicant will partner with Community Benefit Organizations or its High Road Training Program to recruit, hire, and retain employees

---

<sup>1</sup> Based on New Employment Credit Language: <https://www.ftb.ca.gov/file/business/credits/new-employment-credit/index.html>

was arrested or convicted for a crime relating to the sale, possession, use or cultivation of cannabis prior to November 8, 2016 that could have been prosecuted as a misdemeanor or citation under Current California law; or (c) is currently receiving unemployment benefits.

(ii) any other measures or employee benefits aimed to address the disproportionate impact of the War on Drugs in certain communities affected by it.

- F. Participated in a High Road Training Partnership of the sort defined by Unemployment Insurance Code Section 14005 and that is recognized by the **State of California.**

### **Section 3      Qualifying Employees Requirements**

- A. **Qualifying Wages.** A Qualifying Employee received Qualifying Wages, which are wages that exceed **115%** of the California minimum wage at the time of hire. The Qualifying Wage shall increase to **130%** within three years of the effective date of this ordinance.
- B. Delivery drivers. Any delivery driver that is not reimbursed for mileage according to the Internal Revenue Service's Standard Mileage Rates shall not be considered a Qualifying Employee.
- C. A Qualifying Employee does not include a manager.

### **Section 4      Equity Employee; definition**

- A. An "Equity Employee" is a natural person who resides in low-income census tracts in Santa Ana where at least fifty-one percent of the current residents have a household income at or below eighty percent of the County Area Median Income.<sup>2</sup>

### **Section 5      Job Creation Standards**

- A. A Qualified Employer whose workforce consisted entirely of Qualifying Employees shall be eligible for a [**x%**] tax credit.
- B. A Qualified Employer who can prove that 25% of its Qualifying Employees completed at least one training offered by a High Road Training Partnership in the tax year shall be eligible for a [**x%**] tax credit.

---

<sup>2</sup> Based on a portion of the City of Long Beach's Equity Hire Program Regulation 4. Available at [https://www.longbeach.gov/globalassets/city-manager/media-library/documents/office-of-cannabis-oversight/equity/rules-and-procedures-implementing-the-equity-hire-program\\_updated](https://www.longbeach.gov/globalassets/city-manager/media-library/documents/office-of-cannabis-oversight/equity/rules-and-procedures-implementing-the-equity-hire-program_updated).

- C. A Qualified Employer may receive an additional [.x%] credit by:
- (a) demonstrating that 40% of all Qualifying Employees employed in the last tax year were Equity Employees, or (b) demonstrating that Qualifying Employees received employee stock ownership options or other equity compensation to employees. A Qualified Employer may receive credit for either subsection (a) or (b), but not both.

## **Section 6 Excluded Cannabis Licensees**

- A. The following licensees, who may otherwise be deemed a Qualified Employer are nonetheless considered Excluded Licensees under this Chapter:
1. Licensees with delinquent taxes or with any pending tax enforcement action against any entity in its California corporate structure for the last two years.
  2. Licensees found to have violated state or local labor laws in the last year by any local or state agency, court, or arbitrator.
  3. Licensees cited for violating any state or local cannabis laws or regulations, public nuisance laws or any other laws designed to protect the public welfare or its health and safety by any local or state agency, court, or arbitrator.
- B. Licensees who do not qualify as Excluded Licenses pursuant to this Section, but that are otherwise not in compliance with any state or local cannabis law or regulation can be denied access to the tax credit program until such noncompliance is corrected, including but not limited to failing to demonstrate proof of a valid labor peace agreement with a bona fide labor organization.

## **Section 7 Proof of Conformance with Standards**

- A. Applications with missing or inadequate materials will not be eligible for the tax credit.
- B. All Applicants shall provide the following proof of compliance with **Sections 1-5:**
- (a) Permits, licenses, and other local or state authorizations to conduct Commercial Cannabis Activity.
- (b) Personnel records and hourly payroll records for each pay period of the tax year, including each employee's full name, social security number or individual taxpayer identification number, address, date of beginning employment and date

of termination of employment, mileage reimbursement policy and mileage submission forms, and proof of reimbursement, if applicable.

(c) Proof of active participation in High Road Training Partnership recognized by the State of California can be demonstrated only by providing a signed letter on official letterhead from an administrator or trustee of the 501(c)(3), 501(c)(4) or 501(c)(5) responsible for managing the Training Partnership. The letter must confirm the High Road Training Partnership's state recognition as well as the Applicant's participation, and should also describe the High Road Training Partnership, its constituent organizations, goals, and trainings offered to cannabis employees. A copy of a grant contract with the State of California that recognizes the program as a High Road Training Partnership shall be attached to the letter.

(d) To prove that an employee completed a High Road Training Partnership training module or program, an Applicant must have provided the annual letter and grant contract as described in subsection (c), and for each credited employee, a certificate of completion or letter of completion from an administrator or trustee of a 501(c)(3), 501(c)(4) or 501(c)(5) responsible for managing the training partnerships either of which must contain the employee's name, purpose of training, and dates of training. The **Responsible Agency** may also create a form to be completed by such administrator or trustee of the High Road Training Partnership.

(f) An attestation that the Applicant is in compliance with, and in the last year, has not been found to, or plead no contest to, any violation of state or local law.

(g) All proof of compliance records shall be subject to the California Public Records Act with due regard taken to ensure compliance with the law and confidentiality of personally identifying and confidential employee information provided in subsection (d).

- C. Any Applicant or Recipient Licensee shall allow the Agency access to the licensed business premises to audit or inspect records or to investigate and inspect any assertion made in the licensee's application for tax credit.<sup>3</sup>

## **Section 8 Penalties**

In addition to other penalties authorized pursuant to **[municipality tax regulation]**, a Recipient shall be subject to credit recapture or rescission if it is found to have falsified, misrepresented, or omitted information underlying its application.

## **Section 9 No carryover or transfer**

Recipients may not carry over tax credits to the following year or transfer benefits between its own corporate entities.

---

<sup>3</sup> Based on Los Angeles Cannabis Regulations

**Section 10 Authority**

The Responsible Agency shall have the authority to promulgate and implement regulations necessary to execute and enforce the authority granted under this Chapter.

**Section 11 Severability**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional, such decision, and the decision not to enforce such, shall not affect the validity of the remaining portion of this code or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

**An Ordinance Amending Section 40-2 of the Santa Ana Municipal Code**

## Section 1 “Bona Fide Labor Organization”

For the purposes of Chapter 40 of the Santa Ana Municipal Code, "Bona Fide Labor Organization" means any organization or any agency or employee representation committee or any local unit thereof in which employees participate, and exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours of employment or conditions of work, which labor organization is not found to be or to have been financed in whole or in part, interfered with, dominated or controlled by the employer or any employer association.

**An Ordinance Amending Section 40-8.32 of the Santa Ana Municipal Code**

Each commercial cannabis business owner, operator(s) and employee(s) shall complete a criminal background check and wear a visible photo ID at all times during working hours. Owners, operators, ~~employees, managers or volunteers~~ may not have been convicted of, or pled guilty/no-contest to a felony or misdemeanor drug charge within the past four (4) years; nor shall they be a person required to register as a controlled substance offender pursuant to ~~Health and Safety Code section 11590.~~ Business and Professions Code Section 5017.

**Other provisions for consideration:**

**Section X Tax Credit Period, Ordinance Sunset**

- A. The exemption period shall be in effect for four years unless the Council takes one of the following actions: (a) before September 30th of the second year the Council takes an affirmative action not to extend the exemption period for a second consecutive two year period; or (b) prior to September 30th of the fourth year of the exemption period, the Council extends the exemption period beyond four years. A suspension of the tax exemption will result in an equivalent period being added to the original four-year exemption period, or two-year exemption period if the Council takes action not to extend the exemption period for the second two-year period. This would result in the sunset clause of the ordinance expiring at the end of four years, or the number of years the exemption was in effect plus any suspension period, whichever is greater, but in no event would the actual number of years of second year tax exemption exceed four, unless the Council takes an affirmative action to extend the exemption period beyond four years, or if the council takes an action not to extend the exemption period for a second two-year period, the sunset clause of the ordinance would expire at the end of the second year, or the number of years the exemption was in effect plus any suspension period, whichever is greater, but in no event would the actual number of years of second year tax exemption exceed five.<sup>4</sup>
- B. Reinstatement of the tax exemption shall require approval of the Council. At such hearing, the Council shall receive a detailed financial accounting and audit of the program and report concerning any positive or negative impacts of the tax exemption program.

---

<sup>4</sup> Based on Los Angeles Municipal Code Sec. 21.30 (time periods shortened from 10 years to four years.)