

# SONOMA

# COUNTY OF



## CONSOLIDATED ELECTIONS

TUESDAY, NOVEMBER 7, 2017

# County Voter Information Guide

Compiled and Distributed by Sonoma County Registrar of Voters

### **IMPORTANT: YOUR POLLING PLACE MAY HAVE CHANGED.**

*The location of your polling place for this election is shown on the back cover.*

**POLLS ARE OPEN ELECTION DAY FROM 7 A.M. TO 8 P.M.**

**TO SAVE TIME AT THE POLLS -**

- > *Mark your choices in this County Voter Information Guide and take it with you to your polling place.*
- > *If possible, vote during the "non-rush hours," mid-morning and mid after-noon.*

**OR VOTE BY MAIL, APPLICATION ON BACK**

**24-HR DRIVE-THRU BALLOT DROP BOXES WILL OPEN  
OCTOBER 14 AT THE FOLLOWING LOCATIONS:**



- > Santa Rosa Veteran's Memorial Building – 1351 Maple Avenue, Santa Rosa
- > Petaluma Veteran's Memorial Building – 1094 Petaluma Blvd. South, Petaluma
- > Registrar of Voters Office – 435 Fiscal Drive, Santa Rosa  
(note: this box is open 24/7, year-round)



**INTERNET**

FOR ELECTION  
NIGHT RESULTS ON THE INTERNET:  
<http://vote.sonoma-county.org>



# INSTRUCTIONS TO VOTERS

**IF YOU VOTE AT A POLLING PLACE:** USE ONLY THE MARKING DEVICE PROVIDED. After you have completed voting, place your ballot cards in the secrecy holder with the NUMBERED STUBS AT THE TOP and hand them, along with the marking pen, to the precinct officer who shall in your presence remove the numbered stubs, hand them to you, then deposit the voted ballot in the ballot box.

**IF YOU VOTE BY MAIL:** After you have completed voting, place your ballot cards in the secrecy holder and REMOVE THE NUMBERED STUBS at the top. Place voted ballots into BLUE ENVELOPE and SIGN AND DATE WHERE INDICATED.

To vote for a candidate whose name appears on the ballot, FILL IN THE RECTANGLE in the square to the right of the candidate's name. Where two or more candidates for the same office are to be elected, FILL IN THE RECTANGLE in the square to the right of the names of all the candidates for the office for whom you desire to vote, not to exceed, however, the number of candidates to be elected.

To vote on any measure, FILL IN THE RECTANGLE in the square after the word "YES" or after the word "NO."

To vote for a qualified WRITE-IN candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office and FILL IN THE RECTANGLE in the square to the right of the name you have written in, or your vote will not be counted.

It is important to know what the consequences can be when ballot cards are not marked correctly. Marking more voting spaces than allowed is called an **OVERVOTE**. If the contest heading states "Vote for no more than two," and you mark three voting spaces, your votes for that contest will not be counted. Marking fewer spaces than allowed for a contest is called an **UNDERVOTE**. If the contest heading states "Vote for no more than two," and you mark only one voting space, your vote for the one candidate will be counted, and the ballot counting system will record one **UNDERVOTE**. You are not required to vote on every contest, proposition or measure on the ballot; however, for every contest, proposition or measure on which you choose not to vote, an **UNDERVOTE** will be recorded.

Marking the ballot outside of the designated space to vote for a candidate or measure may compromise the secrecy of the ballot. If you wrongly mark, tear, or deface this ballot, return it to the precinct officer. If you vote by mail, follow the instructions on the **BLUE ENVELOPE** to request a replacement.

## HOW TO VOTE YOUR BALLOT CARDS

MAKE SURE YOU VOTE BOTH SIDES OF YOUR BALLOT CARDS

### STEP 1

Remove ballot cards from the secrecy holder.

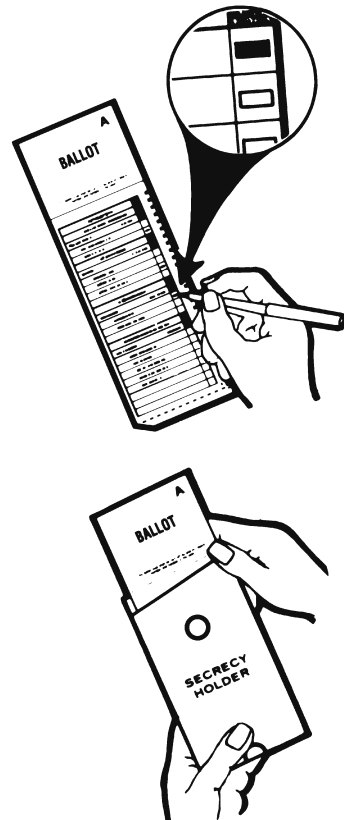
### STEP 2

Fill in the small rectangle in the square to the right of the candidates or measures of your choice.

DO NOT FILL IN THE WHOLE SQUARE, JUST THE SMALL RECTANGLE, OR YOUR VOTE MAY NOT BE COUNTED. Use only the marking pen provided at the polling place. If you vote by mail, mark your choices with a ballpoint pen or standard pencil.

### STEP 3

After you have completed voting, place your ballot cards, with the stubs at the top, in the secrecy holder. IF YOU VOTE AT A POLLING PLACE, hand them, along with the marking pen, to the precinct officer. IF YOU VOTE BY MAIL, follow the instructions on the **BLUE ENVELOPE**.



**A**

**OFFICIAL BALLOT**  
NONPARTISAN BALLOT  
**Sonoma County**  
November 7, 2017

I HAVE VOTED—HAVE YOU?

This ballot stub shall be removed and retained by the voter.

<b>MEASURE SUBMITTED TO THE VOTERS</b>	
<b>CITY</b>	
<b>CITY OF COTATI</b>	
<b>G</b> Shall an ordinance be adopted authorizing a City of Cotati cannabis business tax on cannabis 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 local City services and address cannabis industry impacts with all funds subject to annual audits, generating approximately \$300,000 in revenue per year until repealed?	<b>Yes</b> <input type="checkbox"/>
	<b>No</b> <input type="checkbox"/>

49-A003

**A**

**N**

**Sample Ballot**

**Sample Ballot**

# MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

## CITY OF COTATI MEASURE G

**G** Shall an ordinance be adopted authorizing a City of Cotati cannabis business tax on cannabis 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 local City services and address cannabis industry impacts with all funds subject to annual audits, generating approximately \$300,000 in revenue per year until repealed?

### CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE G

The Cotati City Council has placed Measure G on the ballot, asking voters to consider a Cannabis (marijuana) – specific Business Tax (the “Ordinance”) on certain cannabis-related businesses operating within City limits. The Ordinance will not take effect unless a majority of those voting votes “yes.”

Currently, businesses operating in Cotati – including cannabis businesses – must pay a general business tax. One cannabis dispensary is currently allowed to operate in the City. The Ordinance does not authorize any new cannabis businesses, but authorizes imposition of the tax should those businesses be allowed in the future. The Ordinance authorizes the Council to add Chapter 5.30 to the Municipal Code and establish an excise tax on the following types of cannabis businesses in Cotati: commercial cannabis cultivators (including nurseries), manufacturers, distributors, and retailers (including dispensaries). In turn, these cannabis businesses will be exempt from the City’s general business tax. The Ordinance does not impose any sales or use taxes directly on cannabis users or consumers. The excise tax does not apply to the use of cannabis or the cultivation of cannabis for personal use as authorized by state law.

The Council can set and adjust the excise tax rate up to the maximum tax rate stated in the Ordinance. For commercial cultivation, the annual tax rate cannot exceed \$25 per square foot of cannabis cultivation area (adjusted annually by the CPI) or 8% of annual gross receipts. For cannabis manufacturers, distributors and retailers, the annual tax rate cannot exceed 8% of annual gross receipts. Initial rates will be: 2% of gross receipts or \$5.00 per square foot of cultivation area for cultivators, 1% of gross receipts for manufacturer, 3% of gross receipts for retailers (exempting medical sales), and 0% for distributors. Cannabis testing labs will pay the City’s general business tax rather than the cannabis business tax. The initial tax rates set by Council resolution are for three years. The Ordinance allows the Council to adjust the rates periodically as long as they do not exceed the maximum rates.

The Ordinance requires all persons engaging in a cannabis business in the City - whether subject to the cannabis business tax or the general business tax - to register with the City for purposes of tax collection, and includes procedures for tax reporting, remittance, enforcement, and appeals.

The tax imposed by the Ordinance is a general tax under state law. All taxes collected under the Ordinance will be placed in the City’s general fund and may be used for any City purpose. The amount of revenue to be generated by the tax is estimated at \$300,000.

This is an impartial analysis of Measure G. You can obtain a copy of the Measure at no cost, by calling the Clerk’s Office at (707) 665-3622.

s/ Robin Donoghue  
City Attorney

## ARGUMENT IN FAVOR OF MEASURE G

Measure G will allow Cotati to impose a tax on cannabis businesses operating within the City now that the State has enacted the Medical Cannabis Regulation and Safety Act, and the voters have approved Proposition 64, the Adult Use of Marijuana Act. Measure G will ensure that the City has the resources we need to regulate and properly support the cannabis industry without reducing investment in core city services, such as public safety and maintaining streets and parks. Measure G is a proposed tax on cannabis businesses and not a sales or property tax.

Over 40 Cities and Counties in California have enacted similar taxes for cannabis businesses to address the inherent strain on the local agencies’ budgets resulting from cannabis legalization. We have identified areas where additional resources are needed to support this new industry. These include increased public safety needs, business inspections to ensure safety and environmental quality, and audits of operations and finances.

Measure G is fiscally responsible, timely, and prudent. Over the past year, the City of Cotati has addressed critical issues such as housing, police staffing, street condition and traffic safety and has made key investments from a limited pool of resources. By proactively establishing a tax on cannabis businesses, the City’s budget will be protected from any new or unexpected costs associated with cannabis legalization and protect City resources for investment in other key priorities.

Measure G was carefully crafted to find the right balance between generating the revenue needed while providing certainty for this emerging industry. Adoption of a fair taxation framework will encourage cannabis businesses to join the regulated market, ensuring protection for consumers, the environment, and public health.

With unanimous support from the Cotati City Council, we respectfully request a Yes vote on Measure G.

COTATI CITY COUNCIL  
s/ Susan A Harvey, Mayor

## NO ARGUMENT WAS SUBMITTED AGAINST MEASURE G

# MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

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## FULL TEXT OF MEASURE G

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

### ORDINANCE OF THE PEOPLE OF THE CITY OF COTATI ADDING CHAPTER 5.30 TO THE COTATI MUNICIPAL CODE TO IMPOSE A CANNABIS BUSINESS TAX ON CERTAIN CANNABIS BUSINESSES OPERATING IN COTATI AND AMENDING CHAPTER 5.04 TO IMPOSE A BUSINESS LICENSE TAX ON CERTAIN OTHER CANNABIS BUSINESSES OPERATING IN COTATI

**WHEREAS**, the City of Cotati has responsibly and proactively managed its finances and its taxpayer dollars through transparent budget and decision-making processes and recently enacted Measure G to ensure the City's fiscal stability by securing an additional one percent (1%) sales tax until 2023; and

**WHEREAS**, on November 5, 1996, the California voters enacted Proposition 215 to legalize medical use of cannabis, and in October 2015, the Governor signed into law the Medical Marijuana Regulation and Safety Act (known as the Medical Cannabis Regulation and Safety Act or "MCRSA"), establishing a state licensing framework and authorizing local regulation of the medical cannabis industry; and

**WHEREAS**, on November 8, 2016, California voters enacted Proposition 64 to legalize adult recreational use of cannabis and to allow businesses that support such cannabis use to operate legally, subject to regulations imposed by state and local public entities; and

**WHEREAS**, the State of California Governor's Office proposed a series of amendments to the state's regulatory structure during the budget process, known as "SB 94", "the Governor's Trailer Bill," in order to better align the requirements of MCRSA and Proposition 64, now known as the Medical and Adult Use Cannabis Regulation and Safety Act or "MAUCRSA;" and

**WHEREAS**, the permitting and support of this industry, in association with the earlier passage of Proposition 215, and the recent enactment of MCRSA and passage of Proposition 64, has significant cost implications for the City due to the substantial costs of adopting and implementing regulations to govern this new industry, enforcing those regulations, ensuring public safety, addressing environmental concerns, and providing economic development and other related services; and

**WHEREAS**, the City must identify a funding source to support regulation of the industry while not adversely impacting the general fund in order to maintain consistent funding and financial stability for essential services such as police and fire protection, 911 emergency response times, streets and road maintenance, affordable housing, recreational programs and other general city services; and

**WHEREAS**, the City's existing general business tax ordinance, which generally levies a limited business tax on all businesses operating in Cotati, is insufficient to generate the volume of revenue needed to pay the City's costs of allowing the new and unique cannabis industry to operate in Cotati; and

**WHEREAS**, nearly fifty (50) other California jurisdictions — typically in collaboration with cannabis businesses — have enacted local measures to impose a general tax on cannabis business for the privilege of operating within the local jurisdiction; and

**WHEREAS**, such business taxes are imposed on cannabis businesses, and not directly on cannabis users or consumers; and

**WHEREAS**, adopting such a local cannabis industry business tax measure in the City of Cotati will benefit residents of the City by ensuring that cannabis businesses contribute reasonably and fairly to paying for the costs associated with allowing this emerging industry to operate while allowing the City to continue to maintain stable funding for essential City services and continued quality of life; and

**WHEREAS**, the City recognizes the volatility of the newly-legalized cannabis market and will therefore set limited initial tax rates to balance the financial needs of the City and the desire of the City to support and encourage the industry to engage in the regulated market; and

**WHEREAS**, such a tax measure will provide locally-controlled revenue that cannot be taken by the State; and

**WHEREAS**, such a tax measure will help to maintain the City's long-term financial stability, with public oversight and annual fiscal reviews; and

**WHEREAS**, the City of Cotati wishes to continue its policy engagement and discussions with stakeholders and the public about how cannabis businesses operating in Cotati should be regulated, while acting quickly and decisively to address any significant financial disruptions or impact to the City's General Fund and provision of services to Cotati citizens.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF COTATI DO ORDAIN AS FOLLOWS:**

**Section 1.** The above recitals constitute a part of the findings made by the citizens in enacting this Ordinance.

**Section 2. Chapter 5.30 is hereby added to Title 5 of the Cotati Municipal Code to read as follows:**

#### CHAPTER 5.30 CANNABIS BUSINESS TAX

**5.30.010. Title.** This ordinance shall be known as the Cannabis Business Tax Ordinance.

**5.30.020. General Excise Tax.** The cannabis business 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 business tax is an excise tax 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.

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

- A. To impose an excise tax on certain businesses engaged in the cannabis industry operating within the City of Cotati pursuant to MAUCRSA and 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 laws 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 impose a general excise tax, such tax to become operative only if and to the extent implemented by the city council by resolution.

**5.30.040. Definitions.** Terms that are not defined in this chapter shall have the meanings ascribed to them in Chapter 17.90 of the Cotati Municipal Code. The following words and phrases shall have the meanings set forth below when used in this chapter unless the context plainly requires otherwise:

- A. "Business" means professions, trades, occupations and all and every kind of calling, whether or not carried on for profit.
- 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. In addition, and without limiting the foregoing, "Cannabis" also means cannabis as defined by Section 26001 of the Business and Professions Code, as may be amended from time to time, and all other applicable state law.
- C. "Cannabis business" or "cannabis industry" means any business activity in the city relating to cannabis, including but not limited to cultivation (including nurseries), transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery

CONT. NEXT PAGE



# MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

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## FULL TEXT OF MEASURE G, CONT.

and sales (wholesale and/or retail sales) of cannabis or cannabis products, 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.

- D. "Cannabis cultivation area" means the total aggregate area(s) of cannabis cultivation by a cannabis business 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, excluding non-production areas, as determined by the community development director or designee.
- E. "Cannabis business tax" means the tax due pursuant to this chapter for engaging in cannabis business in the city.
- F. "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- G. "Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and those products described in Section 11018.1 of the California Health and Safety Code.
- H. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether the areas are contiguous or non-contiguous. 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.
- I. "City" means the city of Cotati, either the entity or its territorial limits, as the context requires.
- J. "City Council" or "council" means the city council of the city of Cotati.
- K. "Collector" means the city's administrative services director or designee.
- L. "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 and as amended by MAUCRSA, for which the individual receives no compensation whatsoever.
- M. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. "Cultivation" also includes nurseries. In addition, and without limiting the foregoing, "cultivation" includes "cultivation" as defined in California Business and Professions Code section 26001 and any successor statute, as may be adopted and amended from time to time.
- N. "Retailer" means a facility where cannabis or cannabis products, are offered, either individually or in combination, for retail sale, including an establishment that engages in delivery of cannabis or cannabis products as part of a retail sale. In addition, and without limiting the foregoing, "Retailer" includes "Dispensary" as defined in Chapter 8.24 of this code and retailer as defined in Section 26070 of the Business and Professions Code including any successor ordinance or statute, as may be adopted or amended from time to time.
- O. "Distributor" means a person engaged in procuring cannabis from a cultivator, and/or procuring cannabis products from a manufacturer, for sale to a Retailer. In addition, and without limiting the foregoing, "distributor" includes "distributor" as defined in Section 26070 of the Business and Professions Code and any successor statute, as may be adopted or amended from time to time. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- P. "Employee" means each and every person engaged in the operation or conduct of any cannabis 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 cannabis business for a wage, salary, commission, barter or any other form of compensation.
- Q. "Evidence of doing business" means when any person shall by use of signs, circulars, cards, telephone book, or newspapers, advertise, hold out, or represent that he is in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the city, and such person fails to deny by a sworn statement given to the collector that he is not conducting a business in the city, after being requested to do so by the collector, then these facts shall be considered prima facie evidence that he or she is conducting a business in the city.
- R. "Gross Receipts," means "Gross Receipts" as that term is defined in Section 5.04.010(D) of the Cotati Municipal 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, or who packages or repackages cannabis or cannabis products or labels or re-labels its container. In addition, and without limiting the foregoing, "manufacturer" includes "manufacturer" as defined in California Business and Professions Code section 26001 and any successor statute, as may be adopted or amended from time to time.
- 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. In addition, and without limiting the foregoing, "nursery" includes "nursery" as defined in California Business and Professions Code section 26001 and any successor statute, as may be adopted or amended from time to time.
- U. "Person" means "Person" as that term is defined in Section 5.04.010(B) of the city of Cotati Municipal 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 and who is exempt from State licensing requirements under MAUCRSA.
- W. "Sale" means the transfer, in any manner or by any means whatsoever, of title to real or personal property for a consideration; the serving, supplying, or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The definitions in this subsection shall be deemed to include any transaction which is or which, in effect, results in a sale within the contemplation of law.
- X. "State" means the State of California.
- Y. "State license" means a state license issued pursuant to California Business & Professions Code Sections 26000 et seq. or other applicable state law.
- Z. "Vertically Integrated Business," means a cannabis business with a Type 12 license or any cannabis business holding two or more license types that internally transfers products between cultivation, manufacturing, distribution, or retail operations without a recorded sale to determine gross receipts for purposes of the cannabis business tax.

CONT. NEXT PAGE

# MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

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## FULL TEXT OF MEASURE G, CONT.

**5.30.050. Tax Authorized.** A cannabis business tax is hereby imposed on every person who is engaged in cannabis business in the city as prescribed herein, from and after the effective date of a city council resolution implementing the tax. It is unlawful for any person to transact or carry on any cannabis business in the city without paying, in accordance with this chapter, the cannabis business tax imposed by this section.

### A. Tax on Commercial Cannabis Cultivation

There is hereby imposed on every person engaged in commercial cannabis cultivation in the city, an annual tax at a rate established by resolution of the city council which rate shall not exceed either \$25 per square foot of cannabis cultivation area or eight percent (8%) of annual gross receipts. The maximum square foot tax shall be adjusted annually each January 1<sup>st</sup> 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. The tax imposed under this Subsection (A)(1) shall be due and payable in quarterly installments as provided in Section 5.30.070 of this chapter. The tax imposed under this Subsection (A)(1) shall not be implemented unless and until the city council acts by resolution to do so.

1. 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, and without limitation, the city council may set different tax rates for cannabis cultivation for medical or adult recreational 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). An affirmative vote of at least four (4) members of the city council is required for any tax increase resulting in a tax rate of over five percent (5%). Tax rates shall be set for a minimum of a two (2) year term.
2. Persons subject to the tax imposed by Subsections (A)(1) and (A)(2) shall also register and pay the registration fee described in Section 5.30.060 of this chapter, but shall be exempt from paying the general business tax required under Chapter 5.04 of the Municipal Code for any such cannabis business. A cannabis business not subject to the cannabis business tax imposed by this chapter shall be subject to the general business tax required under Chapter 5.04 of the Cotati Municipal Code except as otherwise provided by Chapter 5.04 or other applicable law.

### B. Tax on Cannabis Manufacturers, Distributors, and Retailers

1. There is hereby imposed on every person engaged in a cannabis business in the city as a manufacturer, distributor or a retailer an annual tax at a rate established by resolution of the city council which rate shall not exceed eight percent (8%) of annual gross receipts. The tax imposed under this Subsection (B)(1) shall be due and payable in quarterly installments as provided in Section 5.30.070 of this chapter. The tax imposed under this Subsection (B)(1) shall not be implemented unless and until the city council acts by resolution to do so.
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 a cannabis business in the city as a manufacturer, distributor or a retailer, or establish differing tax rates for different categories of cannabis business. For example, and without

limitation, the city council may set different rates for businesses serving medical or adult recreational use, or for different types of manufacturers, distributors or retailers. 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). An affirmative vote of at least four (4) members of the city council is required for any tax increase resulting in a tax rate of over 5%. Tax rates shall be set for a minimum of a two (2) year term.

3. Persons subject to the tax imposed by Subsections (B)(1) and (B)(2) shall also register and pay the registration fee described in Section 5.30.060 of this chapter, but shall be exempt from paying the general business tax required under Chapter 5.04 of the Cotati Municipal Code for any such cannabis business. A cannabis business not subject to the cannabis business tax imposed by this chapter shall be subject to the general business tax required under Chapter 5.04 of the Cotati Municipal Code except as otherwise provided by Chapter 5.04 of the Cotati Municipal Code or other applicable law.

- C. No further voter approval shall be required for the adoption or increase of a tax under the authority granted by this Section 5.30.050 of this chapter, it being the intent of the People of the City of Cotati to authorize such a tax up to and including the maximum rates set forth above whenever implemented by the city council hereafter.

**5.30.060. Registration of Cannabis Business.** All cannabis businesses shall be required to annually register as follows:

- A. All persons engaging in a cannabis business, whether an existing, newly-established or acquired business, shall register with the collector within thirty (30) days of commencing operation or by January 1, 2018, whichever is later, and shall annually renew such registration by January 1 of each year thereafter. In registering, such persons shall furnish to the collector a sworn statement, upon a form provided by the collector, setting forth the following information:
  - (1) The name of the business
  - (2) The names and addresses of each owner
  - (3) The exact nature or kind of business;
  - (4) The place where such business is to be carried on; and
  - (5) Any further information which the collector may require.
- B. Any financial 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 pursuant to California Government Code section 6254(i), and will not be used by the city for criminal enforcement except as provided in Sections 5.30.270 and 5.30.280 of this chapter.
- C. An annual registration fee of one hundred dollars (\$100) 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.
- D. Unless otherwise specifically provided by the collector in writing, 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 each cannabis business subject to tax under this chapter, 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.

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# MEASURES, ANALYSES AND ARGUMENTS

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## FULL TEXT OF MEASURE G, CONT.

- F. Upon receipt of the registration and fee required under this Section, the collector shall issue to the cannabis business a Certificate of Registration. Such Certificate of Registration shall be non-transferrable except as otherwise provided by the collector in writing.

**5.30.070. Reporting and Remittance of Tax.** The cannabis business tax imposed by this chapter shall be due and payable as follows:

- A. Each person subject to tax under this chapter, except a cannabis cultivation tax based on a square footage, shall, on or before the last day of the month following the close of each calendar quarter, prepare and submit a tax return and remit to the collector the tax due for that quarter. At the time the return is filed, the full amount of the tax due for the prior quarter shall be remitted to the collector.
- B. Each person subject to a cannabis cultivation tax based on a square foot-age shall, on or before the last day of the month following the close of each calendar quarter, prepare and submit a tax return and remit to the collector the tax due for that quarter. The tax shall be calculated in accordance with rules and regulations established by the collector pursuant to Section 5.30.160. The tax return may include a request for adjustment of the tax due to crop loss or periods without cultivation, along with evidence substantiating the crop loss or fallow periods. If the cultivation begins sixty days or more after January 1 or terminates sixty days or more before December 31 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. At the time the return is filed, the full amount of the tax due for the prior quarter shall be remitted to the collector.
- C. All tax returns shall be completed on forms prescribed by the collector.
- D. Tax returns and payments for all outstanding taxes owed the city under this chapter are immediately due and payable to the city of Cotati upon cessa-tion of business for any reason.

**5.30.080. Payments and Communications – Timely Remittance.** Whenever any payment, return, report, request or other communication is due under this chapter, it must be received by the collector on or before the due date. A postmark will not be accepted as timely remittance. If the due date falls on Saturday, Sunday or a city holiday, the due date shall be the next regular business day on which the city is open to the public.

**5.30.090. Payment – When Taxes Deemed Delinquent.** Unless otherwise spec-ifically 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 Cotati on or before the due date as specified in Section 5.30.070.

**5.30.100. Notice Not Required By City.** The city of Cotati is not required to send a delinquency or other notice or bill to any person subject to this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty or interest due under this chapter.

**5.30.110. Delinquent Registration or Taxes – Penalties and Interest.** Penalties and interest shall be applied according to Section 5.04.200 of this code.

**5.30.120. Waiver of Penalties.** Waiver of penalties shall be applied according to Section 5.04.205 of this code.

**5.30.130. Refunds.** Refunds may be paid pursuant to Section 5.04.260 of this code.

### 5.30.140. Exemptions from the Tax.

- A. Testing Laboratories, as defined as license Type 8 under Section 26001 of the Business and Professions Code, and any successor statute, as may be adopted or amended from time to time, is exempt from the cannabis busi-ness tax, but shall be subject to the General Business Tax under Chapter 5.04 of this code.

- B. 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 appli-cable statutes of the United States or of the State.

- C. 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. Unless and until the collector determines in writing that such person is exempt from tax under this chapter, such person shall be liable for the payment of the tax imposed by this chapter.

- D. This chapter shall not be deemed or construed to require the payment of any general business tax under chapter 5.04 of this code for any cannabis business that is subject to payment of a cannabis business tax under this chapter.

**5.30.150. Enforcement.** It shall be the duty of the collector to enforce each and all of the provisions of this chapter, in accordance with the procedures of Section 5.04.210 of this code.

**5.30.160. Rules and Regulations.** The collector may adopt rules and regulations not inconsistent with the provisions of this chapter as may be necessary or desir-able 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.

**5.30.170. Apportionment.** If a cannabis business subject to a cannabis business tax is operating both within and outside the city, it is the intent of the city to apply the cannabis business 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 administra-tive procedures for apportionment pursuant to section 5.30.160 of this chapter.

### 5.30.180. Construction.

- A. 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 un-due burden upon interstate commerce, a violation of the equal protection or 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 Constitu-tion, state or local law.
- B. This chapter shall be construed and implemented consistent with the pro-visions of chapter 5.04 of this code except as this chapter or other law otherwise requires or the collector otherwise determines in writing as authorized under this code.

### 5.30.190. Audit and Examination of Records and Equipment.

- A. The collector shall have the power to audit and examine all books and re-cords of any person engaged in cannabis business in the city, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person en-gaged in cannabis business in the city, for the purpose of ascertaining the amount of cannabis business tax, if any, required to be paid under this chapter, 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 collec-tor requests, the collector may, after full consideration of all information within his or her knowledge concerning the cannabis business and activi-ties of the person so refusing, make an assessment against the cannabis business of the taxes estimated to be due under this chapter, following the procedures set forth in chapter 3.12.090 of this code, except that calcu-lation of any penalties and interest for unreported or misreported gross receipts shall be in accordance with Section 5.30.110 and appeals shall be in accordance with Section 5.30.260 of this chapter.

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# MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

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- B. The cannabis business being audited shall be liable for the cost of the audit and all reasonable City administrative expenses related to the audit.
- C. 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.

**5.30.200. 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 this 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 permits, licenses, taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the permits, licenses, taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code unless otherwise expressly provided.

### 5.30.210. 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 successor, assignee or other transferee, or other person or entity obtaining ownership or control of the business ("Transferee"), shall satisfy any tax liability owed to the city associated with the business when due hereunder. 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 unpaid tax liability, interest and penalties. The Transferee shall notify the collector of the date of transfer at least thirty (30) days before the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business was made less than thirty (30) days before the date of transfer, notice shall be provided immediately upon the existence of the agreement.
- B. The Transferee shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if the Transferee complies with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price, for the benefit of the city, an amount sufficient to cover the tax liability, or by otherwise paying the tax liability and obtaining from the collector a "Tax Clearance Certificate" showing that all outstanding tax liability has been paid and stating that no amount is due through the date of transfer.
- C. The collector, within ninety (90) days of receiving a written request from a Transferee, 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 through a stated date. The collector may also request financial records from the current or former owner or operator to audit the tax that may be due and owing. The collector shall issue a Tax Clearance Certificate within 30 days of completing the audit, stating the amount of the tax liability owed, if any, unless the collector determines that the records provided in connection with the audit are insufficient to determine whether taxes are due and owed or in what amount. If the collector determines that the records are insufficient, the collector may rely on the facts and information available to estimate any tax liability. The collector may issue a Tax Clearance Certificate stating the amount of the tax liability, if any, based on such facts and information available. Unless an appeal is filed in accordance with Section 5.30.260, the Tax Clearance Certificate shall serve as conclusive evidence of the tax liability associated with the property through the date stated on the certificate.

### 5.30.220. Payment of Tax Does Not Authorize Unlawful Business.

- A. The payment of a 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 this code and all other applicable state or local laws.
- B. No tax paid under 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.

**5.30.230. Deficiency Determinations.** If the collector is not satisfied that any tax return or other statement filed as required under 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 facts contained in the tax return or statement or 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, or such later date as allowable by law. 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, or such later date as allowable by law, 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 5.30.250.

### 5.30.240. Failure to Report – Nonpayment.

- A. Under any of the following circumstances and at any time, the collector may make and give notice of an assessment of the amount of tax owed by a person under this chapter:
  - 1. If the person has not filed a complete return or statement required under this chapter;
  - 2. If the person has not timely paid any tax, fee, interest and/or penalties due under this chapter; or
  - 3. If the person has not, after demand by the collector, filed a corrected return or statement, or furnished to the collector adequate substantiation of the information contained in a return or statement filed previously.
- B. The notice of assessment shall separately set forth the amount of any tax, fee, interest and/or penalties 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.

**5.30.250. 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.

**5.30.260. Appeal Procedure.** Any taxpayer aggrieved by any decision of the collector with respect to the amount of tax, fee, interest and penalties, if any, due under this chapter may appeal to the city manager by filing a written appeal with the deputy city clerk or city clerk of the Cotati City Council within fifteen (15) calendar days of the mailing of the decision or determination. The deputy city clerk or city clerk shall schedule the appeal and give fifteen (15) days' written notice to the appellant of the time and place of hearing by serving the notice personally or by depositing in the United States Post Office in the city, postage prepaid, addressed

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as shown on the appeal papers or, if none, such other address as is known to the city or, absent any address, by publication in a newspaper of general circulation in the city. The city manager shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter. The deputy city clerk or city clerk shall be a separate person from the city manager.

**5.30.270. Conviction for Chapter Violation – Taxes not Waived.** The conviction and punishment of any person for failure to pay a required tax, fee, penalty and/or interest under this chapter shall not excuse or exempt such person from any civil action for the amounts due under this chapter. 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.

**5.30.280. 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 punishable as provided in Section 1.20.010 of the Cotati Municipal Code. 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.

**5.30.290. Actions to Collect.** The amount of any tax, fee, penalty and/or interest imposed pursuant to this chapter shall be deemed a debt owed to the city. An action may be commenced in the name of the city in any court of competent jurisdiction, for the amount of any delinquent tax, fees, penalties and interest thereon.

**5.30.300. 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.

**5.30.310. Amendment.** As required by Article XIIC of the California Constitution, any amendment that increases the maximum rates of tax beyond the levels authorized in Section 5.30.050 above shall not take effect unless approved by a vote of the People. The city council may, by resolution, implement a tax under this chapter in any amount or at any rate that does not exceed the maximum rates set forth in Section 5.30.050.

**5.30.320. Other Taxes and Fees.** Except as provided herein, persons 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.

**Section 3.** Chapter 5.04 of the Cotati Municipal Code is hereby amended as follows:

### Section 5.04.010.D Definitions

**5.04.010 D.** "Gross receipts" means the total amount of the sale price of all sales, and the total amount charged or received for the performance of any act, service or employment of whatsoever nature it may be, for which a charge is made or credit allowed, whether or not such service, act or employment is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, and 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 the materials used, labor or service costs, interest paid or payable, the cost of transportation of the property prior to its purchase, or losses or other expense whatsoever. "Gross receipts" shall also include the estimated value of cannabis products which are internally transferred between cultivation, manufacturing, distribution, or retail operations, using a valuation methodology which may be developed in the sole discretions of the collector, for the purposes of estimating gross receipts when there is no recorded sale for purposes of the cannabis business tax. Excluded from "gross receipts" shall be cash discounts allowed and taken on sales; any tax required by law to be included in or added to the purchase price, and collected from the consumer or purchaser; and such part of the sale price of property

returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit.

Section 5.04.250.A General License Schedule is hereby amended to add the following business type:

### **5.04.250. A. Cannabis testing labs,**

**Section 4. CEQA.** The approval of this Ordinance is exempt from the California Environmental Quality Act (California Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The cannabis business 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), neither the cannabis business tax nor the general business tax is a project within the meaning of CEQA because both create 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 either tax is used for a purpose that would have either such effect, the City will undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required at this time.

**Section 5. 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 Cotati 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 6. Effective and Operative Dates.** This ordinance shall take effect ten (10) days after the election result is certified as provided by Elections Code but the taxes imposed by this ordinance shall take effect only when and to the extent implemented by resolution of the city council.

**Section 7. Certification; Publication.** Upon approval by the voters, the Deputy City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.