

Commercial Cannabis Business Tax Ballot Measure & Ordinance



City Council

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- On November 5, 1996, the California State election passed ballot measure Proposition 215, known as the “Compassionate Use Act,” legalizing medical use of cannabis.
- In September, 2015, the State enacted the Medical Cannabis Regulation and Safety Act (MCRSA), establishing a state licensing framework and authorizing local regulation of medical cannabis.

The Adult Use of Marijuana Act:

- Passed on November 8, 2016
- Legalizes adult recreational use and commercial and personal cultivation
- Allows City & County agencies to enact local requirements
- Allows City & County agencies to authorize taxes on the commercial cannabis business



City Response to Prop 215, MCRSA and Prop 64

- In 2005, the City of Santa Rosa adopted its initial regulations for Medical Cannabis Dispensaries
- 2016 - City Council Priority - Medical Cannabis Policy Development
- January 19, 2016 - Council initiated a **comprehensive policy** effort and reconvened Medical Cannabis Policy Subcommittee.
- February 23, 2016 - Council adopted an interim ordinance allowing commercial **cultivation** with a Conditional Use Permit.
- August 2, 2016 - Council directed the Zoning Administrator to issue a Zoning Code Interpretation to address: **manufacturing, testing, distribution and transportation**

Estimated City Costs of Supporting Cannabis Industry

- \$250,000: Code Enforcement of City business regulations
- \$200,000: Policy development and administration
- \$150,000: Legal support and oversight
- \$150,000: Public Safety
- \$150,000: Non-recoverable permit, planning and inspection
- \$100,000: Education, Workshops, Outreach (for the industry and for the community)
- \$50,000 : Economic impact research and studies

~\$1,000,000 per year

- Current Business Tax does not support the generation of funding necessary to support industry
- Impact to general fund is anticipated if a sustainable revenue source is not identified
- Council must unanimously declare a fiscal emergency in order to bring this measure to the voters for a simple majority vote

- An **excise tax** is a tax on the privilege of using or doing something with property.
 - Examples: business license tax, transient occupancy tax
- **Sales tax** is a tax on the privilege of selling tangible personal property at retail
 - Prop 64 exempts medical marijuana from state/ local sales tax
- The ordinance proposed authorizes an **excise tax** on those in the business of commercial cannabis, including cultivation, dispensaries and support businesses

Basic Premise of Proposed Tax Ordinance

- The proposed ordinance authorizes the City to impose a Cannabis Business Tax on the commercial cannabis industry
- The proposed tax is not a sales tax and would not be imposed directly on cannabis users or consumers
- Council can set and adjust tax rates at any time, by resolution, up to the maximum set by the voters

Goals Identified for Cannabis Tax

City Goals:

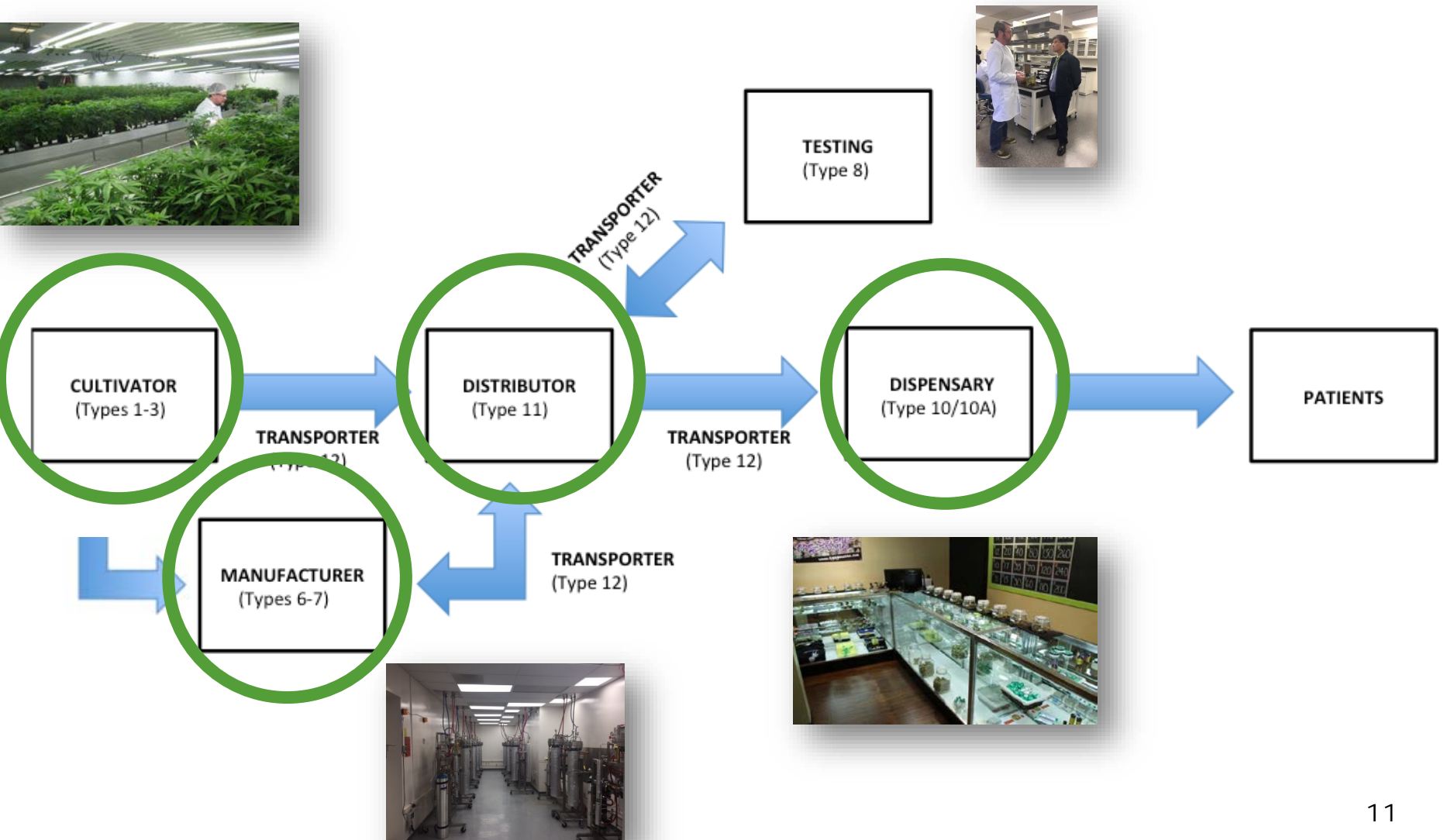
- Collect sufficient revenue to address impacts of Cannabis Industry
- Develop a tax that is simple to administer and audit
- Encourage industry to operate legally and not in the black market

Cannabis Industry Goals:

- Reduce impact of tax layering (taxation across license types)
- Provide certainty and clarity in tax rate
- Support essential programs related to cannabis industry

- **Taxation Point in the Supply Chain**
- **Taxation Method**
- **Tax Cap**
- **Initial Tax Rate**
- **Tax Cycle**

Cannabis Supply Chain



- **Taxation Point in the Supply Chain**

- **Taxation Method**

- **Tax Cap**

- **Initial Tax Rate**

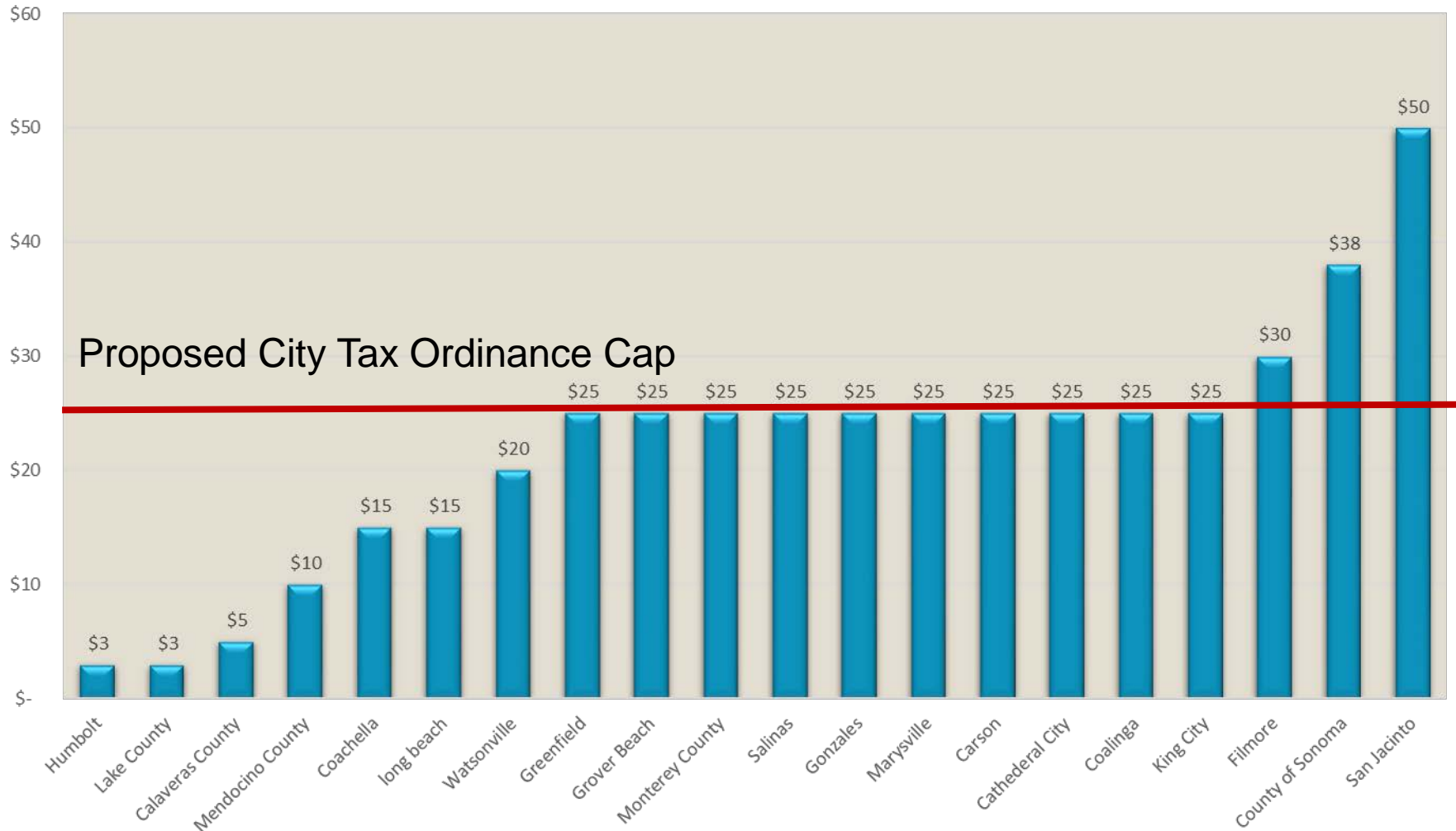
- **Tax Cycle**

Proposed Taxation Method

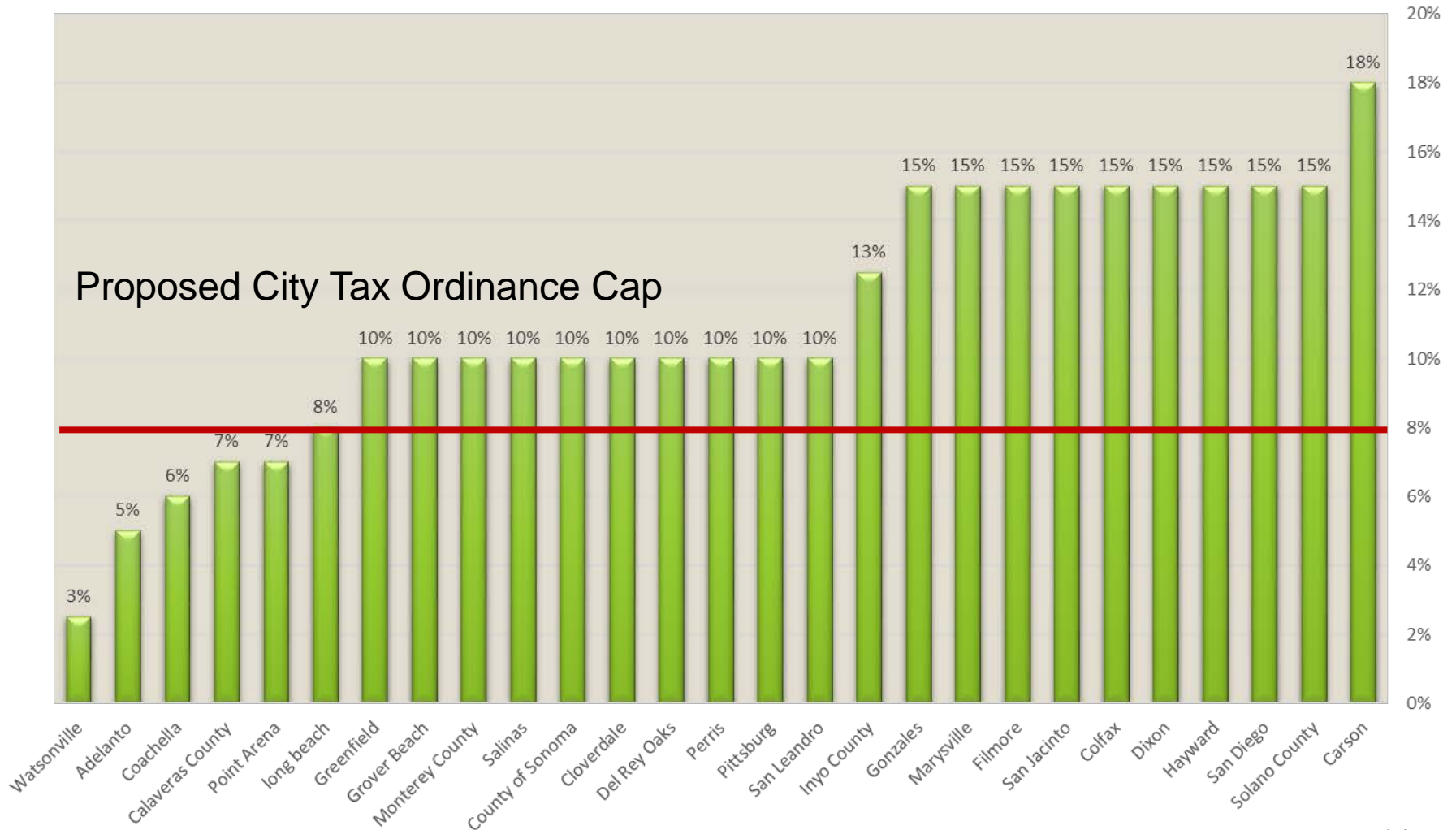
Taxation Point	Taxation Method
Cultivation	Square foot or gross receipts
Manufacturing, Distribution, Dispensaries	Gross receipts

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Cannabis Tax in California Cultivation Tax Rates (sqft)



Cannabis Tax in California Support Uses (gross receipts)



Proposed Cannabis Business Tax Cap Authorization

	Proposed
Cultivation	8% Gross Receipts Or \$25 per square foot
Manufacturing Distribution Dispensary	8% Gross Receipts



- **Taxation Point in the Supply Chain**
- **Taxation Method**
- **Tax Cap**
- **Initial Tax Rate**
- **Tax Cycle**

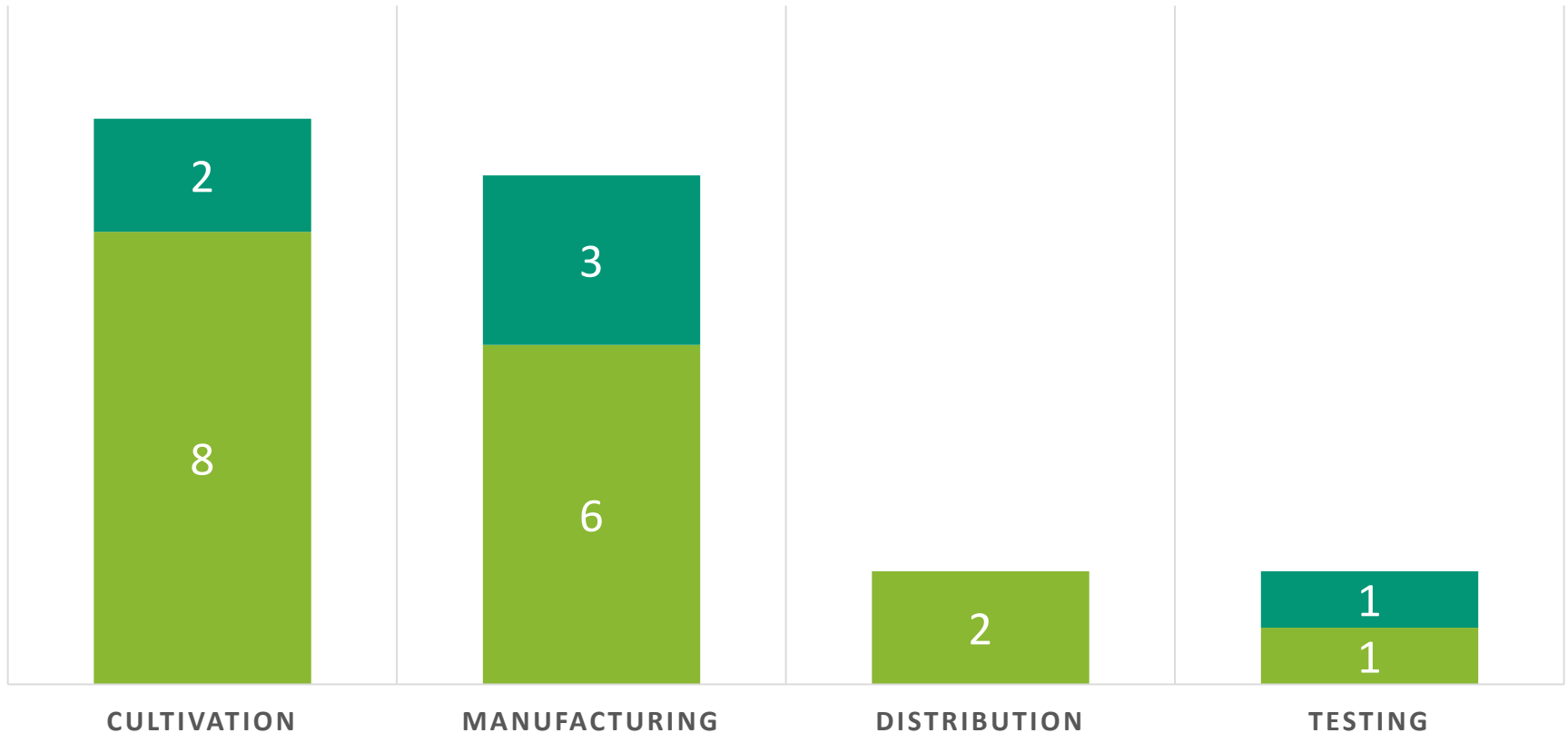
Initial Tax Rate Considerations and Feedback

- Rate will need to produce needed income to support industry and impacts
- Concern that too high of an initial rate will affect bringing the industry into compliance
- Awareness of the layering of tax from federal (280E), state and local levels
- Typical initial rates in CA are between 1% and 5%
- A proactive audit program required to support tax program

Current Cannabis Activity in Santa Rosa

NUMBER OF CANNABIS APPLICATIONS BY TYPE
(AS OF 2/10/2017)

■ Pending ■ Approved



Initial Tax Rate Recommendations

	Cultivation	Manufacturing	Distribution	Dispensaries
Initial Tax Rate	2% Gross receipts	1% Gross receipts	0% re-evaluate in 2018	3% Gross receipts Recreational Only

At an average of 2%, \$50M in gross receipts would be needed to generate \$1M in tax revenue to the city.

- **Taxation Point in the Supply Chain**
- **Taxation Method**
- **Tax Cap**
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Tax Cycle Considerations and Feedback

- Common concern in the industry is the need for certainty
- A lock in period is one approach to address this by setting some parameters of how the tax is implemented.
- The ability to check in and reevaluate revenue generation and impact to business is desired (using the Council Subcommittee)

Tax Cycle Considerations and Feedback cont.

Tax Cycle Recommendation:

- Set tax rate term for a minimum of 2-years. Council would have the ability to adjust tax rate every two years.
- Include provision that a supermajority vote of the City Council would be needed to increase the tax rate over 5%
- Include a Fiscal Emergency Clause that would allow the Council to override a tax cycle due to a Fiscal Emergency Vote

Additional Ordinance Updates

- Quarterly Tax Payments vs. Monthly
- Exception Section: Tax applies to all cannabis operations regardless of their status as a collective, cooperative, or not for profit
- Non cannabis activities will be exempt from the cannabis business tax but would be subject to the City standard business tax.

Proposed Ballot Language

“Santa Rosa Cannabis Industry Tax Measure.”

Shall an ordinance be adopted authorizing a cannabis business tax in the City of Santa Rosa on cultivation businesses up to \$25 per square foot of cultivation area (annually adjusted by CPI) or 8% of gross receipts, and on cannabis manufacturing, distribution and dispensary businesses up to 8% of gross receipts, to maintain general funds for City services and to address cannabis industry impacts, with all funds subject to audits and staying local, generating undetermined revenue until repealed?

Factors Affecting Timing

- Cost of special election: Holding a June election would sharing costs with a potential second local ballot initiative in June.
- The estimated tax revenue from the cannabis businesses existing or those expected to be in operation in June would begin to generate the income needed to address ongoing impacts.
- The City's draft comprehensive cannabis industry regulations are anticipated to be completed in early 2017 resulting in council consideration in June/July 2017

Recommendation

Fiscal Emergency

It is recommended by the Planning and Economic Development and Finance Departments that the Council adopt a resolution to unanimously declare a fiscal emergency as a result of the recent enactment of the Medical Cannabis Regulation and Safety Act and passage of Proposition 64 (the Adult Use of Marijuana Act).

Recommendation

Call for Election and Additional Items

It is recommended by the Planning and Economic Development and Finance Departments that the Council adopt a resolution to:

(1) Order a special election to be held on Tuesday, June 6, 2017, for the purpose of submitting to Santa Rosa voters an ordinance of the City of Santa Rosa amending chapter 6-04 of the Santa Rosa city code and adding chapter 6-10 of the Santa Rosa city code to impose a cannabis industry tax on cannabis businesses in Santa Rosa

Recommendation

Call for Election and Additional Items

- (2) Approving ballot language,
- (3) Permitting the filing of ballot arguments,
- (4) Directing the City Attorney to provide an impartial analysis, and
- (5) Setting initial tax rates for a 2-year term