

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA ROSA, STATE OF CALIFORNIA, ADDING CHAPTER 6-10 TO THE SANTA ROSA CITY CODE AND AMENDING CHAPTER 6-04 OF THE SANTA ROSA CITY CODE TO AUTHORIZE IMPOSITION OF A CANNABIS INDUSTRY TAX ON CANNABIS BUSINESSES OPERATING IN SANTA ROSA**

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

**SECTION 1. Chapter 6-10 is hereby added to the Santa Rosa City Code to read as follows:**

**“CHAPTER 6-10 CANNABIS INDUSTRY TAX**

**6-10.010. Title.** This ordinance shall be known as the Cannabis Industry Tax Ordinance.

**6-10.020. General Excise Tax.** The cannabis industry tax is enacted solely to raise revenue and not to regulate cannabis activity; regulation of that activity remains the province of the City Council. The cannabis industry tax is an excise on the privilege of engaging in cannabis business activity in the City; it is not a sales or use tax. All of the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and used for general governmental purposes.

**6-10.030. Purpose.** This ordinance is adopted to achieve the following purposes, among others, and shall be interpreted to accomplish those purposes:

- A. To authorize the City Council to impose an excise tax on businesses engaged in the cannabis industry operating within the City of Santa Rosa – including but not limited to businesses that cultivate, dispense, produce, process, prepare, store, provide, donate, sell, deliver or distribute cannabis or cannabis products – pursuant to the state Medical Cannabis Regulation and Safety Act, specifically California Business and Professions Code section 19348, the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" approved by the state's voters on November 8, 2016, and/or any other enabling legislation, or in violation of such legislation, and notwithstanding whether such state law's use the term "marijuana" or "cannabis;" and
- B. To specify the type of tax and maximum rate of tax that may be levied and the method of collection; and
- C. To comply with all requirements to authorize the City Council to impose a general excise tax, such tax to become operative only if approved by Council by resolution.

**6-10.040. Definitions.** Terms that are not defined in this Chapter shall have the meanings ascribed to them in Section 20-70 of the Santa Rosa City Code. The following words and phrases shall have the meanings set forth below when used in this Chapter:

- A. "Business" means "Business" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.
- B. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972, the California Control, Regulate and Tax Adult Use of Marijuana Initiative, and other applicable state law.
- C. "Cannabis cultivation area" means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.
- D. "Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and those products defined by Section 11018.1 of the Health and Safety Code.
- E. "Canopy" means 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 need not be contained to a single parcel of land in determining the total square footage that will be subject to tax under this Chapter.
- F. "Cannabis business" or "cannabis industry" means any business activity in the City relating to cannabis, including but not limited to cultivation, transportation, distribution, manufacture, compounding, conversion, processing, preparation, storage, packaging, delivery and sales (wholesale and/or retail sales) of cannabis, cannabis products, or any cannabis accessories, whether or not carried on for gain or profit. A cannabis business does not include any business whose only relationship to cannabis or cannabis products is the production or sale of cannabis accessories.
- G. "Cannabis industry tax" or "commercial cannabis tax" means the tax due pursuant to this Chapter for engaging in cannabis business in the City.
- H. "Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a cannabis business. Commercial cannabis cultivation does not include personal medical cannabis cultivation, or cultivation for personal recreational use as authorized under the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" approved by the state's voters on November 8, 2016, for which the individual receives no compensation whatsoever related to that personal use.

- I. "City" means the City of Santa Rosa, either the entity or its territorial limits, as the context requires.
- J. "City Council" means the City Council of the City of Santa Rosa.
- K. "Collector" means the City's Chief Financial Officer or that person's designee.
- L. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- M. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.
- N. "Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that engages in delivery.
- O. "Distributor" or "distribution" or "distribution facility" means a person engaged in purchasing cannabis from a cultivator, and/or purchasing cannabis products from a manufacturer, for sale to a dispensary.
- P. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.
- Q. "Evidence of doing business" means "Evidence of doing Business" as that term is defined in Section 6-04.060 of the Santa Rosa City Code.
- R. "Gross Receipts," means "Gross Receipts" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.
- S. "Manufacturer" means a person who conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.
- T. "Nursery" means a person who produces cannabis clones, immature plants, and/or seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of cannabis.
- U. "Person" means "Person" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.

- V. "Personal medical cannabis cultivation" means cultivation, by either a qualified patient who cultivates cannabis exclusively for his or her personal medical use or by a caregiver who cultivates cannabis exclusively for medical use by qualified patients, that is exempt from State licensing requirements under the state Medical Cannabis Regulation and Safety Act.
- W. "Sale" means "Sale" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.
- X. "State" means the State of California.
- Y. "State license," means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.
- Z. "Testing laboratory" means a facility, entity, or site that offers or performs testing of cannabis or cannabis products.
- AA. "Transport" means the transfer of cannabis or cannabis products from one cannabis business to another.
- BB. "Transporter" means a person engaged in the transport cannabis or cannabis products between cannabis businesses.

**6-10.050. Tax Authorized.** The City Council in its discretion is authorized to impose, by resolution, a cannabis industry tax on every person who is engaged in cannabis business in the City as prescribed herein. It is unlawful for any person to transact or carry on any cannabis business in the City without paying, in accordance with this Chapter, any cannabis business tax the City Council may impose under this section.

A. Tax on Commercial Cannabis Cultivation

1. The City Council is authorized to impose on every person who is engaged in commercial cannabis cultivation in the City, an annual cannabis industry tax at a rate not to exceed either, as Council in its discretion may choose, \$38 per square foot of cannabis cultivation area or ten percent (10%) of annual gross receipts. The maximum square foot tax shall be adjusted based on the year-over-year percentage change in Bureau of Labor Statistics San Francisco/Oakland/San Jose Consumer Price Index – All Urban Consumers (CPI-U) October to October comparison, or if such index is discontinued, a comparable successor consumer price index as determined by the City Council. Any cannabis industry tax imposed on commercial cannabis cultivation shall be levied every calendar year and shall be due and payable in installments as provided in Section 6-10.070 of this Chapter. The tax authorized under this provision shall not be imposed unless and until the City Council, by resolution, takes action to set a tax rate not to exceed the maximum rates established herein.

2. The City Council may by resolution, in its discretion, implement a tax rate lower than the maximum rates set forth in Subsection (A)(1) for all persons engaged in commercial cannabis cultivation in the City or establish differing tax rates for different categories of commercial cannabis cultivation. For example, the City Council may set different tax rates for cannabis cultivation for medical or adult use, or for indoor rather than outdoor or mixed light cultivation. The City Council may, by resolution, also decrease or increase any such tax rate from time to time, provided that the tax rate shall not, at any time, exceed the maximum tax rates established in Subsection (A)(1).
3. Persons required to pay the cannabis industry tax for commercial cannabis cultivation as described in Subsections (A)(1) and (A)(2) shall also register the cannabis business and pay the registration fee described in Section 6-10.060 of this Chapter, but shall be exempt from paying the general business tax required in under Section 6-40.220 and 6-40.230 of the Santa Rosa City Code for any such cannabis business. If a cannabis business is not subject to the cannabis industry tax as set by resolution of the City Council, the cannabis business will be subject to the general business tax required under Sections 6-04.220 and 6-04.230 of the Santa Rosa City Code

B. Tax on All Other Cannabis Businesses

1. The City Council is authorized to impose on every person who is engaged in any cannabis business in the City that is not commercial cannabis cultivation an annual cannabis industry tax at a rate not to exceed ten percent (10%) of annual gross receipts. Any cannabis industry tax imposed under this section shall be levied every calendar year and shall be due and payable in installments as provided in Section 6-10.070 of this Chapter. The tax under this Chapter shall not be imposed unless and until the City Council, by resolution, takes action to set a tax rate not to exceed the maximum rate established herein.
2. The City Council may by resolution, in its discretion, implement a tax rate lower than the maximum rate established in Subsection (B)(1) for all persons engaged in commercial cannabis business in the City or establish differing tax rates for different categories of commercial cannabis business, including commercial cannabis business for medical or adult use. The City Council may, by resolution, also decrease or increase any such tax rate from time to time, provided that the tax rate shall not, at any time, exceed the maximum tax rate established in Subsection (B)(1).
3. Persons required to pay the cannabis industry tax for commercial cannabis cultivation as described in Subsections (B)(1) and (B)(2) shall also register

the cannabis business and pay the registration fee described in Section 6-10.060 of this Chapter, but shall be exempt from paying the general business tax required under Section 6-40.220 and 6-40.230 of the Santa Rosa City Code for any such cannabis business. If a cannabis business is not subject to the cannabis industry tax as set by resolution of the City Council, the cannabis business will be subject to the general business tax required under Sections 6-04.220 and 6-04.230 of the Santa Rosa City Code.

- C. No further voter approval shall be required for the adoption or increase of a tax under the authority granted by this section 6.10.050 of this Chapter, it being the intent of the People of the City of Santa Rosa to authorize such a tax not exceeding the maximum rates set forth above whenever imposed by the City Council hereafter.

**6-10.060. Registration of Cannabis Business.** All Cannabis Businesses shall be required to annually register as follows:

- A. Upon a person registering a Cannabis Business, whether existing, newly-established or acquired business, such person shall furnish to the collector a sworn statement, upon a form provided by the collector, setting forth the following information:
- (1) The exact nature or kind of business;
  - (2) The place where such business is to be carried on; and
  - (3) Any further information which the Collector may require.
- B. Information required under subsection A will be used only to calculate and enforce the tax imposed under this Chapter, will be exempt from disclosure under the Public Records Act provision for tax return information, and will not be used by the City for criminal enforcement except as provided in Section 6-10.290 of this Chapter.
- C. An annual registration fee of \$25 shall be presented with the sworn statement submitted under this section. This fee shall not be considered a tax and may be adjusted by resolution of the City Council. This fee shall be automatically adjusted annually each January 1 based on the year-over-year percentage change in Bureau of Labor Statistics San Francisco/Oakland/San Jose Consumer Price Index – All Urban Consumers (CPI-U) October to October comparison, or if such index is discontinued, a comparable successor consumer price index as determined by the City Council.
- D. Unless otherwise specifically provided, the annual fee under this section shall be due and payable in advance, on the first day of January, and shall be considered delinquent if unpaid after the last day of February. The date on which the fee becomes delinquent may be extended in writing by the Collector, upon good cause shown, to a date not later than March 31st.
- E. For failure to pay the fee under this section when due, a penalty of 15 percent shall be added to the fee.

- F. For failure to pay the fee under this section when due, interest on the delinquent fee (exclusive of penalty) at the rate of .84 percent per month shall be added to the fee for each month or portion of a month that fee, penalty and/or interest is not paid.
- G. For each Cannabis business subject to the cannabis industry tax, a separate registration and fee payment shall be required under this section for each branch or location of the business and for each separate type of cannabis business at each branch or location.

**6-10.070. Reporting and Remittance of Tax.** The cannabis industry tax imposed by this Chapter shall be due and payable as follows:

- A. Each person owing a cannabis industry tax, except where the tax is owed on cannabis cultivation based on a square footage tax, shall, on or before the last day of the month following the close of each month, prepare and submit a tax return on the form prescribed by the Collector and remit to the Collector the tax due for that month. At the time the return is filed, the full amount of the tax due for the prior month shall be remitted to the Collector. At any time, a business may apply in writing to the Collector to have these tax returns and payments made less frequently or on a different schedule. Any determination resulting from this application will be at the sole discretion of the Collector and shall be provided in writing.
- B. Each person owing a square footage cannabis industry tax on commercial cannabis cultivation, shall calculate the tax based on the square footage of cultivation area. The tax return may include a request for adjustment of the tax due to square footage authorized but not utilized for cultivation, and/or crop loss, along with evidence substantiating the square footage utilized and/or crop loss. If the cultivation begins in the middle of the calendar year, a request to prorate the tax may be submitted with evidence supporting the timing of the cultivation. The decision to prorate or adjust the tax will be made at the sole discretion of the Collector. The tax shall be imposed on a calendar year basis and shall be due and payable in monthly installments unless the Collector has determined, in the Collector's sole discretion, in writing that the tax can be paid less frequently. Each cannabis business owing a square footage cannabis industry tax on cultivation shall, on or before the last day of the month following the close of each calendar month, prepare and submit a tax return on the form prescribed by the Collector and remit to the Collector the tax due.
- C. All tax returns shall be completed on forms prescribed by the Collector.
- D. Tax returns and payments for all outstanding cannabis industry taxes owed the City are immediately due and payable to the City of Santa Rosa upon cessation of business for any reason.

**6-10.080. Payments and Communications – Timely Remittance.** Whenever any payment, tax return, report, request or other communication is due under this Chapter, it must be received by the City of Santa Rosa on or before the final due date. A postmark will not be accepted as timely remittance. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City is open to the public.

**6-10.090. 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 City of Santa Rosa on or before the due date as specified in Section 6-10.070.

**6-10.100. Notice Not Required By City.** The City of Santa Rosa 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 and interest due under the provisions of this Chapter.

**6-10.110. Delinquent Taxes – Penalties and Interest.** Penalties and interest shall be applied according to Section 6-04.200 of the Santa Rosa City Code.

**6-10.120. Waiver of Penalties.** The Collector may waive the penalties and interest each imposed upon any person if:

- A. The person provides evidence satisfactory to the Collector that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent cannabis industry tax and accrued interest owed the city prior to applying to the Collector for a waiver.
- B. The waiver provisions specified in this subsection shall be granted only once during any twenty-four-month period.

**6-10.130. Refunds.** Refunds shall be managed pursuant to Section 6-04.210 of the Santa Rosa City Code.

**6-10.140. Exemptions from the Tax.**

- A. Nothing in this Chapter shall be deemed or construed to apply to any person transacting and carrying on any business that is exempt from the payment of such taxes as are herein prescribed by virtue of the Constitution or applicable statutes of the United States or of the state.
- B. Any person claiming an exemption pursuant to this section shall file a sworn statement with the Collector stating the facts upon which exemption is claimed and, in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this Chapter.
- C. The provisions of this Chapter shall not be deemed or construed to require the payment of a tax to construct, manage or carry on any business, occupation or activity upon and within the county fairgrounds during the time of holding of the official county fair in and upon the county fairgrounds.



- D. The provisions of this Chapter shall not be deemed or construed to apply to any non-profit, charitable, religious, benevolent, congressional chartered veterans' organization or fraternal organization or to projects conducted solely for non-profit purposes or local community benefit.
- E. The provisions of this Chapter shall not be deemed or construed to require the payment of any tax to construct, manage or carry on any business, occupation or activity upon the premise or within Sonoma County's Santa Rosa Veterans Memorial Building.
- F. The provisions of this Chapter shall not be deemed or construed to require the payment of any general business tax under Chapter 6-04 of the Santa Rosa City Code for any cannabis business that is subject to payment of a cannabis industry tax under this Chapter.

**6-10.150. Enforcement.** It shall be the duty of the Collector to enforce each and all of the provisions of this Chapter, and the City's Code Enforcement Division shall render such assistance in the enforcement hereof as may be required by the Collector or the City Manager or his or her designee.

- A. The Collector and any City Code Enforcement Officer shall have the power and authority to enter, free of charge, at any reasonable time, any cannabis business within the City and request to see its cannabis industry tax registration certificate. Any person having such registration certificate in his or her possession or under his or her control, who fails to exhibit the same upon such a request, shall be guilty of a misdemeanor.

**6-10.160. Rules and Regulations.** The Collector may adopt rules and regulations not inconsistent with the provisions of this Chapter as may be necessary or desirable to aid in the implementation and enforcement of the provisions of this Chapter. A copy of any such rules and regulations shall be available for public inspection in the collector's office.

**6-10.170. Apportionment.** If a cannabis business subject to a cannabis industry tax is operating both within and outside the City, it is the intent of the City to apply the cannabis industry tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the City. The Collector may adopt administrative procedures for apportionment in accordance with state or local law.

**6-10.180. Constitutionality and Legality.** This tax is intended to be applied in a manner consistent with the United States and California Constitutions, state and local 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 Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution, state or local law.

#### **6-10.190. Audit and Examination of Records and Equipment.**

- A. The Collector shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, California 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 industry 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. If such person, after written demand by the Collector, refuses to make available for audit, examination or verification such books, records or equipment as the Collector requests, the Collector may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an assessment against the cannabis business in the manner provided in Section 3-28.120 of the Santa Rosa City Code of any taxes estimated to be due.
- 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 at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Collector shall have the right to inspect at all reasonable times.

**6-10.200. Other Licenses, Permits, Taxes, Fees, or Charges.** Except as expressly provided in this Chapter, 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 provision of any other title or Chapter of the Santa Rosa City 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 title or Chapter of this code or any other ordinance or resolution of the City. Any references made or contained in any other title or 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 titles or Chapters of the Santa Rosa City Code unless otherwise expressly provided.

#### **6-10.210. Successor's and Assignee's Responsibility.**

- A. If any person, while liable for any amount under this Chapter, sells, assigns or otherwise transfers the Cannabis Business, whether voluntarily or involuntarily, the person's subsequent successor, assign or other transferee, or other person or entity obtaining ownership or control of the business, shall satisfy any tax liability owed to the City associated with the business. Failure to do so for the benefit of the City will result in being personally liable to the City for the full amount of the tax liability, which includes interest and penalties. The successor operator, assign, purchaser, transferee, or other person or entity seeking to obtain ownership or control of the business shall notify the Collector of the date of transfer at least thirty days prior to the transfer date; or if the

agreement to sell, transfer, or otherwise dispose of the business was made less than thirty days prior to the date of transfer, notice shall be provided immediately.

- B. The successor operator, assign, purchaser, transferee, or other person or entity who obtains ownership or control of the business shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if that person or entity complies with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price an amount sufficient to cover the tax liability, or by otherwise paying the tax liability until the Collector provides a "Tax Clearance Certificate" showing that it has been paid and stating that no amount is due through the date of transfer.
- C. The Collector, within ninety days of receiving a written request from a successor operator, assign, purchaser, transferee, or other person or entity who obtains or attempts to obtain ownership or control of the business, may issue a "Tax Clearance Certificate" stating either the amount of tax liability due and owing for the business, or stating that there is no tax liability due and owing for the business. The Collector may also request financial records from the current or former owner or operator to conduct an audit of the tax that may be due and owing. After completing the audit within ninety days after the date that the records were made available, the Collector may issue a tax clearance certificate within thirty days of completing the audit, stating the amount of the tax liability owed, if any. If the City determines that the records provided for an audit are insufficient, the Collector may rely on the facts and information available to estimate any tax liability associated with the business. The Collector may issue a tax clearance certificate stating the amount of the tax liability, if any, based on such facts and information available. A written application for an appeal hearing on the amount assessed on the tax clearance certificate must be made within ten days after the serving or mailing of the certificate. The appeal provision of Section 6-10.260 shall apply. If an application for a hearing is not made within the time prescribed, the tax clearance certificate shall serve as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.

**6-10.220. Payment of Tax Does Not Authorize Unlawful Business.**

- A. The payment of a cannabis industry tax required by this Chapter, and its acceptance by the City, shall not entitle any person to engage in any cannabis business unless the person has complied with all of the requirements of the Santa Rosa City Code and all other applicable state or local 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 state or local laws.

**6-10.230. Deficiency Determinations.** If the Collector is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency

determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) 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 6-10.250.

**6-10.240. Failure to Report – Nonpayment, Fraud.**

- A. Under any of the following circumstances, the Collector 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; or
  - 3. If the person has not, after demand by the Collector, filed a corrected statement, or furnished to the Collector adequate substantiation of the information contained in a statement already filed, or paid any amount of tax due under the provisions of this Chapter.
- B. The notice of assessment shall separately set forth the amount of any tax known by the Collector to be due or estimated by the Collector, after consideration of all information within the Collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

**6-10.250. Tax Assessment – Notice Requirements.** The notice of assessment shall be served upon the person liable for the tax under this Chapter 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 Collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Collector for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

**6-10.260. Tax Assessment – Appeal Hearing, Application, and Determination.** Within ten (10) calendar days after the date of service of the notice of assessment, the person may apply in writing to the Collector for an appeal 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 Collector shall become final and conclusive. Within thirty (30) business days of the receipt of any such

application for hearing, the Collector shall cause the matter to be set for hearing before him or her not later than thirty-five (35) business days after the receipt of the application, unless a later date is agreed to by the Collector and the person requesting the hearing. Notice of such hearing shall be given by the Collector to the person requesting such hearing not later than five (5) business days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Collector should not be confirmed and fixed as the tax due. After such hearing, the Collector shall determine and reassess the proper tax to be charged and shall serve written notice of determination of tax due to the person in the manner prescribed in Section 6-10.250 for giving notice of assessment. The amount determined to be due shall be payable after thirty (30) calendar days of service of written notice unless it is appealed to the City Manager or his or her designee in accordance with Section 6-10.270.

**6-10.270. Appeal Procedure.** Any taxpayer aggrieved by any decision of the Collector with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the City Manager or his or her designee by filing a notice of appeal with the Clerk of the Santa Rosa City Council within ten (10) calendar days of the serving of the notice of determination of tax due. The Clerk shall fix a time and place for hearing such appeal, and the Clerk shall give notice in writing to such taxpayer at the last known place of address. The Collector shall present the matter to the City Manager or his or her designee and include evidence submitted by the taxpayer. The Collector shall also include proposed findings and a resolution of the appeal. At the hearing, both the Collector and the taxpayer shall have an opportunity to explain his or her case and introduce other statements or evidence. The City Manager or his or her designee may impose reasonable time limits on each party's presentation. The finding of the City Manager or his or her designee shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this Chapter for service of notice of assessment. Such a determination shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5. Any amount found to be due shall be immediately due and payable with 10 days after service of the notice.

**6-10.280. Conviction for Chapter 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.

**6-10.290. Violation Deemed Misdemeanor.** Any person who violates any provision of this Chapter or who other than by a sworn statement, knowingly or intentionally misrepresents to any officer or employee of the City any material fact herein required to be provided is guilty of a misdemeanor. A person who on a sworn statement states as true a material fact that he or she knows to be false is guilty of perjury.

**6-10.300. Severability.** If any provision of this Chapter, or its application to any person or circumstance, is 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 Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

**6-10.310. Remedies Cumulative.** All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

**6-10.320. Amendment or Repeal.** This Chapter may be repealed or amended by ordinance of the Santa Rosa City Council without a vote of the people except that, as required by Article XIIC of the California Constitution, any amendment that increases the maximum rates of tax beyond the levels authorized in Section 6-10.050 above shall not take effect unless approved by a vote of the People. The City Council may, by resolution, impose a cannabis industry tax under this Chapter in any amount or rate that does not exceed the maximum rates set forth in Section 6-10.050.”

**SECTION II. Chapter 6-04 of the Santa Rosa City Code is hereby amended as follows:**

- A. The title of Chapter 6-04 is amended as follows: “**General Business Tax.**”
- B. Section 6-04.010 is amended to add “(I) Cannabis Industry Tax, or Commercial Cannabis Tax. As used in this Chapter, “cannabis industry tax,” or “commercial cannabis tax” means any tax due pursuant to Chapter 6-10 of the Santa Rosa City Code for the privilege of engaging in cannabis business in the City.”
- C. Section 6-04.030 (A) is amended to as follows: “(A) Except as provided in subsection (D), pPersons required to pay a tax for transacting and carrying on any business under this Chapter shall not be relieved from the payment of any license tax, permit, charge, assessment, or fee for the privilege of doing such business required under other laws or regulations of the City, and shall remain subject to the provisions of such other laws and regulations.”
- D. Section 6-04.030 is amended to add “(D) Persons required to pay a cannabis industry tax for a Cannabis Business pursuant to Chapter 6-10.050 of the Santa Rosa City Code shall also register the cannabis business pursuant to Section 6-10.060 of the Santa Rosa City Code, but shall be exempt from paying the general business tax required under this Chapter for any such Cannabis Business.”
- E. Section 6-04.080 is amended to add “(F) The provisions of this Chapter shall not be deemed or construed to require the payment of any general business tax by any cannabis business that is required to pay a cannabis industry tax as authorized under Chapter 6-10.050 of the Santa Rosa City Code.
- F. Section 6-04.340 is added to read: “**6-04.340 Amendment or Repeal.** This Chapter may be amended or repealed by the City Council without a vote of the People except that, as required by Article XIIC of the California Constitution, any amendment that increases the amount or rate of tax beyond the levels authorized under Sections 6-04.220 and 6-04.230 under this Chapter may not take effect unless approved by a vote

of the People. The City Council may amend, by ordinance, the tax set forth in Sections 6-04.220 and 6-04.230 of this Chapter in any amount or rate that does not exceed the amounts or rates approved by the voters of the City.”

**SECTION III. CEQA.** The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The cannabis industry tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action nor does it authorize any private activity but merely taxes such activity as otherwise occurs. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

**SECTION IV. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The People of the City of Santa Rosa hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION V. Effective and Operative Dates.** This ordinance shall take effect 10 days after the election result is certified as provided by Elections Code, although no tax shall be imposed without further action of the City Council referenced in section 6-10.050 above.

This ordinance was introduced by the Council of the City of Santa Rosa on December 6, 2016.

IN COUNCIL DULY PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Interim City Attorney