



Agenda Item C.1
PUBLIC HEARING
Meeting Date: November 7, 2023

TO: Mayor and Councilmembers

FROM: Luke Rioux, Finance Director

CONTACT: Cecilia Rubio, Finance Management Assistant

SUBJECT: First Reading – Cannabis Business License Ordinance Amendments and Cannabis Business Tax Updates

RECOMMENDATION:

- A. Introduce and conduct first reading (by title only) and waive further reading of Ordinance No. 23-__, entitled “An Ordinance of the City of Goleta, California Amending Chapter 3.08 of Title 3 of the City of Goleta Municipal Code Entitled Cannabis Business Tax and Amending Chapter 5.09 of Title 5 of the City of Goleta Municipal Code Entitled Commercial Cannabis Businesses,” and
- B. Find that the adoption of the Ordinance is exempt from the California Environmental Quality Act under Guideline 15301(c) and direct staff to file a Notice of Exemption within five business days.

BACKGROUND:

On July 17, 2018, the City Council adopted licensing procedures and regulations to regulate commercial cannabis businesses. These regulations were codified as Chapter 5.09 into the Goleta Municipal Code (GMC). After implementation, the City determined that amendments were necessary to the existing regulations.

On November 6, 2018, the voters passed Measure Z2018, establishing a tax on cannabis business operations within the City of Goleta. This ballot measure subjects cannabis businesses to taxation on gross receipts of cannabis based on classifications up to a maximum of 10 percent.

On May 7, 2019, the City Council amended Chapter 5.09 to include a more robust application review process, noticing requirement for retail applications and updates to existing regulations to conform with new State law since 2018. In addition, it introduced a requirement for every owner, agent, manager, supervisor or employee of a cannabis business to undergo a Department of Justice (DOJ) “Live Scan” background check.

On July 20, 2021, the City Council authorized organizational changes. This included transitioning the licensing review and approval functions, previously under the Neighborhood Services and Public Safety Department (NSPS) to the Finance Department. These functions encompass cannabis business license review and approval, as well as the Live Scan review of all applicants, owners, supervisors, and employees.

On March 31, 2022, the City Council held a revenue enhancement workshop, which included a report and analysis on the City's current cannabis tax rates and business types. The City Council directed staff to adjust the medicinal retail tax rate of 0% to the retail rate of 5%. They also showed support for updating the allowable hours of operations for cannabis operators and considering other recommendations to streamline the process.

Since the March 31, 2022, workshop, City staff received additional information from the California Department of Cannabis Control (DCC), our cannabis consultants and feedback from cannabis operators and stakeholders within the City related to our cannabis ordinances and process. During annual site inspections, staff discussed cannabis operations and solicited additional feedback on the City's ordinance and regulations. The proposed ordinance changes summarized and detailed below reflect input from these various groups and have been reviewed by both the City Attorney's Office and the Finance Department.

DISCUSSION:

The purpose of this public hearing is for City Council consideration of an ordinance amending Chapter 3.08 Cannabis Business Tax and amending Chapter 5.09 Commercial Cannabis Business. The following section summarizes the proposed amendments by chapter.

Chapter 3.08 Cannabis Business Tax – Proposed Amendments

As stated above, on November 6, 2018, the voters passed Measure Z2018, establishing a tax on cannabis business operations within the City of Goleta. The measure taxes cannabis businesses on gross receipts, with classifications capped at 10 percent. Initial rates were established at the time of passing and codified as Chapter 3.08 into GMC.

In 2021, City staff collaborated with its cannabis consultants, HdL to evaluate these rates. The analysis confirmed that the City's rates are competitive both with nearby jurisdictions and common rates statewide. The analysis and report were then discussed with City Council at a workshop held on March 31, 2022. At the conclusion of the workshop, City Council directed staff to move forward with implementing a change to the medicinal cannabis retail rate to be set at the non-medical cannabis retail rate of 5%. This adjustment ensures parity with cannabis retail rates and aligns with rates in nearby jurisdictions. A copy of this analysis is provided as Attachment 4 to this report.

In accordance with GMC Section 3.08.050 entitled "City Council Authorization to Adjust Tax Rate and/or Methodology", the initial rates may be adjusted by the City Council from time to time, by ordinance or resolution, subject to a maximum rate of 10% of gross receipts, without a vote of the people. The following table summarizes the current tax rates and proposed tax rate update.

| Cannabis Business Classification | Activities Taxed | Current Tax Rate | Proposed Tax Rate |
|-------------------------------------|------------------|------------------|-------------------|
| Non-Medical Cannabis Retail | Gross Receipts | 5% | 5% |
| Medical Cannabis Retail | Gross Receipts | 0% | 5% |
| Cultivation | Gross Receipts | 4% | 4% |
| Processing/Manufacturing | Gross Receipts | 2% | 2% |
| Testing | Gross Receipts | 0% | 0% |
| Nurseries | Gross Receipts | 1% | 1% |
| Distribution/Transport | Gross Receipts | 1% | 1% |
| Maximum Tax Limit | Gross Receipts | 10% | 10% |
| Maximum Cap for Multiple Operations | Gross Receipts | 10% | 10% |

Further details of the cannabis business tax rates can be found in GMC Section 3.08.030 entitled “Imposition of Tax” in Attachment 1. In addition, staff is recommending the tax rate change be effective January 1, 2024, to align with the quarterly tax remittance requirement. At the time of preparing this report, five operators report and track a portion of sales under the medical cannabis retail rate.

Chapter 5.09 Commercial Cannabis Businesses – Proposed Amendments

The following table summarizes the proposed amendments to Chapter 5.09, followed by additional information on significant revisions.

| GMC Section | GMC Section Name | Summary of Proposed Amendments |
|----------------|---|---|
| 5.09.020 | Definitions | 1. Added and revised various definitions. These definitions include “Director”, “Financial Interest”, “Financial Interest holder”, “Owner”, “Person”, and “Premise”, which aligns with the City process and the State. |
| 5.09.030 | General Provisions for Commercial Cannabis Activities in the City | 2. Updated license types to include a table that compares the State license types and Goleta’s license types for transparency and comparison purposes, and clarified the City does not allow events per GMC section 17.41.090. 3. Updated section on license issuance and changes in organizational structure or ownership, to include a process for changes in ownership, as separate section 5.09.045 (see below for more detail). |
| 5.09.040 | Cannabis Business License Application Procedures and Requirements | 4. Removed Social Security Card requirement. 5. Updated background check language to be specific on receiving copies of Department of Justice Live Scan receipts for all applicants, owners, persons having at least twenty percent financial interest, managers, and supervisors of a cannabis operation and removed all employees– to match State requirements. |
| 5.09.045 (new) | Changes to Licensed Commercial Cannabis Businesses | 6. Added Change in Ownership section. 7. Added Change in Premise section. |
| 5.09.070 | Maintenance of Records and Reporting | 8. Updated information needed to be retained for all persons with any financial interest in commercial cannabis business. |

| GMC Section | GMC Section Name | Summary of Proposed Amendments |
|-------------|--|---|
| | | 9. Added section that operators to retain their completed employee criminal history checks and subject to inspection by the City. |
| 5.09.080 | Operating Requirements for All Commercial Cannabis Businesses | 10. Updated comprehensive general liability insurance to require \$1 million per each occurrence and \$2 million per aggregate. 11. Updated language on Department of Justice “Live Scan” to remove all employees, and only applicable to applicants, owners, persons having at least twenty percent financial interest, managers, and supervisors. 12. Moved the paragraph related to physical modification of the permitted premises to its own section under 5.09.045. 13. Added language that operators will be responsible for their own criminal background check policy and procedures for all employees. The criminal background check will be equivalent to, and may include the use of, live scan, or other as approved by the City. |
| 5.09.090 | Operating Requirements for Storefront Cannabis Retailers | 14. Updated hours of operation from 10:00 a.m. to 8:00 p.m. to 6:00 a.m. to 10:00 p.m. to align with both the State and the County. |
| 5.09.100 | Operating Requirements for Non-Storefront Retailers (Delivery) | 15. Updated and clarified language for businesses located outside of the City but make deliveries into the City, and listed requirements. 16. Updated hours of operation from 9:00 a.m. to 9:00 p.m. to 6:00 a.m. to 10:00 p.m. to align with both the State and the County. 17. Updated section on criminal background checks to be consistent with proposed requirements for employees under 5.09.080. 18. Updated section on quantity of cannabis and cannabis products that only meet the weekly demand to maximum limit set by State law. (The State currently does not set limits on inventory quantity but allows the operator to conduct its business accordingly. It’s stated this way if the State ever considers limits in the future). |
| 5.09.110 | Operating Requirements for Cannabis Manufacturing Businesses | 19. Updated hours of operation from 10:00 a.m. to 8:00 p.m. to 6:00 a.m. to 10:00 p.m. to align with both the State and the County. |

The specific amended Chapter 5.09 sections are provided in detail in Attachment 3. The following sections discuss some of the more significant revisions in more detail, primarily related to a change in ownership and a change in premise. In efforts to align with State regulations and provide flexibility for cannabis business owners, staff is recommending updates that provide a mechanism for local operators, staff is recommending a separate Section 5.09.045, “Changes to Licensed Commercial Cannabis Business” to address a change in ownership and a change in premises.

Changes in ownership and organizational structure are common in all business sectors. The City’s current regulations on changes in ownership and organizational structure are found in GMC Section 5.09.030, which requires that any change to ownership and any change to the organizational structure will require a new CBL. In other words, any change

to the ownership, regardless of how minimal, requires a new application package, pre-license site inspection and becomes costly and burdensome to both City staff and operators. In addition, this will allow the City to be consistent with State regulations.

Staff is also recommending updates to clarify the process for operators that request changes to their licensed premises outside the renewal application period. Currently, applicants would wait until the annual renewal period or submit for a new application. The recommended updates will give applicants an option and more flexibility on their operations and will not have to wait until the annual renewal period. Additionally, the proposed changes will align with State regulations. In summary, the process includes the operator submitting an updated proposed site plan and premises diagram, security/video surveillance plan, and obtaining an update zoning conformity determination letter. Prior to final approval of the change, a pre-license inspection of the premises will be required and payment of fee.

- Section 5.09.045, “Changes to Licensed Commercial Cannabis Business,” was added to read as follows:

A. Change in Ownership.

1. A CBL is not transferrable or assignable to another person or owner and automatically terminates upon transfer or change of ownership unless the transfer or change of ownership complies with this Section. In the event of the sale or other transfer of the business or operations covered by the licensee, changes in ownership shall be made in accordance with the following.
 - a. If one or more of the owners change, the new owners shall submit the information required under sections 5.09.040 and 5.09.080 for each new owner, and or other necessary information to the Finance Department. The ownership change shall not be effective until approved by the City.
 - b. The business may continue to operate under the active license while the Department reviews the qualifications of the new owner(s) in accordance with these regulations to determine whether the change would constitute grounds for denial of the license, if at least one existing owner is not transferring their ownership interest and will remain as an owner under the new ownership structure.
 - c. If all owners will be transferring their ownership interest, the business shall not operate under the new ownership structure until a new license application has been submitted to and approved by the Department, and all application and license fees for the new application have been paid. The former owner’s inventory shall be transferred to the new owner’s track and trace account upon issuance of the license. The ownership change shall not be effective until approved by the City.
2. A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s).
 - a. In cases where one or more owners leave the business by transferring their ownership interest to the other existing owner(s), the owner or owners that are transferring their interest shall provide a signed

statement to the City confirming that they have transferred their interest within 14 calendar days of the change.

3. For any changes in ownership, resulting from death, incapacity, receivership, assignment of creditors, or other event rendering an owner incapable of performing the duties associated with the license, the owner or owners' successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the City in writing, within 14 calendar days, by submitting a form provided by the City.
 - a. To continue operations or surrender the existing license, the successor in interest shall submit to the City the following:
 - i. The name of the successor in interest;
 - ii. The name of the owner(s) for which the successor in interest is succeeding and the license number;
 - iii. The phone number, mailing address, and email address of the successor in interest; and
 - iv. Documentation demonstrating that the owner(s) is incapable of performing the duties associated with the license such as a death certificate or a court order, and documentation demonstrating that the person making the request is the owner or owners' successor in interest such as a court order appointing guardianship, receivership, or a will or trust agreement.
 - b. The City may give the successor in interest written approval to continue operations on the licensed business premises for a period of time specified by the City:
 - i. If the successor in interest or another person has applied for a license from the Department for the licensed premises and that application is under review;
 - ii. If the successor in interest needs additional time to destroy or sell cannabis or cannabis products; or
 - iii. At the discretion of the City.
 - iv. The successor in interest is held subject to all terms and conditions under which a CBL is held pursuant to the Goleta Municipal Code.
 - v. The approval creates no vested right to the issuance of a CBL.

B. Financial Interest in a Commercial Cannabis Business.

1. When there is a change in financial interest holder(s) in the commercial cannabis business who do not meet the requirements for a new license application under this section, the licensee shall submit the information required by section 5.09.2020 to the Department within 14 calendar days of the change.
 - a. A complete list of every financial interest holder of the commercial cannabis business, including who is not an owner. The list of financial interest holders shall include:
 - i. For financial interest holders that are individuals, the first and last name of the individual, a contact phone number and email address, and the type and number of the individual's government-issued identification, such as a driver's license.

- ii. For financial interest holders that are entities, the legal business name, the name and phone number and email address of the entity's primary contact, and the federal taxpayer identification number of the entity.
 - 2. When any of the following changes occur, the licensee shall notify the City within 14 calendar days of the change on a form provided by the City:
 - a. Any change to contact information from the information provided to the Department in the original application.
 - b. Any change in name if the licensee is an individual, or any change in legal business name if the licensee is a business entity.
 - c. Any change in business trade names, fictitious business names, or doing business as ("DBA").
- C. Change in Premises.
- 1. No physical modification of the permitted premises is allowed without written amendment to the CBL by the Director and payment of any additional fees required by the City. To obtain approval of a change in premises, the licensee shall submit a request for change in premises on a form provided by the City, including the following information:
 - a. A physical modification of the permitted premises includes but is not limited to a substantial increase or decrease in total area of the licensed premises, any other physical modification resulting in substantial change in the mode or character of business operations.
 - b. To obtain City approval of a change in premises the licensee shall submit a new site plan and premises diagram, security/video surveillance plan, a written zoning conformity determination letter from the Planning and Environmental Review Department, and other additional information that may be requested by the Director to evaluate the licensee's request to modify the licensed premises.
 - 2. Prior to final approval of the change in premises, a pre-license inspection of the premises will be required and payment of fee.

Fees for Cannabis Business Licenses

The following table summarizes the current cannabis business license related fees at the current rates. As part of the recommended ordinance updates, staff is recommending one additional fee be included in the Citywide User Fees and Charges Schedule, related to a change in premises as outlined under "Proposed Additional Fees". This fee will be applicable for those licensed operators who would like to have a change made to their licensed premises prior to the annual renewal period. The fee has been calculated at full cost recovery for both consultant costs and staff time at the fully burdened hourly labor rate and includes reviewing the new site plan and premises diagram, security/video surveillance plan, and physical site inspection of the premise area. Pending approval of this ordinance, staff will include this additional user fee as part of the Citywide User Fees and Charges Schedule Update that Finance staff plans to bring to the City Council on December 5, 2023, that will consider its annual CPI adjustment.

| Current Cannabis Business License Fee Types: | Current Fee: |
|---|---------------------|
| Cannabis Business License – New | \$15,463.00 |
| Cannabis Business License – Additional for Accessory Use | \$113.00 |
| Cannabis Business License – Renewal | \$12,527.00 |
| Cannabis Business License – Outside City Limits Delivery Services – New | \$451.00 |
| Cannabis Business License – Outside City Limits Delivery Services – Renewal | \$451.00 |
| Cannabis Business License Appeal | \$4,965.00 |
| Cannabis Additional Staff Time | Actual Costs |
| Cannabis Business License Letter (Cannabis Zoning Conformity Determination) | \$685.00 |
| Proposed Additional Fees: | |
| Request to Modify a Cannabis Business License – Change in Premises | \$4,530 |

Staff support the proposed amendments to ordinances and recommend that City Council Conduct first reading (by title only) and waive further reading of the Ordinance.

Future Amendments

The cannabis business licensing program continues to evolve. Staff anticipate future amendments to address additional stakeholder concerns including other emerging issues that may arise.

FISCAL IMPACTS:

While there are no immediate fiscal impacts associated with the recommended actions, the proposed ordinance aims to streamline the cannabis business license application process and provide flexibility for operators on the direction of their business. In addition, these changes will align more closely with State regulations, and help ensure compliance on both sides. Any fees associated with future changes to their business is cost recoverable and supported by user fees paid by the applicant.

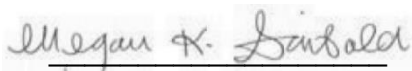
ALTERNATIVES

The City Council may wish to forego any amendments to GMC Chapter 5.09, GMC Chapter 3.08 and provide different direction to staff.

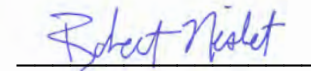
Reviewed By:


 Kristine Schmidt
 Assistant City Manager

Legal Review By:


 Megan Garibaldi
 City Attorney

Approved By:


 Robert Nisbet
 City Manager

ATTACHMENTS:

1. Ordinance No. 18-07 entitled “An Ordinance of the People of the City of Goleta, California, Adding Chapter 3.08 to Title 3 (Revenue and Finance) of the Goleta Municipal Code Establishing a Tax on Cannabis Business Operating within the City of Goleta.
2. Ordinance No. 19-07 entitled “An Ordinance of the City Council of the City of Goleta, California, Adopting Chapter 5.09 of Title 5 of the Goleta Municipal Code Relating to Establish Standards and Regulations for Commercial Cannabis Businesses.”
3. Ordinance No. 23-___, entitled “An Ordinance of the City Council of the City of Goleta, California, Amending Chapter 3.08 of Title 3 of the City of Goleta Municipal Code Entitled Cannabis Business Tax and Amending Chapter 5.09 of the City of Goleta Municipal Code, Entitled Commercial Cannabis Businesses.”
4. Fiscal Analysis of the Commercial Cannabis Industry
5. Staff Presentation

ATTACHMENT 1

Ordinance No. 18-07 entitled “An Ordinance of the People of the City of Goleta, California, Adding Chapter 3.08 to Title 3 (Revenue and Finance) of the Goleta Municipal Code Establishing a Tax on Cannabis Business Operating within the City of Goleta.

ORDINANCE NO. 18-07

MEASURE "Z2018"

AN ORDINANCE OF THE PEOPLE OF THE CITY OF GOLETA, CALIFORNIA, ADDING CHAPTER 3.08 TO TITLE 3 (REVENUE AND FINANCE) OF THE GOLETA MUNICIPAL CODE ESTABLISHING A TAX ON CANNABIS BUSINESSES OPERATING WITHIN THE CITY OF GOLETA.

THE PEOPLE OF THE CITY OF GOLETA, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.08 is hereby added to Title 3 (Revenue and Finance) of the Goleta Municipal Code and shall read as follows:

**"CHAPTER 3.08
CANNABIS BUSINESS TAX.**

3.08.010 – Definitions.

For purposes of this Chapter:

A. "Cannabis" means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means the term as defined in California Health and Safety Code Section 11018 and is not limited to medical cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

B. "Cannabis business" means any business, organization or facility, regardless of form, whether operating for profit or not for profit, that cultivates, processes, stores, tests, packages, labels, distributes, transports, and/or sells, dispenses or delivers cannabis, cannabis products and/or devices for the use of cannabis or cannabis products. "Cannabis business" does not include personal medical or adult use cannabis cultivation authorized by State law and this Code. A cannabis business shall not be considered to be a religious, social or charitable organization exempt from the payment of business taxes under this Chapter.

C. "Cannabis cultivation" means the seeding, planting, watering, warming, cooling, growing, harvesting, drying, curing, grading or trimming of cannabis.

D. "Cannabis distribution" or "Cannabis transport" means any activity involving the commercial procurement, sale, transfer and/or transport of cannabis and cannabis products from one cannabis business to another cannabis business for purposes authorized pursuant to state law.

E. "Cannabis nursery" means a cannabis business that produces only clones, immature plants, seeds and other agricultural products used specifically for cannabis cultivation.

F. "Cannabis processing/manufacturing" shall mean any activity involving the holding, storing, sorting, preparation, labeling and packaging of raw cannabis for retail sale; or involving the production, preparation, propagation, labeling, packaging or compounding of cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis.

G. "Cannabis product" means cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means cannabis products as defined by California Health and Safety Code Section 11018.1 and is not limited to medical cannabis products.

H. "Cannabis testing" means any activity involving the testing of cannabis or cannabis products by a facility that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and
2. Registered with the California State Department of Public Health.

I. "Engaged in a cannabis business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate, franchise or other business powers, whether done as owner, or by means of an officer, agent, manager, employee, or other representative, within the City, whether operating from a fixed location within the City or coming into the City from an outside location to engage in cannabis business activities. By way of example, a person shall be deemed "engaged in cannabis business" within the City if such person or the person's officer, agent, manager, employee, or other representative acting on behalf of such person:

1. maintains a fixed place of cannabis business within the City;

2. owns, leases or otherwise has the legal right to occupy real property within the City for cannabis business purposes;

3. regularly maintains a stock of tangible personal property within the City in the ordinary course of cannabis business;

4. performs work or renders cannabis business services to other cannabis businesses or to retail cannabis customers located within the City.

J. "Gross receipts" means, except as otherwise provided in this Chapter, the total amount of monetary consideration actually received or receivable by a cannabis business for performance of any act or service in providing, at wholesale or retail, cannabis and/or cannabis products, for which a charge is made or credit allowed including, but not limited to: membership dues, the value of monetary and in-kind contributions, payments, reimbursement of fees for cultivation, processing/manufacturing, distribution, delivery, retail, storing, exchanging, delivering, making available, or transmitting of cannabis or cannabis products, any payments made, and anything else of value obtained by a cannabis business. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind without deduction of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Gross receipts shall not include the following:

1. Cash discounts where allowed and taken on sales;

2. Sales or other applicable state or local tax required by law to be added to the purchase price of cannabis or cannabis products and collected from the purchaser;

3. Such part of the sales price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts; or

4. Whenever there are included within gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectable in a subsequent year, those amounts may be excluded from gross receipts in the year they prove to be uncollectable, provided, however, if all or any portion of such amounts excluded as uncollectable are subsequently collected they shall be included in gross receipt for the period when they are recovered.

K. "Medical cannabis retail" means any cannabis business activity involving the retail sale or dispensing to qualified patients or their qualified caregivers of cannabis, cannabis products, or devices for the use of cannabis or cannabis products, either individually or in any combination, for the ultimate consumption or use by qualified patients in accordance with California Health and Safety Code Sections 11362.7 et. seq., the California Medical Marijuana Program

Act ("MMPA"), and any other applicable State law authorizing activities related to the medical possession and use of cannabis. "Medical cannabis retail" shall include any medical cannabis delivery to a customer as part of a retail sale.

L. "Non-medical cannabis retail" means any cannabis business activity involving the retail sale or dispensing to customers of cannabis, cannabis products, or devices for the use of cannabis or cannabis products, either individually or in any combination; for any purpose other than medical cannabis retail. "Non-medical cannabis retail" shall include any non-medical cannabis delivery to a customer as part of a retail sale.

M. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, which is conducting itself as a cannabis business.

N. "State" means the State of California.

O. "Tax Administrator" is the City's Director of Finance, or his or her designee.

3.08.020 – Purpose of Tax.

This tax is a general tax, the revenues from which may be used for unrestricted general revenue purposes of the City.

3.08.030 – Imposition of Tax.

A. Every person engaged in a cannabis business within the City of Goleta, and regardless of whether such business has a permit to operate pursuant to the Goleta Municipal Code, shall pay a cannabis business tax at the following initial rates:

1. Non-medical cannabis retail – 5% of gross receipts;
2. Medical cannabis retail – 0% of gross receipts;
3. Cannabis cultivation – 4% of gross receipts;
4. Cannabis processing/manufacturing – 2% of gross receipts;
5. Cannabis testing – 0% of gross receipts;
6. Cannabis nursery – 1% of gross receipts;
7. Cannabis distribution/transport – 1% of gross receipts.
8. Multiple Operations. In no event shall any person conducting multiple of the above operations pay more tax than 10% of gross receipts.

B. The rates set forth above may be adjusted by the City Council from time to time, by ordinance or resolution, pursuant to Section 3.08.050 below, subject to a maximum rate of ten percent (10%) of gross receipts.

C. If a cannabis business is engaged in retail sales and/or delivery of both medical and a non-medical cannabis, it shall pay the higher applicable business tax rate between the two classes, unless the cannabis business identifies to the City, by reasonable and verifiable standards, the portions of its activities that are tied to medical cannabis retail and those that are tied to non-medical cannabis retail, through the cannabis business' books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not specifically created and maintained for tax purposes. The cannabis business has the burden of proving the proper apportionment of taxes under this subsection (C).

D. If a cannabis business is engaged in both retail sales and/or delivery and cannabis cultivation, processing/manufacturing, nursery, testing or distribution, it shall pay the highest business tax rate for any class that applies to that cannabis business, unless the cannabis business identifies to the City, by reasonable and verifiable standards, the portions of its activities that are tied to cannabis retail and those that are tied to cultivation, processing/manufacturing, nursery, testing or distribution, through the cannabis business' books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not specifically created and maintained for tax purposes. The cannabis business has the burden of proving the proper apportionment of taxes under this subsection (D). No cannabis business engaged in both retail sales and/or delivery and cannabis cultivation, processing/manufacturing, nursery, testing or distribution shall pay more than the maximum 10% rate on gross receipts from its combined activities as set forth in subsection (B) above.

E. No cannabis business shall be deemed to be exempt from the payment of the taxes identified above by any other provision of this Code, unless expressly exempted under this Chapter.

3.08.040 – Payment Obligation.

All taxpayers subject to this Chapter must pay the full tax imposed by this Chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by California or Federal law. Failure to pay the tax shall be subject to penalties, interest charges, and assessments as the City Council may establish and the City may use any or all other code enforcement remedies provided in this Code. No provision in this Code can lower the tax rate set forth in this Chapter or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

3.08.050 – City Council Authorization to Adjust Tax Rate and/or Methodology.

This Chapter authorizes a maximum business tax rate of ten percent (10%) for each of those classes of cannabis business identified in Section 3.08.030(A)(1) through (7) above. The City Council may, by ordinance or resolution, upwardly or downwardly adjust the rate of the tax imposed by this Chapter and may otherwise repeal or amend this Chapter without a vote of the People. However, as required by California Constitution Article XIII C (Proposition 218), voter approval is required for any amendment that would increase the ten percent (10%) maximum rate or methodology of any tax levied pursuant to this Chapter. The People of the City of Goleta affirm that the following actions shall not constitute an increase of the maximum rate or methodology of the tax requiring subsequent voter approval:

A. The upward adjustment of the tax rate applicable to any or all classes of cannabis business, provided the rate does not exceed the ten percent (10%) maximum set forth by this voter-approved Chapter;

B. The restoration of the rate of the tax to a rate that is no higher than the ten percent (10%) maximum set by this voter-approved Chapter, if the City Council has previously acted to reduce the rate of the tax;

C. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter;

D. The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception; and

E. Resuming collection of the tax imposed by this Chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

3.08.060 – Payment of Tax Does Not Authorize Illegal Activity.

The payment of the tax required pursuant to this Chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Chapter implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed in strict and full conformance to the provisions of State law and this Code.

3.08.070 – Cannabis Business Tax Is Not a Sales Tax.

The tax provided for under the provisions of this Chapter is not a Sales, Transactions or Use Tax and shall not be calculated or assessed as such. The tax established under this Chapter shall not be separately identified or otherwise specifically assessed or charged to any customer or client of a cannabis business.

3.08.080 – Amendments and Administration.

A. This Chapter was submitted to the voters for approval. Any amendment to this Chapter to increase the tax above the maximum rate expressly provided in Section 3.08.030(B) shall not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change, or revise any other provision of this Chapter as the City Council deems in the best interest of the City, as set forth in Section 3.08.050.

B. The Tax Administrator shall promulgate rules, regulations and procedures to implement and administer this Chapter to ensure the efficient and timely collection of the tax imposed by this Chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.

C. Pursuant to California Constitution Article XIII B, the appropriation limit for the City is increased to the maximum extent over the maximum period of time allowed under law consistent with the revenues generated by the tax established by this Chapter.

3.08.090 – Returns and Remittances.

The Tax shall be due and payable as follows:

A. The tax established by this Chapter shall be collected quarterly. Each person owing tax shall prepare and file a tax return to the Tax Administrator setting out the total amount of tax owed for the preceding calendar quarter during which the tax was in effect. The return shall be filed not later than thirty (30) calendar days following the last day of the preceding each calendar quarter. At the time the tax return is filed, the full amount of the tax owed for the preceding calendar quarter shall be remitted to the Tax Administrator.

B. All tax returns shall be completed on forms provided by the Tax Administrator.

C. Tax returns and payments for all outstanding taxes owed the City are immediately due to the Tax Administrator upon cessation of business for any reason.

D. Whenever any payment, statement, report, request or other communication received by the Tax Administrator is received after the time prescribed by this Section for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this Section for the receipt thereof, or whenever the Tax Administrator is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the Tax Administrator may regard such payment, statement, report, request, or other communication as having been timely received. If the due date falls on Friday, Saturday, Sunday, or a holiday, the due date shall be the next regular business day on which the City Hall is open to the public.

E. 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 paid on or before the due date specified in Subsection (A) of this Section.

F. The Tax Administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

3.08.100 – Failure to Pay Tax.

A. Any person who fails or refuses to pay any tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to twenty-five percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at a rate established by resolution of the City Council; and

2. An additional penalty equal to twenty-five percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and interest on the unpaid penalties calculated at the rate established by resolution of the City Council.

B. Whenever a check is submitted in payment of a tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus penalties and interest as provided for in this Section plus any amount allowed under State law.

C. The tax due shall be that amount due and payable from January 1, 2019 or the first date on which the cannabis business first engaged in business in the City, whichever date occurred last, together with applicable penalties and interest calculated in accordance with Subsection (A) of this Section.

D. The Tax Administrator may waive the first and second penalties of twenty-five percent (25%) each imposed upon any person if:

1. The person provides evidence satisfactory to the Tax Administrator 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 tax and accrued interest owed the City prior to applying to the Tax Administrator for a waiver.

2. The waiver provisions specified in this Subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four (24) month period.

3.08.110 – Refunds.

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in this Section.

B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a cannabis business.

C. Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, such amount may be refunded to the person who paid the tax provided that a written claim for refund is timely filed with the City, pursuant to this Code. The period for filing a claim for refund shall be one (1) year from the time the tax was paid or erroneously or illegally collected; provided however, that in no event shall the period to file such claim expire prior to the shortest period allowable for filing a tax refund claim under Government Code Section 911.2. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto, and must clearly set forth the facts and legal theories under which the claimant believes he or she has right to a refund. Where the amount of any individual refund claim is in excess of the amount set by ordinance or resolution of the City Council relating to the settlement of general liability claims against the City by the City Manager, City Council approval shall be required.

D. The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit thereon.

E. The Tax Administrator shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Tax Administrator to do so.

F. Any person entitled to a refund of taxes paid pursuant to this Chapter may elect in writing to have such refund applied as a credit against a cannabis business's taxes for the next calendar quarter.

G. In the event that the tax was erroneously paid and the error is attributable to the City, the amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this Chapter from the amount to be refunded to cover expenses.

H. The Tax Administrator shall initiate a refund of any tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is uncovered by a City audit of tax revenues.

3.08.120 – Enforcement.

A. It shall be the duty of the Tax Administrator to enforce each and all of the provisions of this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Tax Administrator, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.

C. The Tax Administrator shall have the power to audit and examine all books and records of cannabis businesses as well as persons engaged in the operation of cannabis businesses, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of or the transaction prices charged by a cannabis business or persons engaged in the operation of a cannabis business, for the purpose of ascertaining the amount of tax, if any, required to be paid by the provisions of this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this Chapter. If such cannabis business or person, after written demand by the Tax Administrator, refuses to make available for audit, examination or verification such books, records, or equipment as the Tax Administrator requests, the Tax Administrator may, after full consideration of all information within the Tax Administrator's knowledge concerning the cannabis business and its business and activities of the person so refusing, make an assessment in the manner provided in Section 3.08.130.

D. 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.

E. Any person violating any of the provisions of this Chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring the a cannabis business certificate or permit from the City shall be deemed guilty of a misdemeanor.

3.08.130 – Debts, Deficiencies and Assessments.

A. The amount of any tax, penalties, and interest imposed by the provisions of this Chapter shall be deemed a debt to the City and any person operating a cannabis business without having paid any applicable tax, penalties, and interest shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such cannabis business.

B. If the Tax Administrator 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, the Tax Administrator 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. 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 cannabis 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, notice shall be given to the person concerned in the same manner as notices of assessment are given under Subsections (C), (D), and (E) of this Section.

C. Under any of the following circumstances, the Tax Administrator 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 any statement or return required under the provisions of this Chapter;
2. If the person has not paid any tax due under the provisions of this Chapter;

3. If the person has not, after demand by the Tax Administrator, filed a corrected statement or return, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under the provisions of this Chapter;

4. If the Tax Administrator determines that the nonpayment of any tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter.

5. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator'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.

D. The notice of assessment shall be served upon the person either by handing it to him or her personally, 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 cannabis business appearing on the face of the business license issued under this Code, or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this Chapter; or, should the person have no business license issued and should the person have no address registered with the Tax Administrator 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.

E. Within ten (10) calendar days after the date of service the person may apply in writing to the Tax Administrator for a 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 Tax Administrator shall become final and conclusive.

F. If the person requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be held within thirty (30) calendar days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person at least ten (10) calendar days prior to the hearing, and, if the Tax Administrator desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced.

G. At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At

the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to the person owing the tax. The decision of the Tax Administrator may be appealed pursuant to Section 3.08.140 of this Chapter.

H. Unless appealed, payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) calendar day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be at the rates set forth herein, along with interest at the rate as set forth by resolution of the City Council, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this Section shall commence from the date of delinquency as provided in this subsection.

3.08.140 - Appeals.

A. The provisions of this section apply to any deficiency determination, assessment, or administrative ruling of the Tax Administrator. Any person aggrieved by any decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this section. Compliance with this section shall be a prerequisite to a suit thereon. [See Government Code Section 935(b).]

B. If any person is aggrieved by any deficiency determination, assessment, or administrative ruling of the Tax Administrator; he or she may appeal to the City Manager by filing a notice of appeal with the City Clerk within ten (10) calendar days of the date of the deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved the person.

C. If the person requests an appeal, the City Clerk shall cause the matter to be set for hearing, which shall be held within thirty (30) calendar days after receipt of the written request for appeal. Notice of the time and place of the appeal hearing shall be mailed by the City Clerk to such person at least ten (10) calendar days prior to the hearing, and, if the City Manager desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

D. At the time fixed for the hearing, the City Manager shall hear all relevant testimony and evidence, *de novo*, including that of any other interested parties. At the discretion of the City Manager, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence.

Within a reasonable time following the conclusion of the hearing, the City Manager shall issue a final decision confirming, modifying or rejecting the Tax Administrator's deficiency determination, and shall mail a copy of such final decision to the person owing the tax. The City Manager's decision shall be final and subject only to judicial review shall be pursuant to California Code of Civil Procedure Section 1094.6. Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) calendar day following the date of receipt of the City Manager's decision.

3.08.150 – No Injunction/Writ of Mandate.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected and/or remitted.

3.08.160 – Future Amendment to Cited Statute.

Unless specifically provided otherwise, any reference to a state or federal statute in this Chapter shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a state or federal agency or court of law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease. Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable. For any application or situation that would not require voter approval or would not result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent. To the extent that the City's authorization to collect or impose any tax imposed under this Chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this Chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this Chapter."

SECTION 2. Effective Date. Pursuant to California Constitution Article XIII C §(2)(b) and California Elections Code §9217, if a majority of the qualified voters voting in the election on Measure "Z2018" vote in favor of the adoption of such Measure, this ordinance shall be deemed valid and binding and shall be considered as adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The People of the City of Goleta hereby

declare that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4. Certification/Summary. Following the City Clerk's certification that the citizens of Goleta have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book of original ordinances of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED and ADOPTED by the People of the City of Goleta this 6th day of November, 2018.




PAULA PEROTTE
MAYOR

ATTEST:



DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:



MICHAEL JENKINS
CITY ATTORNEY

ATTACHMENT 2

Ordinance No. 19-07 entitled “An Ordinance of the City Council of the City of Goleta, California, Adopting Chapter 9 of Title 5 of the Goleta Municipal Code Relating to Establish Standards and Regulations for Commercial Cannabis Businesses.”

ORDINANCE NO.19-07

AN ORDINANCE OF THE CITY OF GOLETA, CALIFORNIA, AMENDING CHAPTER 5.09 OF TITLE 5 OF THE GOLETA MUNICIPAL CODE TO ESTABLISH STANDARDS AND REGULATIONS FOR COMMERCIAL CANNABIS BUSINESSES

**THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS
FOLLOWS:**

SECTION 1: FINDINGS

- A. In 1996, the California electorate approved Proposition 215, the Compassionate Use Act which allows a patient, with a doctor's recommendation, to use cannabis for medicinal purposes without the fear of prosecution or arrest; and
- B. In 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medicinal cannabis dispensaries for the distribution of cannabis for medicinal purposes; and
- C. In 2005, the California Board of Equalization began issuing seller's permits for sales consisting of medicinal cannabis; and
- D. In 2008, the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use; and
- E. In 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA") further amended by Senate Bill 837 in 2016 as the Medicinal Cannabis Regulation and Safety Act ("MCRSA"), which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing; and
- F. In 2016, the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act ("AUMA"); and
- G. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); and
- H. Pursuant their police power and land use authority under Article 11, Section 7 of the California Constitution, cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medicinal cannabis; and
- I. After studying various alternatives for the regulation of commercial cannabis considering input from stakeholders and a public hearing, and reviewing the legal status of cannabis under applicable law, the City Council finds that the regulation of commercial cannabis activities is necessary to protect the public health, safety, and welfare by mitigating the adverse secondary effects from the operations of these uses; and
- J. The City of Goleta ("City") has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents; and

- K. Chapter 5.09 of Title 5 of the Goleta Municipal Code regulates and requires licensure of cannabis businesses within the City.
- L. The City desires to amend Chapter 5.09 to add more requirements to the licensure of cannabis businesses within the City.
- M. The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts, and the City has determined that the establishment of regulations for commercial cannabis businesses do not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, and thus according to the "general rule exemption" (Section 15061 (b)(3) of the CEQA Guidelines, projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required.

SECTION 2: LAND USE REFERENCE

This Chapter corresponds with City Ordinance 19-__ (Cannabis Land Use Ordinance) and will be taken together with the provisions of the City Ordinance 19-__ to determine whether a cannabis business is permitted. Any commercial cannabis business in the City must also operate in compliance with the City's zoning regulations.

SECTION 3: AUTHORITY

This Ordinance is adopted pursuant to the authority granted by state law, including but not limited to, Article XI, Section 7 of the California Constitution, the Compassionate Use Act of 1996, as amended, (Health and Safety Code Section 11362.5), the Medical Marijuana Program, as amended, (Health and Safety Code Section 11362.7 et seq.), the Medical Marijuana Regulation and Safety Act, as amended, (Business and Professions Code Section 144, 2525, 2220.05, 2241 .5, 2242.1, 19302.1, 19319-19325, 19331, 19335, 19337, 19348 et seq.; AB 266, AB 243, and SB 643; hereafter "MMRSA"), the Adult Use of Marijuana Act (Business and Professions Code Section 14235.5, 1 1362.775, 26001, 26053, 26070, 26100, 26110, 26130; Proposition 64), and the Medicinal and Adult Use Cannabis Regulation and Safety Act (Fish and Game Code Section 1602 and 1617 et seq.; Business and Professions Code Section 26000-26220 et seq.; Food and Agricultural Code Section 37104, 54036, and 81010 et seq.; Health and Safety Code Section 1 1006.5-11553 and 109925 et seq.; Revenue and Taxation Code Section 34010-34021.5 et seq.; Vehicle Code Section 2429.7 et seq.; SB 94; hereafter "MAUCRSA"); and any other state statutes regulating cannabis (hereinafter collectively referred to as "State Law").

SECTION 4: AMENDMENT OF CHAPTER 5.09

Chapter 5.09 is hereby amended as follows:

5.09.010 COMPLIANCE WITH STATE AND LOCAL LICENSING REQUIREMENTS

Commercial cannabis activity as defined by the State of California or the City shall operate in conformance with all regulations and standards set forth in this

Chapter of the Municipal Code to assure that the operations of the retailer, cultivation facility, manufacturing facility, distribution facility, testing facility, microbusiness or any other commercial cannabis activity as defined by the State of California or allowed by the City are in compliance with local and state law and are established to mitigate any adverse secondary effects from its operations. Cannabis operators shall be required to obtain a State license and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria. Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City and only if all uses proposed are allowed under the City's zoning regulations.

5.09.020 DEFINITIONS

When used in this Chapter, the following words are defined as follows. If a word is not defined in this Section, other provisions of the Goleta Municipal Code, or City ordinance, the definitions shall be as in state law or, in case where a definition is not provided in state law, as determined by the Director of Neighborhood Services and Public Safety.

- A. "Cannabis Business" means a person operating any or all commercial activities relating to cannabis that requires a license under State law.
- B. "Cannabis Business License" ("CBL") means a license issued by the City under this Chapter.
- C. "City Manager" shall mean the City of Goleta City Manager, or designee.
- D. "Director" shall be the Director of Neighborhood Services and Public Safety or designee.
- E. "Fire Chief" shall mean the Santa Barbara County Fire Department Fire Chief, or designee.
- F. "Person" means any natural person, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- G. "Police Chief" means the City of Goleta Police Chief, or designee.
- H. "Seller's Permit" means a state business license that allows a business to make sales of tangible personal property in California.
- I. "State Law" means the codified sections promulgated by the California State Legislature related to commercial cannabis businesses.

5.09.030 GENERAL PROVISIONS FOR COMMERCIAL CANNABIS ACTIVITIES IN THE CITY

- A. Prohibitions. It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises within the City a Cannabis Business without a CBL from the City.
- B. Cannabis Business License Required.
 - 1. Each Cannabis Business shall have a CBL specific to the business activity defined by State law regardless of whether the business activity is for medicinal or adult-use purposes. The following is a list of current license types under State law:
 - a. Cultivation
 - b. Retail
 - c. Delivery
 - d. Distribution

- e. Manufacturing
 - f. Nurseries
 - g. Testing
 - h. Microbusiness
2. The following are the commercial cannabis activities currently authorized by the City of Goleta:
 - a. Retail
 - b. Nonstorefront Retail (Delivery)
 - c. Cultivation
 - d. Manufacturing
 - e. Testing
 - f. Distribution
 - g. Microbusiness
 3. A CBL shall be valid for a period of one year from January 1 through December 31 of each year, unless sooner revoked. No permit granted herein shall confer any vested right to any person for more than the above-referenced period.
 4. The CBL shall be issued only to the specific person listed on the CBL application.
 5. A CBL may not be transferred from one person to another person. A CBL does not run with the land. Except as provided in Goleta Municipal Code Sections 5.01.300 and 5.01.310, any change to the organizational structure or ownership of the cannabis business will require a new CBL.

5.09.040 CANNABIS BUSINESS LICENSE APPLICATION PROCEDURES AND REQUIREMENTS

A. Application Requirements.

1. An applicant may submit one or multiple applications for the various cannabis permit types. Applicants may apply for no more than one permit per category of Cannabis Business.
2. A separate application must be filed for each location or premise for which an applicant proposes to operate a Cannabis Business.
3. An applicant shall pay all the fees required by this Chapter.
4. A CBL applicant shall submit the following information, which will be more particularly defined in an administrative regulation by the City Manager:
 - a. Completed CBL Application form and applicable fees;
 - b. Copy of DMV-issued driver's license or identification card or passport for each owner, officer, employee, or agent;
 - c. Copy of Social Security card for each owner, officer, employee, or agent;
 - d. Proof of insurance as required by this Chapter;
 - e. An executed release of liability and hold harmless in the form set forth in the City's application form;
 - f. Authorization for the City to verify the information and representations contained in the application;
 - g. In the event the applicant is not the owner of record of the real property upon which the cannabis business is or will be located, a notarized statement and consent from the owner of the property acknowledging that a Cannabis Business is or will be located on the

- property and copy of the lease or rental agreement pertaining to the property on which the Cannabis Business is or will be located;
 - h. Business entity documents, including but not limited to articles of incorporation, articles of organization, certificate of limited partnership, or statement of partnership authority.
 - i. Fee for background checks as required by this Chapter.
 - j. The following plans, the contents of which will be promulgated by administrative regulation by the City Manager:
 - i. Site Plan;
 - ii. Business Plan;
 - iii. Green Business Plan;
 - iv. Odor Abatement Plan;
 - v. Safety plan; and
 - vi. Security plan.
- B. Application Evaluation.
1. The City Manager will promulgate an administrative regulation on the CBL application evaluation process.
 2. Applications will be accepted, reviewed, and determined for a CBL by the Director.
 3. Applications will be evaluated by the Director and scored for having provided all the information required by the application and that the plans meet minimum requirements.
 4. If the Director determines that application requirements are not met, the Director shall provide a letter to the applicant outlining all the deficiencies in the application and require deficiencies to be met within 30 days, unless good cause is shown for a greater time period. If the applicant does not respond within the stated time period in the Director's letter, the application shall be returned to the applicant for incompleteness.
 5. An application may be returned for failure to meet the requirement of this chapter, including but not limited to any of the following reasons:
 - a. A decision by the director to return an application based on this section is not appealable.
 - b. Application does not include information necessary to meet application requirements.
 - c. Information requested in Director's letter of deficiencies was received after state timed for the provision of information.
 - d. Information submitted in response to Director's letter of deficiencies is not fully responsive to Director's request for more information.
 6. Site Inspection.
 - a. The Director shall inspect the site of the proposed Cannabis Business for compliance with local and State law requirements and conformance with information provided in the application.
- C. Public Notice for Storefront Retail Applications.
1. The Director shall provide notice by First Class mail for all Storefront Retail CBLs at least 10 calendar days before a decision on the CBL applications is made to property owners and, if feasible, tenants, located within 500 feet of the parcel on which the Cannabis Business is or is proposed to be located.

2. Phase Three: Site Inspection and Issuance of Permit.
 - a. Preliminary Approval. A Preliminary Approval of the CBL will be issued by the Director after the applicant has meet all of the requirements of this chapter, which would allow for an applicant to apply for a State license.
 - b. Final Approval. A Final Approval of a CBL will be issued only after an applicant presents a copy of their State license for the Cannabis Business subject to the CBL application and all site inspections have occurred by the Director or any other necessary City Departments and other local agencies.
 - I. No Cannabis Business can be operated until the City has issued a Final Approval of the CBL.
- D. The City's Reservation of Rights.
 1. The City reserves the right to reject any or all applications. Prior to STET issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under State law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance.

5.09.050 FEES

- A. All applicants shall pay all fees associated with an application, including the fees as established by resolution of the City Council for all costs incurred by the City in processing an application, which may include one or more of the following:
 1. CBL Application Fees. The applicant shall submit a nonrefundable fee to cover the cost of processing an application for the Cannabis Business and ensuring all operating requirements are adhered to.
 2. CBL Application Renewal Fees. The Business Owner shall submit a nonrefundable fee to cover the cost of processing an application renewal.
 - a. If any fee required by this Chapter is not paid prior to the delinquency date, in addition to such fee the applicant shall pay a penalty equal to one-half of the fee; provided, however, that such penalty shall not attach in the case of renewals of annual licenses until 30 days after the delinquency date.

5.09.060 DENIAL, SUSPENSION OR REVOCATION GROUNDS AND APPEAL

- A. Grounds for Denial, Suspension, and Revocation
 1. Denial of a New or Renewal CBL. An application may be denied upon any of the following:
 - a. Failure to meet the application requirements of this Chapter and any resolutions adopted pursuant to this Chapter;
 - b. Failure to meet the time requirements of requests for additional information by the Director while a CBL application is under review;

- c. The applicant knowingly, willfully or negligently made a false statement of material fact or omitted a material fact from the application;
- d. Any applicant, owner, manager, supervisor, employee or agent that has not passed the Background Check requirements of this Chapter;
- e. The applicant failed to obtain and/or maintain a valid Seller's Permit;
- f. The applicant does not comply with the provisions of this Chapter or State law relating to operation of a Cannabis Business;
- g. The applicant has not received all necessary land use entitlements as required by the City's zoning regulations;
- h. The applicant has denied City access to the business location to conduct an inspection;
- i. Failure to pay the required fees as required in this Chapter;
- j. An outstanding balance of any taxes or fees owed to the City;
- k. Presence of a code violation on the premises on which the Cannabis Business is or is to be located; or
- l. For a renewal application, if the application is not made within 60 days of expiration.
- m. For a renewal application, if the licensee has failed to conform to plans submitted during the initial application process or the operational requirements of this Chapter.

B. Grounds for Suspension and Revocation.

- 1. The licensee fails to conform to the requirements of this Chapter and the plans submitted during the initial application process.
- 2. The licensee's Cannabis Business fails to become operational within six (6) months of obtaining its CBL, unless the Director has granted an extension for good cause.
- 3. Once operational, the Cannabis Business ceases to be in regular and continuous operation for ninety (90) days.
- 4. State law permitting the use for which the license was issued is amended or repealed resulting in the prohibition of such use, or the City receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.
- 5. Circumstances under which the license was granted have significantly changed and the public health, safety and welfare require the suspension, revocation, or modification.
- 6. The license was granted, in whole or part, on the basis of a misrepresentation or omission of a material statement in the CBL application.
- 7. The operator/licensee business has an outstanding balance on City taxes or fees.
- 8. There is an outstanding code violation on the premises on which the Cannabis Business is located;
- 9. The licensee's State license for the Cannabis Business for which a CBL was issued is suspended or revoked. The Director shall not reinstate the CBL until documentation is received showing that the State license has been reinstated or reissued.

C. Notice and Appeal.

1. The Director must give notice of intention to deny, suspend or revoke to a licensee or applicant in writing. Within 10 days thereafter, the licensee or applicant may request in writing a hearing before the City Council.
2. The approval of a CBL can be appealed by an aggrieved party to the City Council. Such appeal must be filed within 10 days of the Director's issuance of a CBL.
3. The City Council shall hold a hearing in accordance with Goleta Municipal Code sections 5.01.710 and 5.07.720.
4. If the licensee does not timely request a hearing, the notice of intention to deny, suspend or revoke shall constitute a final decision on the CBL application.

5.09.070 MAINTENANCE OF RECORDS AND REPORTING

- A. All records for the Cannabis Business of the following activities shall be maintained and made available to the City, upon request, for at least 5 years. Records shall be produced within 24 hours of a request by an authorized City representative. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.
- B. The Cannabis Business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization or its successor agency.
- C. The Cannabis Businesses shall maintain financial records that include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations Section 1968.
- D. The printed full name, date of birth, and present address and telephone number of the licensed individual, as well as for all persons with any financial interest in the commercial Cannabis Business.
- E. Personnel records, including each employee's full name, address, phone number, date of beginning employment, and date of termination of employment if applicable.
- F. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.
- G. Contracts with other licensees regarding cannabis activity.
- H. Permits, licenses, and other local authorizations to conduct the licensee's STET cannabis activity.
- I. Proof of building ownership or written permission from the landlord permitting the Cannabis Business type to be operated on the leased premises.
- J. Proof of insurance.
- K. Security records.

5.09.080 OPERATING REQUIREMENTS FOR ALL COMMERCIAL CANNABIS BUSINESSES

- A. Cannabis Businesses may operate only during the hours specified in this Chapter.
- B. Restriction on Consumption.
 1. Cannabis shall not be consumed by any employee or any other person on the premises of any Cannabis Business.

- C. No free samples of any cannabis or cannabis product may be distributed at any time at the premises of the Cannabis Business.
- D. Odor Control.
 - 1. Cannabis odors shall not be detectable off-site.
 - 2. Cannabis Businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Cannabis Business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Cannabis Business. As such, Cannabis Businesses must install and maintain the following equipment, or any other equipment which the Director determine is a more effective method or technology:
 - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - b. An air system that creates negative air pressure between the Cannabis Business's interior and exterior, so that the odors generated inside the Cannabis Business are not detectable on the outside of the Cannabis Business.
- E. Security.
 - 1. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second. Video recordings shall be maintained by the business and kept available to local police for a minimum period of 90 days.
 - 2. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Director on request.
 - 3. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location for a period of not less than ninety (90) calendar days and be available for inspection at any time. The Director or Police Chief may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the Director or Police Chief may seek a warrant or court order for the recordings.
- F. Display of CBL and Badge.
 - 1. A copy of the CBL shall be displayed at all times in a place visible to the public.
 - 2. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license number, the employees

- first and last name, and a color photo of the employee that shows the full front of the employee's face.
- G. Reporting and Tracking of Product and of Gross Sales.
1. Each Cannabis Business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the Cannabis Business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The Cannabis Business shall ensure that such information is compatible with the City's record-keeping systems and with the state's METRC track-and-trace software. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Director prior to being used by the permittee. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.
- H. An updated floor plan consistent with State regulations must be submitted to the Director.
- I. No physical modification of the permitted premises is allowed without written amendment to the CBL by the Director and payment of any additional fees required by the City.
- J. The Cannabis Business shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.
- K. The Cannabis Business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis as well as any unsold cannabis or cannabis products.
- L. The Cannabis Business shall conform to all State regulations regarding the use of appropriate weighing devices.
- M. The Cannabis Business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 27) and Title 13 of the Goleta Municipal Code.
- N. The Cannabis Business' electrical and plumbing shall comply with State and local regulations, including the Building Code.
- O. Insurance.
1. The Cannabis Business shall maintain comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount no less than two (2) million dollars and name the City as an additional insured. Such insurance shall be primary and not contributing to any other insurance maintained by the City.
- P. The Cannabis Business shall have separate and independent centrally-monitored fire and burglar alarm systems, which shall include all perimeter entry points and perimeter windows.
- Q. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs and maintains the alarm system.

- R. All licensees hiring employees shall document compliance with the following employee safety practices:
1. Emergency action response planning as necessary
 2. Employee accident reporting and investigation policies
 3. Fire prevention
 4. Hazard communication policies, including maintenance of material safety data sheets.
 5. Materials storage and handling policies
 6. Personal protective equipment policies
 7. Operation manager contacts
 8. Emergency responder contacts
 9. Poison control contacts
 10. Department of Justice "Live Scan" for all employees
- S. All persons with ownership interest, and all employees, agents, officers and other persons acting on behalf of a licensee must be at least 21 years of age.
- T. Emergency Contact.
1. An emergency contact that is either an on-site employee, manager, or owner with 24/7 availability shall be made available to the City Manager, Fire Chief, and Police Chief, and shall be updated with the City and other agencies when such contact changes. Both a land line and a mobile or cell number shall be designated.
- U. A CBL shall not be issued to a person with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substances, with the exception of cannabis.
- V. A CBL shall not be issued to a person who employs any individuals with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substance, with the exception of cannabis.
- W. Minors.
1. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Cannabis Business and shall not be allowed to serve as a driver for a nonstorefront (Delivery) service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a Cannabis Business who is not at least twenty-one (21) years of age.
 2. Notwithstanding V(1), persons aged 18-20 who are in possession of a doctor's recommendation shall be allowed on the premises of a Cannabis Business, solely for the purpose of addressing the medical need cited in the physician's recommendation.
 3. The entrance to the Cannabis Business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the Cannabis Business.

- X. Zoning.
 - 1. All Cannabis Businesses must comply with the applicable zoning regulations.
- Y. Monitoring and Compliance.
 - 1. The Director shall monitor a licensee for conformance to the operational standards of this chapter for all CBL types, including but not limited to conducting site inspections after a CLB has been issued. If any violation of this Chapter, including conformance to plans submitted to the City during application process, the Director may suspend or revoke a license.

5.09.090 OPERATING REQUIREMENTS FOR STOREFRONT CANNABIS RETAILERS

- A. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.
- B. All cannabis products available for sale shall be securely locked and stored.
- C. At all times the cannabis retailer is open, the retailer shall provide at least one security guard who is registered with the Bureau of Security and Investigative Services and possesses a valid and current security guard registration card on their person while on-duty.
- D. The licensee shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the retailer or on the property or in the parking lot.
- E. The licensee shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.
- F. The licensee shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medicinal cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.
- G. Licensees shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.
- H. Business hours of operation shall occur only from 10:00 am to 8:00 pm, 7 days a week.
- I. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis retailer: "Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited."
- J. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of alcohol or tobacco by patrons.
- K. Inventory that is not required for a single day's sales shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during nonbusiness hours. Additional product needed for daily sales may be stored in a secured, locked area to which customers, vendors and visitors shall not have access.
- L. No cannabis product shall be visible from the exterior of the business.
- M. All required labelling shall be maintained on all products, as required by State regulations, at all times.
- N. Only commercially prepackaged, shelf-stable edible cannabis products may be sold.

- O. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is prohibited.

5.09.100 OPERATING REQUIREMENTS FOR NONSTOREFRONT RETAILERS (DELIVERY).

- A. All Cannabis Businesses that have their business location outside of the City but make deliveries into the City shall be required to obtain a CBL.
 - 1. These Cannabis Businesses shall be subject to a separate fee for a CBL.
- B. Operating hours of the nonstorefront retailer Cannabis Business shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.
- C. A nonstorefront retailer may only have on-site that quantity of cannabis and cannabis products reasonably anticipated to meet the weekly demand for which they may need to be readily available for sale.
- D. Prior to commencing operations, a nonstorefront retailer shall provide the following information to the Director.
 - 1. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
 - 2. The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
 - 3. Proof of insurance for any and all vehicles being used to deliver cannabis goods.
 - 4. The licensee shall provide the Director with the information required by this Chapter in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
 - 5. The licensee shall notify the Director of any changes to the information required by this Chapter in writing within thirty (30) calendar days.
- E. The nonstorefront retailer licensee shall provide the City with the names and driver's license numbers of all the business' delivery drivers, and evidence verifying that criminal background checks have been conducted for all the business' drivers. Any driver that has been convicted of driving under the influence or reckless driving within the past five (5) years shall be prohibited from delivering cannabis to any location within the City.
- F. All employees who deliver cannabis shall have valid identification and a copy of the retailer's CBL at all times while making deliveries.
- G. The Cannabis Business shall comply with State law regarding testing, labeling and storage of all cannabis products.
- H. All nonstorefront retailer licensee shall provide proof of insurance in a minimum amount of \$1,000,000 for bodily injury liability and property injury for any and all vehicles being used to transport cannabis goods.
- I. A Cannabis Business shall only deliver cannabis in aggregate amounts as ordered by the customer. A Cannabis Business shall ensure compliance with State delivery limits as regards the amount of cannabis and cannabis products.
- J. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed the limit set by State law.

5.09.110 OPERATING REQUIREMENTS FOR CANNABIS MANUFACTURING BUSINESSES

- A. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the Director for that additional activity.
- B. The Cannabis Business shall comply with all State law regarding testing, labeling and storage of all cannabis products.
- C. The licensee must allow inspections to be done by the Director or Fire Chief at any time during the hours of operation.
- D. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure.
- E. Outdoor manufacturing of cannabis is prohibited.
- F. Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceed the amount which is approved by the County of Santa Barbara Fire Department and authorized by the CBL. Each site or parcel subject to a CBL shall be limited to a total number of tanks as authorized by the County of Santa Barbara Fire Department on the property at any time.
- G. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- H. If an extraction process uses a professional grade closed loop CO2 gas extraction process system, every vessel must be certified by the manufacturer for its safe use. The CO2 must be of at least ninety-nine percent purity.
- I. Closed loop systems for compressed gas extraction systems must be manufactured and bear a permanently affixed and visible serial number.
- J. Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the City for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - 1. The American Society of Mechanical Engineers (ASME);
 - 2. American National Standards Institute (ANSI);
 - 3. Underwriters Laboratories (UL); or
 - 4. The American Society for Testing and Materials (ASTM)
- K. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
- L. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and comply with any required fire, safety, and

building code requirements related to the processing, handling, and storage of the applicable solvent or gas.

- M. Cannabis manufacturing licensees may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- N. Cannabis manufacturing licensees creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- O. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- P. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

5.09.120 OPERATING REQUIREMENTS FOR CANNABIS CULTIVATION BUSINESSES

- A. Only indoor cultivation as a Cannabis Business is allowed.
- B. A Cultivation Cannabis Business shall operate the business so that no evidence of cannabis cultivation, except for signage authorized by City regulations, can be visible from the public right-of-way.
- C. The canopy size shall be limited to 5,000 square feet.
- D. Only one Cultivation Cannabis Business may be located in any building.
- E. Energy Use.
 - 1. Any applicant for indoor cultivation under this Ordinance must provide proof of consultation with Southern California Edison (SCE) prior to application submittal including a copy of a completed and submitted SCE Customer/Project Information Sheet.
 - 2. Applicant must show proof of participation in energy use assessments as follows:
 - a. If available, participation in the Resource Innovation Institute's Calculate Powerscore tool.
 - b. If available, participation in SCE's Savings By Design program.
- F. Generators. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use.
- G. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations Section 93115, as may be amended.
- H. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.
- I. Indoor cultivation activities, including materials and equipment storage, must occur solely in fully enclosed buildings.
- J. The Cannabis Business shall register with the Department of Pesticide Regulation if using any pesticides.
- K. The Building Official may require additional specific standards to meet the California Building Code.

- L. The Cannabis Business shall comply with Section 13149 of Water Code as enforced by the State Water Resources Control Board.
- M. The Cannabis Business shall comply with all State law regarding testing, labeling and storage of all cannabis products.

5.09.130 OPERATING REQUIREMENTS FOR CANNABIS TESTING LABORATORIES

- A. Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to State law. Each Testing Lab shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- B. Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- C. All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control ("Bureau").
- D. Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the Bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the bureau.
- E. Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by State law and that the testing laboratory employee transports the sample to the testing laboratory.
- F. Except as provided by State law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with State law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- G. A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.
- H. Testing laboratories shall otherwise comply with all applicable State regulations.

- I. A licensed cannabis testing licensee, its owners, employees and agents may not hold an interest in any other Cannabis Business except another testing business.
- J. The licensee must allow inspections to be done by the Director or Fire Chief at any time during hours of operation.

5.09.140 OPERATING REQUIREMENTS FOR CANNABIS DISTRIBUTORS

- A. A distributor shall not store non-cannabis goods or non-cannabis accessories that are to be sold to another party on any licensed premises. Additionally, a distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premise. For the purposes of this Chapter, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Title 16 of the California Code of Regulations, Section 5000(c).
- B. After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing.
- C. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- D. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of State law, specifically the testing provisions within the California Code of Regulations.
- E. A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and local authorities for a minimum of 90 days, pursuant to Section 5305 of the California Code of Regulations.
- F. A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Sections 5705, 5710 and 5714 of the California Code of Regulations.
- G. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars (\$5,000) to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements or cannabis or cannabis products rejected by testing.
- H. The licensee must allow inspections to be done by the Director or Fire Chief at any time during the hours of operation.
- I. A licensee shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- J. A licensee shall ensure a label with the following information is physically attached to each container of each batch:

1. The manufacturer or cultivator's name and license number;
 2. The date of entry into the distributor's storage area;
 3. The unique identifiers and batch number associated with the batch;
 4. A description of the cannabis goods with enough detail to easily identify the batch; and
 5. The weight of or quantity of units in the batch.
- K. A distributor shall store cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. A distributor may not store cannabis goods outdoors.
- L. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from storage areas.
- M. All cannabis distribution activities shall occur within a fully enclosed and secured structure and shall conform to the requirements of applicable area, community, specific and design plans.
- N. All loading and unloading activities shall take place within a secured area.

5.09.150 OPERATING REQUIREMENTS FOR MICROBUSINESSES

All Cannabis Business uses that comprise the microbusiness must adhere to the applicable requirements of this Chapter.

5.09.160 LIMITATIONS ON THE CITY'S LIABILITY

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any CBL pursuant to this Chapter or the operation of any property on which a Cannabis Business is located pursuant to this Chapter. Before obtaining a CBL, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying the City from any claims, damages, injuries or liabilities of any kind associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or permittee or its members for violation of federal or State laws;
- B. Agree to defend, at its sole expense and with legal representation selected by the City, any action against the City, its agents, officers, and employees related to the approval of CBL; and
- C. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a CBL. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

5.09.170 ENFORCEMENT

- A. A violation of the regulations in this Chapter by an act, omission, or failure of an agent, owner, officer or other person acting with or employed by a licensee within the scope of their employment or office, shall be deemed the act, omission, or failure of the licensee.
- B. A licensee shall notify the City upon discovery of any of the following situations:

1. A discrepancy of more than \$1,000 in inventory over a period of 24 hours or \$3,000 over period of 7 days.
 2. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to the operation of the licensed Cannabis Business.
 3. The loss or alteration of records related to cannabis goods, registered medicinal cannabis patients, caregivers or retailer employees or agents.
 4. Any other reason to suspect any other breach of security.
- C. Each and every violation of this Chapter shall constitute a misdemeanor.
- D. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Goleta Municipal Code Chapter 1.02. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, revocation of the business's CBL, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the Cannabis Business and/or any owner, agent, officer, or any other person acting with or employed by the Cannabis Business.
- E. City staff, code compliance officers, Police Chief, Fire Chief, and any other agents or employees of the City requesting admission for the purpose of determining compliance with this Chapter shall be given unrestricted access to the property on which the Cannabis Business is or is to be located. A person engaging in Cannabis Business without a permit and associated unique identifiers required by this Chapter shall be subject to civil penalties of up to twice the amount of the CBL fee for each violation, and the Director, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this Chapter.

SECTION 5: EFFECTIVE DATE.

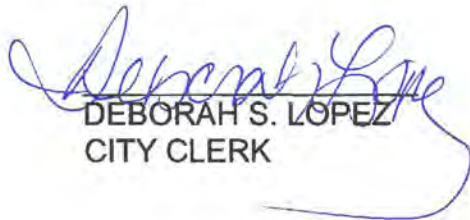
This ordinance shall take effect on the 31st day following adoption by the City Council.

INTRODUCED ON the 16th day of April 2019.


PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.


PAULA PEROTTE
MAYOR

ATTEST:


DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:


MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA) SS.
CITY OF GOLETA

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 19-07 was introduced on April 16, 2019, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the 7th day of May, 2019 by the following vote of the City Council:

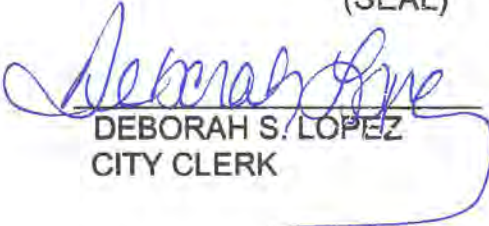
AYES: MAYOR PEROTTE, MAYOR PRO TEMPORE RICHARDS,
COUNCILMEMBERS ACEVES, KASDIN AND KYRIACO

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

(SEAL)



DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 3

Ordinance No. 23-___, entitled “An Ordinance of the City Council of the City of Goleta, California, Amending Chapter 3.08 of Title 3 of the City of Goleta Municipal Code Entitled Cannabis Business Tax and Amending Chapter 5.09 of the City of Goleta Municipal Code, Entitled Commercial Cannabis Businesses.”

ORDINANCE NO. 23-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA AMENDING SECTION 3.08.030 OF CHAPTER 3.08 OF TITLE 3 OF THE CITY OF GOLETA MUNICIPAL CODE ENTITLED CANNABIS BUSINESS TAX AND AMENDING CHAPTER 5.09 OF TITLE 5 OF THE CITY OF GOLETA MUNICIPAL CODE, ENTITLED COMMERCIAL CANNABIS BUSINESSES

WHEREAS, the voters passed Measure Z2018, which imposed a local gross receipts tax on the sale of cannabis and cannabis products by cannabis businesses operating within the City of Goleta.

WHEREAS, Measure Z2018 imposed a business tax on every cannabis business operating within the City, both wholesale and retail, of up to ten percent (10%) of all revenue.

WHEREAS, the tax rates set by Measure Z2018 can be increased or decreased by the City Council, provided they do not exceed the voter-approved maximum rate of ten percent (10%) of gross receipts.

WHEREAS, Chapter 5.09 of Title 5 of the Goleta Municipal Code regulates and requires licensure of cannabis businesses within the City.

WHEREAS, The City desires to amend Chapter 5.09 to add more requirements to the licensure of cannabis businesses within the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Recitals. The City Council hereby finds that the foregoing recitals are true and correct and incorporated herein as substantive findings of this Ordinance.

SECTION 2: CEQA. The City Council finds that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that the proposed Municipal Code amendments will not result in a significant effect on the environment. City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 3. Amendment. Section 3.08.030(A)(2) (Imposition of Tax) of Chapter 3.08 (Cannabis Business Tax) of Title 3 (Revenue and Finance) of the Goleta Municipal Code is hereby amended as follows:;

- “2. Medical cannabis retail – ~~zero~~ five percent of gross receipts;”

SECTION 4. Amendment. Section 5.09.020 (Definitions) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to add and replace the following definitions:

“Director” shall be the Finance Director or designee.”

“Financial Interest” means an investment into a commercial cannabis business, a loan provided to a commercial cannabis business, or any other equity interest in a commercial cannabis business.

“Financial interest holder” means any individual(s) or business entity(ies) that have a financial interest in a commercial cannabis business but are not owners as defined in this section.

“Owner” of a commercial cannabis business means any of the following:

1. A person with an aggregate ownership interest of 20 percent or more in the commercial cannabis business, unless the interest is solely a security, lien, or encumbrance. For purposes of this section, “aggregate” means the total ownership interest held by a single person through any combination of individually held ownership interests in a commercial cannabis business and ownership interests in an entity that has an ownership interest in the same commercial cannabis business. For example, a person who owns 10 percent of the stock in a commercial cannabis business as an individual shareholder and 100 percent of the stock in an entity that owns 10 percent of the stock in the same commercial cannabis business has a 20 percent aggregate ownership interest in the commercial cannabis business.
2. An individual who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to:
 - a. A member of the board of directors of a nonprofit.
 - b. A general partner of a commercial cannabis business that is organized as a partnership.
 - c. A non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company.
 - d. The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.
 - e. The chief executive officer, president or their equivalent, or an officer, director, vice president, general manager or their equivalent.
3. If the commercial cannabis business is owned in whole or in part by an entity and the entity includes individuals who manage, direct, or control the

operations of the commercial cannabis business, as described in subsection (2)(e), those individuals shall also be disclosed as owners.

- (c) If available evidence indicates that an individual qualifies as an owner, the Department may notify the applicant or licensee that they must either disclose the individual as an owner and submit the information required by section 5.09.040 or demonstrate that the individual does not qualify as an owner.

"Person" means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premise" means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

SECTION 5. Amendment. Section 5.09.030 (General Provisions for Commercial Cannabis Activities in the City) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.030 GENERAL PROVISIONS FOR COMMERCIAL CANNABIS ACTIVITIES IN THE CITY

- A. Prohibitions. It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises within the City a Cannabis Business without a CBL from the City.
- B. Cannabis Business License Required.
1. Each Cannabis Business shall have a CBL specific to the business activity defined by State law regardless of whether the business activity is for medicinal or adult-use purposes. The following is a list of current license types under State law and the commercial cannabis activities currently authorized by the City of Goleta:

| State License Types* *Pursuant to Business and Professions Code § 26050, as may be amended. | Goleta Cannabis Business License Required |
|---|--|
| Cultivation Licenses - Type 1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 5, 5A, 5B & Processor | Cultivation (Indoor, processor) |
| Cultivation Licenses- Type 4 | Cultivation (Nursery) |
| Manufacturing – Type 6 & 7, N (edibles/topical) & P (packaging) | Manufacturer |
| Testing – Type 8 | Testing |
| Retailer – Type 9 (Non-storefront delivery) | Non-storefront Retail Delivery Only |
| Retailer – Type 10 (Storefront) | Retail (Storefront) |
| Distributor – Type 11 | Distributor |
| Microbusiness – Type 12 | Microbusiness |
| Events | City does not allow cannabis events per section 17.41.090 of this code |

2. A CBL shall be valid for a period of one year from January 1 through December 31 of each year, unless sooner revoked. No permit granted herein shall confer any vested right to any person for more than the above-referenced period.
3. The CBL shall be issued only to the specific person listed on the CBL application.

SECTION 6. Amendment. Section 5.09.040 (Cannabis Business License Application Procedures and Requirements) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.040 CANNABIS BUSINESS LICENSE APPLICATION PROCEDURES AND REQUIREMENTS

A. Application Requirements.

1. An applicant may submit one or multiple applications for the various cannabis permit types. Applicants may apply for no more than one permit per category of Cannabis Business.
2. A separate application must be filed for each location or premise for which an applicant proposes to operate a Cannabis Business.
3. An applicant shall pay all the fees required by this Chapter.
4. A CBL applicant shall submit the following information, which will be more particularly defined in an administrative regulation by the City Manager:
 - a. Completed CBL Application form and applicable fees;
 - b. Copy of DMV-issued driver's license or identification card or passport for each owner, officer, employee, or agent;
 - c. Proof of insurance as required by this Chapter;
 - d. An executed release of liability and hold harmless in the form set forth in the City's application form;
 - e. Authorization for the City to verify the information and representations contained in the application;
 - f. In the event the applicant is not the owner of record of the real property upon which the cannabis business is or will be located, a notarized statement and consent from the owner of the property acknowledging that a Cannabis Business is or will be located on the property and copy of the lease or rental agreement pertaining to the property on which the Cannabis Business is or will be located;
 - g. Business entity documents, including but not limited to articles of incorporation, articles of organization, certificate of limited partnership, or statement of partnership authority.
 - h. Copies of Department of Justice "Live Scan" receipts for all applicants, owners, persons having at least a twenty percent financial interest, managers and supervisors of a cannabis operation.

- i. A complete list of every financial interest holder of the commercial cannabis business as defined by State Law. The list of the financial interest holders shall include:
 - i. A list of all financial interest holders that are individuals, the first and last name of the individual, a contact phone number and email address, and the type and number of the individual's government-issued identification, such as a driver's license.
 - ii. A list of all financial interest holders that are entities, the legal business name, the name and phone number and email address of the entity's primary contact, and federal taxpayer identification number of the entity.
 - j. The following plans, the contents of which will be promulgated by administrative regulation by the City Manager:
 - i. Site Plan;
 - ii. Business Plan;
 - iii. Green Business Plan;
 - iv. Odor Abatement Plan;
 - v. Safety plan; and
 - vi. Security plan.
- B. Application Evaluation.
 - 1. The City Manager will promulgate an administrative regulation on the CBL application evaluation process.
 - 2. Applications will be accepted, reviewed, and determined for a CBL by the Director.
 - 3. Applications will be evaluated by the Director and scored for having provided all the information required by the application and that the plans meet minimum requirements.
 - 4. If the Director determines that application requirements are not met, the Director shall provide a letter to the applicant outlining all the deficiencies in the application and require deficiencies to be met within 30 days, unless good cause is shown for a greater time period. If the applicant does not respond within the stated time period in the Director's letter, the application shall be returned to the applicant for incompleteness.
 - 5. An application may be returned for failure to meet the requirement of this chapter, including but not limited to any of the following reasons:
 - a. A decision by the director to return an application based on this section is not appealable.
 - b. Application does not include information necessary to meet application requirements.
 - c. Information requested in Director's letter of deficiencies was received after state timed for the provision of information.
 - d. Information submitted in response to Director's letter of deficiencies is not fully responsive to Director's request for more information.
 - 6. Pre-License Site Inspection.
 - a. The Director shall inspect the site of the proposed Cannabis Business for compliance with local and State law requirements and conformance with information provided in the application.
- C. Public Notice for Storefront Retail Applications.

1. The Director shall provide notice by First Class mail for all Storefront Retail CBLs at least 10 calendar days before a decision on the CBL applications is made to property owners and, if feasible, tenants, located within 500 feet of the parcel on which the Cannabis Business is or is proposed to be located.
- D. Pre-License Site Inspection and Issuance of Permit.
- a. Preliminary Approval. A Preliminary Approval of the CBL will be issued by the Director after the applicant has meet all of the requirements of this chapter, which would allow for an applicant to apply for a State license.
 - b. Final Approval. A Final Approval of a CBL will be issued only after an applicant presents a copy of their State license for the Cannabis Business subject to the CBL application and all site inspections have occurred by the Director or any other necessary City Departments and other local agencies, including obtaining any other necessary permits from other agencies.
 - c. No Cannabis Business can be operated until the City has issued a Final Approval of the CBL.
- E. The City's Reservation of Rights.
1. The City reserves the right to reject any or all applications. Prior to issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under State law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be canceled at any time prior to permit issuance.

SECTION 7. Amendment. Section 5.09.045 (Changes to Licensed Commercial Cannabis Business) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby added to read in its entirety as follows:

5.09.045 CHANGES TO LICENSED COMMERCIAL CANNABIS BUSINESS

- A. Change in Ownership.
1. A CBL is not transferrable or assignable to another person or owner and automatically terminates upon transfer or change of ownership unless the transfer or change of ownership complies with this Section. In the event of the sale or other transfer of the business or operations covered by the licensee, changes in ownership shall be made in accordance with the following.
 - a. If one or more of the owners change, the new owners shall submit the information required under sections 5.09.040 and 5.09.080 for each new owner, and or other necessary information to the Finance Department. The ownership change shall not be effective until approved by the City.
 - b. The business may continue to operate under the active license while the Department reviews the qualifications of the new owner(s) in

accordance with these regulations to determine whether the change would constitute grounds for denial of the license, if at least one existing owner is not transferring their ownership interest and will remain as an owner under the new ownership structure.

- c. If all owners will be transferring their ownership interest, the business shall not operate under the new ownership structure until a new license application has been submitted to and approved by the Department, and all application and license fees for the new application have been paid. The former owner's inventory shall be transferred to the new owner's track and trace account upon issuance of the license. The ownership change shall not be effective until approved by the City.
2. A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s).
 - a. In cases where one or more owners leave the business by transferring their ownership interest to the other existing owner(s), the owner or owners that are transferring their interest shall provide a signed statement to the City confirming that they have transferred their interest within 14 calendar days of the change.
3. For any changes in ownership, resulting from death, incapacity, receivership, assignment of creditors, or other event rendering an owner incapable of performing the duties associated with the license, the owner or owners' successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the City in writing, within 14 calendar days, by submitting a form provided by the City.
 - a. To continue operations or surrender the existing license, the successor in interest shall submit to the City the following:
 - i. The name of the successor in interest;
 - ii. The name of the owner(s) for which the successor in interest is succeeding and the license number;
 - iii. The phone number, mailing address, and email address of the successor in interest; and
 - iv. Documentation demonstrating that the owner(s) is incapable of performing the duties associated with the license such as a death certificate or a court order, and documentation demonstrating that the person making the request is the owner or owners' successor in interest such as a court order appointing guardianship, receivership, or a will or trust agreement.
 - b. The City may give the successor in interest written approval to continue operations on the licensed business premises for a period of time specified by the City:
 - i. If the successor in interest or another person has applied for a license from the Department for the licensed premises and that application is under review;
 - ii. If the successor in interest needs additional time to destroy or sell cannabis or cannabis products; or

- iii. At the discretion of the City.
- iv. The successor in interest is held subject to all terms and conditions under which a CBL is held pursuant to the Goleta Municipal Code.
- v. The approval creates no vested right to the issuance of a CBL.

B. Financial Interest in a Commercial Cannabis Business.

1. When there is a change in financial interest holder(s) in the commercial cannabis business who do not meet the requirements for a new license application under this section, the licensee shall submit the information required by section 5.09.2020 to the Department within 14 calendar days of the change.
 - a. A complete list of every financial interest holder of the commercial cannabis business, including who is not an owner. The list of financial interest holders shall include:
 - i. For financial interest holders that are individuals, the first and last name of the individual, a contact phone number and email address, and the type and number of the individual's government-issued identification, such as a driver's license.
 - ii. For financial interest holders that are entities, the legal business name, the name and phone number and email address of the entity's primary contact, and the federal taxpayer identification number of the entity.
2. When any of the following changes occur, the licensee shall notify the City within 14 calendar days of the change on a form provided by the City:
 - a. Any change to contact information from the information provided to the Department in the original application.
 - b. Any change in name if the licensee is an individual, or any change in legal business name if the licensee is a business entity.
 - c. Any change in business trade names, fictitious business names, or doing business as ("DBA").

C. Change in Premises.

1. No physical modification of the permitted premises is allowed without written amendment to the CBL by the Director and payment of any additional fees required by the City. To obtain approval of a change in premises, the licensee shall submit a request for change in premises on a form provided by the City, including the following information:
 - a. A physical modification of the permitted premises includes but is not limited to a substantial increase or decrease in total area of the licensed premises, any other physical modification resulting in substantial change in the mode or character of business operations.

- b. To obtain City approval of a change in premises the licensee shall submit a new site plan and premises diagram, security/video surveillance plan, a written zoning conformity determination letter from the Planning and Environmental Review Department, and other additional information that may be requested by the Director to evaluate the licensee's request to modify the licensed premises.
- 2. Prior to final approval of the change in premises, a pre-license inspection of the premises will be required and payment of fee.

SECTION 8. Amendment. Section 5.09.070 (Maintenance of Records and Reporting) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.070 MAINTENANCE OF RECORDS AND REPORTING

- A. All records for the Cannabis Business of the following activities shall be maintained and made available to the City, upon request, for at least 5 years. Records shall be produced within 24 hours of a request by an authorized City representative. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.
- B. The Cannabis Business shall obtain and maintain a valid Seller's Permit from the California Department of Tax and Fee Administration or its successor agency.
- C. The Cannabis Businesses shall maintain financial records that include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California Department of Tax and Fee Administration (formerly State Board of Equalization) under Title 18 California Code of Regulations Section 1698 and 4901.
- D. The printed full name, date of birth, and present address and telephone number of the licensed individual, as well as for all persons with any financial interest in the commercial Cannabis Business.
- E. Personnel records, including each employee's full name, address, phone number, date of beginning employment, and date of termination of employment if applicable.
- F. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.
- G. Contracts with other licensees regarding cannabis activity.
- H. Permits, licenses, and other local authorizations to conduct the licensee's cannabis activity.
- I. Proof of building ownership or written permission from the landlord permitting the Cannabis Business type to be operated on the leased premises.
- J. Proof of insurance.
- K. Security records.
- L. Completed employee criminal background checks – must be retained by the applicant and are subject to inspection by the City.

SECTION 9. Amendment. Section 5.09.080 (Operating Requirements for All Commercial Cannabis Businesses) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.080 OPERATING REQUIREMENTS FOR ALL COMMERCIAL CANNABIS BUSINESSES

- A. Cannabis Businesses may operate only during the hours specified in this Chapter.
- B. Restriction on Consumption.
 - 1. Cannabis shall not be consumed by any employee or any other person on the premises of any Cannabis Business.
- C. No free samples of any cannabis or cannabis product may be distributed at any time at the premises of the Cannabis Business.
- D. Odor Control.
 - 1. Cannabis odors shall not be detectable off-site.
 - 2. Cannabis Businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Cannabis Business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Cannabis Business. As such, Cannabis Businesses must install and maintain the following equipment, or any other equipment which the Director determine is a more effective method or technology:
 - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - b. An air system that creates negative air pressure between the Cannabis Business's interior and exterior, so that the odors generated inside the Cannabis Business are not detectable on the outside of the Cannabis Business.
- E. Security.
 - 1. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second. Video recordings shall be maintained by the business and kept available to local police for a minimum period of 90 days.
 - 2. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Director on request.
 - 3. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered

in a secure location for a period of not less than ninety (90) calendar days and be available for inspection at any time. The Director or Police Chief may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the Director or Police Chief may seek a warrant or court order for the recordings.

F. Display of CBL and Badge.

1. A copy of the CBL shall be displayed at all times in a place visible to the public.
2. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license number, the employee's first and last name, and a color photo of the employee that shows the full front of the employee's face.

G. Reporting and Tracking of Product and of Gross Sales.

1. Each Cannabis Business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the Cannabis Business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The Cannabis Business shall ensure that such information is compatible with the City's record-keeping systems and with the state's METRC track-and-trace software. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Director prior to being used by the permittee. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.

H. An updated floor plan consistent with State regulations must be submitted to the Director.

I. The Cannabis Business shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.

J. The Cannabis Business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis as well as any unsold cannabis or cannabis products.

K. The Cannabis Business shall conform to all State regulations regarding the use of appropriate weighing devices.

L. The Cannabis Business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 27) and Title 13 of the Goleta Municipal Code.

M. The Cannabis Business' electrical and plumbing shall comply with State and local regulations, including the Building Code.

N. Insurance.

The Cannabis Business shall maintain comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount no less than \$1,000,000 per each occurrence and \$2,000,000 per general aggregate and name the City as an additional insured. Such insurance shall be primary and not contributing to any other insurance maintained by the City.

- O. The Cannabis Business shall have separate and independent centrally-monitored fire and burglar alarm systems, which shall include all perimeter entry points and perimeter windows.
- P. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs and maintains the alarm system.
- Q. All licensees hiring employees shall document compliance with the following employee safety practices:
 - 1. Emergency action response planning as necessary
 - 2. Employee accident reporting and investigation policies
 - 3. Fire prevention
 - 4. Hazard communication policies, including maintenance of material safety data sheets.
 - 5. Materials storage and handling policies
 - 6. Personal protective equipment policies
 - 7. Operation manager contacts
 - 8. Emergency responder contacts
 - 9. Poison control contacts
 - 10. Department of Justice "Live Scan" for all applicants, owners, persons having at least twenty percent financial interest, managers, and supervisors
 - 11. Criminal background check policy and procedures for all employees. The criminal background check will be equivalent to, and may include the use of, live scan, or other as approved by the City.
- R. All persons with ownership interest, and all employees, agents, officers and other persons acting on behalf of a licensee must be at least 21 years of age.
- S. Emergency Contact.
 - 1. An emergency contact that is either an on-site employee, manager, or owner with 24/7 availability shall be made available to the City Manager, Fire Chief, and Police Chief, and shall be updated with the City and other agencies when such contact changes. Both a landline and a mobile or cell number shall be designated.
- T. A CBL shall not be issued to a person with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substances, with the exception of cannabis.
- U. A CBL shall not be issued to any applicant where any owner (or meets definition of owner) is found to have any felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction

involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substance, with the exception of cannabis.

V. Minors.

1. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Cannabis Business and shall not be allowed to serve as a driver for a nonstorefront (Delivery) service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a Cannabis Business who is not at least twenty-one (21) years of age.
2. Notwithstanding V(1), persons aged 18-20 who are in possession of a doctor's recommendation shall be allowed on the premises of a Cannabis Business, solely for the purpose of addressing the medical need cited in the physician's recommendation.
3. The entrance to the Cannabis Business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the Cannabis Business.

W. Zoning.

1. All Cannabis Businesses must comply with the applicable zoning regulations.

X. Monitoring and Compliance.

3. The Director shall monitor a licensee for conformance to the operational standards of this chapter for all CBL types, including but not limited to conducting site inspections after a CLB has been issued. If any violation of this Chapter, including conformance to plans submitted to the City during application process, the Director may suspend or revoke a license.

SECTION 10. Amendment. Section 5.09.090 (Operating Requirements for Storefront Cannabis Retailers) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.090 OPERATING REQUIREMENTS FOR STOREFRONT CANNABIS RETAILERS

- A. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.
- B. All cannabis products available for sale shall be securely locked and stored.
- C. At all times the cannabis retailer is open, the retailer shall provide at least one security guard who is registered with the Bureau of Security and Investigative Services and possesses a valid and current security guard registration card on their person while on-duty.
- D. The licensee shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the retailer or on the property or in the parking lot.
- E. The licensee shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.
- F. The licensee shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medicinal cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.
- G. Licensees shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.

- H. Business hours of operation shall occur only from 6:00 a.m. to 10:00 p.m, 7 days a week.
- I. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis retailer: "Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited."
- J. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of alcohol or tobacco by patrons.
- K. Inventory that is not required for a single day's sales shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during nonbusiness hours. Additional product needed for daily sales may be stored in a secured, locked area to which customers, vendors and visitors shall not have access.
- L. No cannabis product shall be visible from the exterior of the business.
- M. All required labelling shall be maintained on all products, as required by State regulations, at all times.
- N. Only commercially prepackaged, shelf-stable edible cannabis products may be sold.
- O. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is prohibited.

SECTION 11. Amendment. Section 5.09.100 (Operating Requirements for Non-Storefront Retailers (Delivery)) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.100 OPERATING REQUIREMENTS FOR NON-STOREFRONT RETAILERS (DELIVERY).

- A. All Cannabis Businesses that have their business location outside of the City but make deliveries into the City shall be required to obtain a CBL.
 - 1. These Cannabis Businesses shall be subject to a separate fee for a CBL.
 - 2. Outside city limit operators are to provide a copy of their jurisdiction's cannabis permit, copy of state cannabis license and seller's permit, list of vehicles, list of drivers, proof of insurance, and additional materials that may be requested.
- B. Operating hours of the non-storefront retailer Cannabis Business shall be limited to the hours of 6:00 a.m. through 10:00 p.m., seven days a week.
- C. A non-storefront retailer may only have on-site that quantity of cannabis and cannabis products up to a maximum limit set by State law, if applicable.
- D. Prior to commencing operations, a non-storefront retailer shall provide the following information to the Director.
 - 1. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
 - 2. The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
 - 3. Proof of insurance for any and all vehicles being used to deliver cannabis goods.

4. The licensee shall provide the Director with the information required by this Chapter in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
 5. The licensee shall notify the Director of any changes to the information required by this Chapter in writing within thirty (30) calendar days.
- E. The non-storefront retailer licensee shall provide the City with the names and driver's license numbers of all the business' delivery drivers, and evidence verifying that third-party criminal background checks have been conducted for all the business' drivers. The criminal background check will be equivalent to, and may include the use of, live scan or other as approved by the City. Any driver that has been convicted of driving under the influence or reckless driving within the past five (5) years shall be prohibited from delivering cannabis to any location within the City.
 - F. All employees who deliver cannabis shall have valid identification and a copy of the retailer's CBL at all times while making deliveries.
 - G. The Cannabis Business shall comply with State law regarding testing, labeling and storage of all cannabis products.
 - H. All non-storefront retailer licensee shall provide proof of insurance in a minimum amount of \$1,000,000 for bodily injury liability and property injury for any and all vehicles being used to transport cannabis goods.
 - I. A Cannabis Business shall only deliver cannabis in aggregate amounts as ordered by the customer. A Cannabis Business shall ensure compliance with State delivery limits as regards the amount of cannabis and cannabis products.
 - J. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed the limit set by State law.

SECTION 12. Amendment. Section 5.09.110 (Operating Requirements for Cannabis Manufacturing Businesses) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.110 OPERATING REQUIREMENTS FOR CANNABIS MANUFACTURING BUSINESSES

- A. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the Director for that additional activity.
- B. The Cannabis Business shall comply with all State law regarding testing, labeling and storage of all cannabis products.
- C. Hours of operation shall be from 6:00 a.m. to 10:00 p.m., 7 days a week.
- D. The licensee must allow inspections to be done by the Director or Fire Chief at any time during the hours of operation.
- E. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure.
- F. Outdoor manufacturing of cannabis is prohibited.
- G. Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceed the amount which is

approved by the County of Santa Barbara Fire Department and authorized by the CBL. Each site or parcel subject to a CBL shall be limited to a total number of tanks as authorized by the County of Santa Barbara Fire Department on the property at any time.

- H. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- I. If an extraction process uses a professional grade closed loop CO2 gas extraction process system, every vessel must be certified by the manufacturer for its safe use. The CO2 must be of at least ninety-nine percent purity.
- J. Closed loop systems for compressed gas extraction systems must be manufactured and bear a permanently affixed and visible serial number.
- K. Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the City for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - 1. The American Society of Mechanical Engineers (ASME);
 - 2. American National Standards Institute (ANSI);
 - 3. Underwriters Laboratories (UL); or
 - 4. The American Society for Testing and Materials (ASTM)
- L. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
- M. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and comply with any required fire, safety, and building code requirements related to the processing, handling, and storage of the applicable solvent or gas.
- N. Cannabis manufacturing licensees may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- O. Cannabis manufacturing licensees creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- P. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- Q. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

SECTION 13 Amendment. Section 5.09.120 (Operating Requirements for Cannabis Cultivation Businesses) of Chapter 5.09 (Commercial Cannabis Business) of Title 5 (Business Licenses and Regulations) of the Goleta Municipal Code is hereby amended to read in its entirety as follows:

5.09.120 OPERATING REQUIREMENTS FOR CANNABIS CULTIVATION BUSINESSES

- A. Only indoor cultivation as a Cannabis Business is allowed.
- B. A Cultivation Cannabis Business shall operate the business so that no evidence of cannabis cultivation, except for signage authorized by City regulations, can be visible from the public right-of-way.
- C. The canopy size shall be limited to 5,000 square feet.
- D. Only one Cultivation Cannabis Business may be located in any building.
- E. Energy Use.
 - 1. Any applicant for indoor cultivation under this Ordinance must provide proof of consultation with Southern California Edison (SCE) prior to application submittal including a copy of a completed and submitted SCE Customer/Project Information Sheet.
 - 2. Applicant must show proof of participation in energy use assessments as follows:
 - a. If available, participation in the Resource Innovation Institute's Calculate Powerscore tool.
 - b. If available, participation in SCE's Savings By Design program.
- F. Generators. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use.
- G. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations Section 93115, as may be amended.
- H. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.
- I. Indoor cultivation activities, including materials and equipment storage, must occur solely in fully enclosed buildings.
- J. The Cannabis Business shall register with the Department of Pesticide Regulation if using any pesticides.
- K. The Building Official may require additional specific standards to meet the California Building Code.
- L. The Cannabis Business shall comply with Section 13149 of Water Code as enforced by the State Water Resources Control Board.
- M. The Cannabis Business shall comply with all State law regarding testing, labeling and storage of all cannabis products.

SECTION 14. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 15. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance, and, to that end, the provisions hereof are severable. The City Council of the City of Goleta declares

that it would have adopted all the provisions of this Ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 16. Adoption, Certification, and Publication. The City Clerk of the City of Goleta shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this ____day of November 2023.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MEGAN GARIBALDI
CITY ATTORNEY

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA) SS.
CITY OF GOLETA

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 23-__ was introduced on November __, 2023, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the __ day of _____, 2023 by the following roll-call:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 4

Fiscal Analysis of the Commercial Cannabis Industry



**Delivering Revenue, Insight
and Efficiency to Local Government**

Fiscal Analysis of the Commercial Cannabis Industry

**Prepared for
the
City of Goleta**

October 6, 2021

Table of Contents

| | | |
|-------|---|---------|
| I. | Summary and Recommendations | Page 3 |
| II. | Introduction | Page 6 |
| III. | The Cannabis Industry in the Santa Barbara Region | Page 7 |
| IV. | Common Cannabis Tax Rates | Page 9 |
| V. | Cannabis Retailers | Page 11 |
| VI. | Cannabis Manufacturers | Page 15 |
| VII. | Cannabis Distributors | Page 17 |
| VIII. | Cannabis Cultivation | Page 19 |
| IX. | Testing Laboratories | Page 22 |
| X. | Appendix | Page 23 |
| | a. Legal and Regulatory Background for California | Page 24 |
| | b. State Tax Considerations | Page 27 |
| | c. General Economic Impacts | Page 29 |
| | d. References | Page 31 |

I. Summary and Recommendations

Based upon our analysis as provided in this report, HdL offers the following recommendations to the City.

Recommendation 1

HdL recommends that the City work within the existing limitations of Measure Z when making any desired changes to its current cannabis tax rates. Measure Z was approved with support of 81.95% of the City's voters, which is the third-highest approval percentage for any local cannabis tax measure in California since 2016¹. We do not note any fundamental flaws in Measure Z that would require "fixing" through a subsequent ballot measure. While many jurisdictions prefer the administrative simplicity of a cultivation tax based on square footage, this is merely a preference. In Section VII we discuss means for converting square footage tax rates to comparable gross receipts rates.

Recommendation 2

HdL recommends that the City consider applying its cannabis taxes evenly to both adult-use and medicinal cannabis businesses and sales. While we understand and appreciate the compassionate reasons for wanting to lower or eliminate taxes on medicinal use cannabis, we note that this is not common either among nearby jurisdictions or statewide. Most cannabis businesses statewide are licensed to deal in both adult-use and medicinal products, meaning that they will be reporting wholesale or retail transactions in both categories. Assuring accurate reporting and remittance of these separate rates can be administratively difficult for both the business and the City.

However, while Measure Z clearly allows the City to adjust rates up to 10% of gross receipts on both adult-use and medicinal cannabis operations, the initial rate of 0.0% for medicinal cannabis was included in the text of Measure Z (though not in the ballot question itself). We recognize that this decision is clearly a matter of discretion for the City Council to decide.

Recommendation 3

HdL recommends that the City retain the existing gross receipts-based tax on cannabis cultivation and continue to set the rate at 4.0%. Though this rate is higher than the square-footage equivalent rates we commonly recommend, it is consistent with the rate set by Santa Barbara County, which has one of the largest and most established cannabis cultivation sectors in the state. Clearly, this rate has been shown to be acceptable to cannabis cultivators in the region. We believe cannabis cultivators in Goleta are likely more influenced by the local industry in the surrounding county than by other cultivators elsewhere in the state. Should the City wish to reduce this rate, HdL would recommend that the rate be set between 1.75% and 2.50%, which would be roughly equivalent to our commonly recommended rates of \$7.00 to \$10.00 per square foot of canopy.

¹ The highest level of voter approval we are aware of was for the City of Blythe's Measure D in June 2018, which passed with 84.07% of the vote. The second highest was the City of Coachella's Measure II in 2016, which passed with 81.97%.

Recommendation 4

HdL recommends that any desired adjustments to the City's current tax rates for cannabis business types other than cultivation stay within the minimum and maximum ranges described in Figure 1, below. While the City's current rates for nurseries and retailers both fall within our recommended ranges, both manufacturing and distribution are below our recommended initial rates. Increasing the rates for both of these business types up to HdL's recommended initial rate could potentially generate additional revenue for the City.

HdL makes no recommendation regarding the rate for cannabis testing laboratories. HdL's recommended rates for testing laboratories are provided for those jurisdictions which wish to impose a tax on such businesses. However, we recognize that these testing laboratories perform a quasi-regulatory function, do not in any way profit off the value of the product and are prohibited from sharing ownership with any other type of cannabis business. Seen through this lens, the City's current rate of 0.0% seems appropriate.

Figure 1:

| Business Type | HdL Std. Initial Rate | HdL Std. Maximum Rate | Current City Rate | Recommendation |
|---|----------------------------------|----------------------------------|--------------------------|-----------------------|
| Cultivation | \$7 per SF <u>or</u> 1.75% GR | \$10 per SF <u>or</u> 2.5% GR | 4.0% GR | No Change |
| Nurseries | \$1 per SF <u>or</u> 1.0% GR | \$2 per SF <u>or</u> 2.0% GR | 1.0% GR | No Change |
| Manufacturing | 2.5% GR | 4.0% GR | 2.0% GR | 2.5% |
| Distribution | 2.0% GR | 3.0% GR | 1.0% GR | 2.0% |
| Retail, Adult Use | 4.0% GR | 6.0% GR | 5.0% GR | No Change |
| Retail, Medicinal | 4.0% GR | 6.0% GR | 0.0% GR | 5.0% |
| Testing | 1.0% GR | 2.5% GR | 0.0% GR | No Recommendation |
| SF = Square Feet GR = Gross Receipts | | | | |

The City provided HdL with data showing that licensed cannabis businesses in Goleta collectively generated \$2,083,160 in cannabis tax revenue in fiscal year 20/21. Applying the recommended rates shown above to the gross receipts reported to the City would have generated an additional \$1,698,112 in cannabis tax revenue for the City, for a total of \$3,781,272. HdL is not able to provide a more detailed breakdown of these revenues by business type as such information may allow the reader to infer the revenues derived from individual businesses².

² Disclosure of confidential business earnings and tax information is prohibited under Revenue and Taxation Code Section 7056.

Recommendation 5

HdL recommends that the City exercise caution and discretion in applying increases to the tax rates for any existing businesses. While HdL's recommended rates are common and lower than most nearby jurisdictions, we caution that our standard recommended rates assume they are being applied as *initial* rates, rather than being retroactively imposed on companies that have already developed and operated their business model based on certain assumptions about the regulatory and tax environment of their host jurisdiction. This is particularly a concern for the City's distributors, as the increase from 1.0% to a still-low 2.0% would effectively double the tax rate on those businesses.

In addition, the City's cannabis businesses vary significantly in size and earnings. Some businesses may also have operations in multiple jurisdictions, either nearby or around the state, and may have options for where to locate various aspects of their operations to provide the greatest benefit and the least liabilities. Increasing tax rates could potentially result in smaller businesses struggling or even failing, while larger businesses may just shift their operations elsewhere, resulting in a net decrease in cannabis tax revenues for the City.

As an alternative, the City may wish to consider a tiered tax rate for high-earning businesses when revenues exceed a certain amount. For example, the City could apply a tax rate of 2.0% for the first \$25 million increment of gross receipts, 1.5% for the next increment (\$25 million to \$50 million), and 1.0% for any gross receipts above \$50 million. Applying these tiered rates to a hypothetical business with earnings of \$75 million would generate a total of \$1,125,000 in revenue for the City, which is equal to an effective tax rate of 1.5%. This is \$375,000 more than would be generated by a flat rate of 1.0%, and \$375,000 less than would be generated by a flat rate of 2.0%. These revenues are shown below in Figure 2.

Figure 2:

| Incremental Tax Rate Model | | | | | |
|----------------------------|------------------------------|----------------|----------------|-------------|----------------|
| Increment | Range | Taxable Amount | Increment Rate | Revenues | Effective Rate |
| 1st Increment | \$0 to \$25 million | \$25,000,000 | 2.00% | \$500,000 | |
| 2nd Increment | \$25 million to \$50 million | \$25,000,000 | 1.50% | \$375,000 | |
| 3rd Increment | \$50 million and above | \$25,000,000 | 1.00% | \$250,000 | |
| | | \$75,000,000 | | \$1,125,000 | 1.50% |
| Flat Rate Model | | | | | |
| | Flat Rate | \$75,000,000 | 1.00% | \$750,000 | |
| | Flat Rate | \$75,000,000 | 2.00% | \$1,500,000 | |

Recommendation 6:

HdL recommends that the City consider extending the allowable hours of operation for cannabis retailers to 10:00 p.m., rather than the current 8:00 p.m. An analysis of sales data from retailers in other jurisdictions indicates that the hours of 8:00 p.m. to 10:00 p.m. on Fridays and Saturdays are some of the busiest hours of the week for cannabis sales. Extending these hours could allow the City's retailers to recapture sales (and related sales tax revenue) that are likely being lost to retailers in the City of Santa Barbara during these hours.

II. Introduction

The City of Goleta has 8 commercial cannabis businesses that are currently operating, including retailers, distributors, cultivation and microbusinesses. 3 more cannabis businesses are expected to open soon, and another 2 are in the application process.

The City has a cannabis business tax (Measure Z) that was approved by the voters in November of 2018. Measure Z allows the City to tax commercial cannabis businesses at a rate up to 10% of their gross receipts. While Measure Z allows the City to impose the tax on both adult-use and medicinal cannabis, the initial rates as proposed by the measure imposed the tax only on adult-use cannabis businesses. The current rates as established by the City Council are the initial rates as set forth in Measure Z and are shown below in Figure 3.

Figure 3:

| Cannabis Business Type | Tax Rate; Adult Use | Tax Rate; Medicinal |
|------------------------|---------------------|---------------------|
| Retailers: | 5.0% | 0.0% |
| Cultivators: | 4.0% | 0.0% |
| Manufacturers: | 2.0% | 0.0% |
| Distributors: | 1.0% | 0.0% |
| Nurseries: | 1.0% | 0.0% |
| Testing: | 0.0% | 0.0% |

Cannabis microbusinesses are taxed at the highest applicable rate for the activities being conducted, unless the business is able to demonstrate how its gross receipts are apportioned among its different operations. Though Measure Z allows the City to tax both adult-use and medicinal cannabis businesses, the City has so far chosen to not apply the tax to medicinal cannabis activities.

The City is now considering revising its cannabis tax rates and structures to ensure that they are competitive with other nearby jurisdictions and with common rates seen across the state. To assist with this, the City has requested that HdL provide this fiscal analysis of the City's cannabis industry, to include specific recommended rates and projections for how the recommended changes may affect business attraction, retention and success and, ultimately, the City's revenues. The City is also interested in understanding how retail cannabis sales may be influenced by tourism and visitor traffic, along with the impact of UCSB.

The City has expressed that it is primarily interested in working within the parameters of Measure Z, but could be willing to consider another ballot measure if necessary for making changes that go beyond the allowances of Measure Z, should there be a compelling reason. This is primarily a consideration for cannabis cultivation, which is most commonly taxed on a square footage basis. Section VII of this analysis discusses conversion factors for determining gross receipts rates that are equivalent or comparable to common square footage rates.

III. The Cannabis Industry in the Santa Barbara Region

The amount of revenue that a city or county may be able to generate from a cannabis business tax depends upon the type, number and size of cannabis businesses that may choose to locate within the City. Cannabis retailers, cultivators, manufacturers, distributors and testing facilities are all interdependent upon a network of other cannabis businesses, so understanding the extent of the industry in the region provides a basis for estimating the number of businesses which may seek to locate in Goleta.

Our analysis of potential cannabis business tax revenue is based on data and assumptions about the total size of the local market. The three cannabis licensing agencies for the State of California (the Bureau of Cannabis Control, the CalCannabis Division of the California Department of Food and Agriculture, and the Manufactured Cannabis Safety Branch of the California Department of Public Health) have all been issuing temporary licenses for commercial cannabis businesses since late December of 2017. In addition, HdL has worked with a number of nearby cities and counties that are developing or implementing their own cannabis regulatory and taxation programs. This data provides a wealth of previously unavailable information about the cannabis industry around the State.

For our analyses, we typically assume that wholesale cannabis businesses such as cultivators, manufacturers and distributors would primarily interact or do business with other cannabis businesses within a one-hour radius. This would extend roughly from Santa Maria and Lompoc in the north and to Oxnard and Port Hueneme in the south. State licensing data as of March 11th, 2021 shows that there are 31 distributors, 18 manufacturers, 1 testing laboratory and 56 retailers within this immediate area, along with 75 cultivators and 4 microbusinesses. These numbers are shown below in Figure 4.

Figure 4:

| Active Licenses in Nearby Communities | | | | | | | |
|--|--------------------------|-------------|--------------|------------|---------------|-----------------------|------------|
| City/County | Cultivation* /Nursery | Distributor | Manufacturer | Retailer** | Microbusiness | Testing Laboratory | Total |
| Lompoc | 12 | 8 | 6 | 14 | 0 | 1 | 41 |
| Goleta | 2 | 3 | 1 | 5 | 3 | 0 | 14 |
| Santa Barbara | 0 | 3 | 2 | 6 | 0 | 0 | 11 |
| Santa Barbara County | 61 | 13 | 0 | 0 | 0 | 0 | 74 |
| Ojai | 0 | 1 | 1 | 3 | 0 | 0 | 5 |
| Port Hueneme | 0 | 0 | 0 | 12 | 1 | 0 | 13 |
| Oxnard*** | 0 | 3 | 8 | 16 | 0 | 0 | 27 |
| Total | 75 | 31 | 18 | 56 | 4 | 1 | 185 |
| *Number of businesses. Some individual cultivation business hold over 100 separate licenses. | | | | | | | |
| **Includes retailing microbusinesses. | | | | | | | |
| ***Permits in process. | | | | | | | |

The 75 cultivation businesses hold a combined total of 1,382 separate licenses. We note that all of the cannabis business permits in the City of Oxnard are still in process. In addition, both the City of Ventura and the County of Ventura are in the process of permitting cannabis businesses, and the cities of Solvang and Guadalupe have been considering the development and implementation of cannabis regulatory programs. Lastly, we note that agency data sometimes shows licenses as being located in cities when they are actually in the surrounding unincorporated area. We have attempted to correct the data here.

This data shows that there is a robust cannabis industry in the Santa Barbara/Ventura County region that extends well beyond Santa Barbara's cultivation sector. With an estimated total population of 1.3 million people, we believe the region could support perhaps 65 to 85 cannabis retailers upon maturity, which suggests there is still room for growth in this regional market.

Statewide, the number of cannabis distributors is typically around one-quarter of the overall number of cannabis businesses. With a total of 183 licensed cannabis businesses in the Santa Barbara/Ventura County region, this would suggest around 46 distributors, which is significantly more than the current 30. This suggests that there is room for substantially more cannabis distributors than currently exist in the region.

The Santa Barbara/Ventura County region already has one of the most robust cannabis industry clusters in the state, but we anticipate that the number of cannabis businesses in the region will continue to increase. The number of jurisdictions in California that allow for legal cannabis sales continues to grow, which increases the size of the market that is available to licensed cannabis producers. Around 70% of California cities and counties still prohibit legal sales of cannabis, which indicates that there is a lot of room for market expansion in coming years. In addition, we have noted numerous signs that large-scale cannabis operators are positioning themselves for anticipated nationwide legalization.

As more and more cities allow legal cannabis businesses, we would expect the decisions as to where these businesses choose to locate will be increasingly driven by the same market-based factors that influence such decisions for other types of businesses, including access to markets and consumers, available and appropriate industrial or commercial space, competitive lease rates, a ready talent pool, and a network of supporting businesses and industries. Differences in regulations and taxes (within reason) will cease to be the overarching consideration and will be weighed in combination with these other factors.

IV. Common Cannabis Tax Rates

Cannabis tax rates have been settling and stabilizing around the State since the beginning of 2018. Many cities instituted cannabis taxes prior to the implementation of statewide regulations, with a wide range of tax structures and rates as high as \$30 per square foot (for cultivation) or 18% of gross receipts. Some of these “early adopter” cities have since reduced their rates to be more competitive with common rates that are now emerging around the State.

The State of California applies two separate taxes to cannabis: a cultivation tax of \$9.65 per ounce of dried flower (\$2.87 per ounce of dried leaf or trim) and an excise tax of 15% on the purchase of cannabis and cannabis products. These two separate State taxes can add up to 26% to consumer cannabis prices, even before any local taxes are contemplated. This leaves very little room for local jurisdictions to work within if they wish to remain under the total cumulative tax rate of 30%. This is an important benchmark to allow the local industry to compete against the illicit market and against other regulated cannabis businesses from around the State (see Attachment C; *State Tax Considerations*).

The City’s maximum cannabis tax rates were set by Measure Z in 2018, which allows rates of up to 10% of gross receipts. The City Council has set the current rates ranging from a high of 5.0% for retailers, to just 1.0% for nurseries. The City currently does not impose a tax on cannabis testing laboratories.

HdL has worked with numerous local agencies around the State to develop cannabis tax measures for the ballot. The initial range of tax rates we recommend for cannabis businesses other than cultivation commonly runs from 2% of gross receipts for distributors, to 2.5% for manufacturers, and up to 4% for retailers. These rates may be adjusted up to a maximum of 3%, 4% and 6%, respectively. HdL’s commonly recommended rates are shown in Figure 5, below, along with the City’s current rates.

Figure 5

| Cannabis Business Type | HdL Initial Rate | HdL Maximum Rate | Current City Rate |
|------------------------|------------------------|------------------------|------------------------|
| Cultivation (indoors) | \$7 per square foot | \$10 per square foot | 4.0% of gross receipts |
| Nurseries | \$1 per square foot | \$2 per square foot | 1.0% of gross receipts |
| Manufacturing | 2.5% of gross receipts | 4% of gross receipts | 2.0% of gross receipts |
| Distribution | 2% of gross receipts | 3% of gross receipts | 1.0% of gross receipts |
| Retail | 4% of gross receipts | 6% of gross receipts | 5.0% of gross receipts |
| Testing | 1% of gross receipts | 2.5% of gross receipts | 0.0% of gross receipts |

The City’s current rates for manufacturing, distribution and testing are all slightly below the range we commonly recommend. We note this only as a point of information and not as a recommended change. Our recommended range includes an initial rate but not a minimum rate. Setting rates below the recommended initial rate is merely the City’s prerogative, choosing a lower tax burden for the business over some amount of potential revenue. Exceeding the maximum recommended rate would be a concern, as it impacts the ability of those businesses to compete in both regionally and in the statewide market.

The City's rates for cultivation are defined as a percentage of gross receipts. While this is not at all uncommon, HdL's recommended rates for cultivation are based on the square footage of canopy area. To compare a tax rate based on gross receipts with one based on square footage requires that we make certain assumptions regarding cultivation methods, yield, price, and the number of harvest cycles per year. Assuming indoor cultivation with 4 cycles per year, yielding 1 pound of flower for every 10 square feet and a wholesale price of \$1,000 per pound, the City's tax rate of 4.0% of gross receipts would be roughly equivalent to a rate of \$16 per square foot, which is substantially higher than the maximum rate of \$10 per square foot that we commonly recommended.

However any or all of these assumptions can vary greatly. A lower wholesale price of just \$600 per pound would reduce the equivalent tax rate to \$9.60 per square foot, and limiting production to just 3 harvest cycles per year would reduce this even further, to just \$7.20 per square foot. These conversions are discussed in more detail in Section 6; Cultivation.

Figure 6:

| Current Tax/Development Fee Rates in Nearby Communities | | | | | | | |
|---|----------|---------------|---------------|---------------|-------------|---------|--------------------|
| City/County | Retailer | Distributor | Manufacturer | Microbusiness | Cultivation | Nursery | Testing Laboratory |
| Lompoc | 6.0% | \$15K - \$30K | \$15K - \$30K | up to 6% | 1.0% | 1.0% | 0.0% |
| Santa Barbara | 5.0% | 4.0% | 3.0% | N/A | 2.0% | 2.0% | 4.0% |
| Santa Barbara County | 6.0% | 1.0% | 3.0% | 6.0% | 4.0% | 1.0% | 0.0% |
| Ojai | 3.0% | 3.0% | 3.0% | N/A | N/A | N/A | 3.0% |
| Port Hueneme | 5.0% | 2.0% | 2.0% | 2.0% to 5.0% | \$7/sf | N/A | N/A |
| Oxnard* | 4.0% | 2.0% | 2.5% | 2.0% to 4.0% | \$7/sf | 1.0% | 1.0% |
| Goleta | 5.0% | 1.0% | 2.0% | up to 5.0% | 4.0% | 1.0% | 0.0% |
| Total | | | | | | | |
| *In addition to the tax rates shown above, the City of Oxnard also requires cannabis businesses to pay a 1.0% community benefits fee and a one-time payment of between \$25,000 and \$75,000. | | | | | | | |

We also compared the City's rates with those found in other nearby jurisdictions, as shown in Figure 6, above. The City's 5.0% rate for cannabis retailers is consistent with the average among these jurisdictions, while the rates for other business types are at or below the low end of the range. As discussed above, the 4.0% rate for cultivation is higher than the equivalent square-footage rate seen in Port Hueneme and Oxnard³. However, it is the same rate as in unincorporated Santa Barbara County, which has the second-highest number of cultivation licenses in California (after only Humboldt County). Clearly, a rate of 4.0% has shown itself to be acceptable to large-scale cultivators in the region.

³ Oxnard also requires an additional 1.0% community benefits fee and a one-time payment of between \$25,000 and \$75,000.

V. Cannabis Retailers

The Santa Barbara coastal plain is currently served by 11 cannabis retailers, with 5 located in Goleta and 6 located in the City of Santa Barbara as shown in Figure 7. These retailers serve an estimated population of 197,000 people including the communities of Isla Vista, Montecito and Carpinteria, which works out to one retailer for roughly every 18,000 people.

Figure 7:

| Active Licenses in Nearby Communities | |
|---------------------------------------|-----------|
| City/County | Retailers |
| Goleta | 5 |
| Santa Barbara | 6 |
| Total | 11 |

HdL generally assumes a standard market concentration of one retailer per every 18,000 to 20,000 people. Data from the Bureau of Cannabis Control shows 1,242 licensed retailers and retailing microbusinesses around the state, which works out to one retailer for roughly every 32,000 people based on the state's overall population. However, these retailers are not evenly distributed around the state. Some 70% of California cities do not allow legal cannabis sales, so these licensed retailers are concentrated in just 30% of cities.

24 of California's 58 counties have licensed cannabis retailers. These counties are home to 22.5 million of California's 39.5 million residents. 141 of California's 482 cities have licensed retailers, with a combined population of 15.5 million, but many of these cities are in counties with licensed retailers, so we can roughly consider those residents as already being "served". Those cities that are in otherwise "unserved" counties have a total population of 5.5 million. Combined, we estimate that 28 million of California's 39.5 million residents live in counties or cities with some access to licensed cannabis, equal to 70% of the state's population. Assuming these 28 million residents are served by the state's 1,242 licensed retailers yields an average of roughly 22,500 people per retailer.

However, this population-based model does not account for tourists and visitors. Comparing confidential sales tax information for cannabis retailers in other coastal counties shows a stark difference in the gross receipts being generated at these locations, with coastal retailers averaging \$4 million per year while retailers in rural inland areas of the same county were generating less than half that amount. When we adjusted the average gross receipts of those cannabis retailers on a per-capita basis, we found that sales among retailers in these coastal areas were more than eight-times higher per-capita than those in nearby inland communities.

Along with its coastal location, the City of Goleta also benefits from its proximity to the University of California at Santa Barbara (UCSB). The University has a total undergraduate enrollment of 26,000 students, of which 39% live in housing owned, operated or affiliated with UCSB, which may be either on or off campus. Of these, some 9,000 students live in on-campus dorms. The remaining 61% of students live off campusⁱ, with a high concentration of students living in Isla Vista (population 27,690.ⁱⁱ This population of largely college-age persons likely increases the market for cannabis in Goleta.

24.7% of Goleta's population falls within the ages of 20 and 34 years oldⁱⁱⁱ, which is just slightly higher than Santa Barbara County as a whole, at 24.3%. Both are higher than California as a whole, for which 22.0% of the population falls into this age range^{iv}. By contrast, 57.4% of Isla Vista's population falls into this age demographic. When we combine the populations of Goleta and Isla Vista, the percentage of the population that falls into the 20 to 34 year-old demographic is 38%; significantly higher than percentage

for either California or Santa Barbara as a whole. This generally tracks with the age demographic most likely to use cannabis (young adults ages 18 through 29^v)⁴.

We note that residents of Isla Vista and students living on-campus at UCSB would have to drive through Goleta to reach the City of Santa Barbara. This greatly increases the likelihood that this population would purchase cannabis from retailers in neighboring Goleta rather than the City of Santa Barbara. In addition, retailers in Goleta would easily reach residents in the unincorporated area between Goleta and Santa Barbara, with an additional population estimated at 25,000.^{vi}

Though the entire Santa Barbara coastal plain has a population of 197,000, we estimate that around 92,000 of these residents would be primarily served by retailers in Goleta. While there is certainly some market overlap with the City of Santa Barbara, we believe that the amount of sales leakage and sales capture between retailers in the two cities is likely to be fairly even, as both cities are well-served.

The age demographics for tourists and visitors also seem to generally align with potential cannabis consumers with the single highest age demographic being adults ages 20 through 34. A study conducted for the Goleta Chamber of Commerce by Destination Analysts found that there are 1.5 million visitors to Goleta annually.^{vii} Of these, 560,000 stayed overnight with an average (mean) length of stay of 1.9 days, for a total of 2.3 million visitor days. This is equivalent to an additional 6,310 year-round residents.

Visitors to Goleta collectively spent over \$200 million,^{viii} with average spending of \$346 per day. The two largest visitor spending categories were restaurants and dining, followed by hotels and lodging. Beyond these and other necessities such as transportation, visitors on average spent over \$120 per day on non-essentials such as entertainment, sightseeing and activities, gifts and souvenirs, wine tasting and spas.

Cannabis retailers could conceivably capture sales from visitors who may not otherwise be cannabis consumers or who are looking for a similar “lifestyle” experience while on vacation. There is still both a novelty to walking into a store to purchase cannabis and a stigma about being seen doing so. The anonymity of purchasing cannabis away from home may make cannabis users more likely to do so.

⁴ It is important to note here that adult-use cannabis is only available to adults ages 21 years and older. The available demographic/age group information provided for cannabis users (ages 18 through 29) and for the local population (ages 20 through 34) come from different sources that do not cleanly align with each other, nor do they cleanly align with the age prohibition for adult-use cannabis. In addition, the data for cannabis users does not distinguish between cannabis sourced from licensed retailers and cannabis sourced from the black market.

Young adults ages 18 through 20 may legally purchase medicinal cannabis with a doctor’s recommendation, but all medicinal sales combined make up less than 10% of overall cannabis sales statewide, so the portion attributable to the 18-20 age group would presumably be only a small subset of this. It is more likely that the majority of cannabis consumers in this age group are sourcing product either from the black market or are purchasing product through friends, acquaintances or other 3rd parties who are of legal age. In the latter case, these sales would be subsumed within the data for otherwise legal adult-use sales and would be reflected in the City’s cannabis tax revenues.

For purposes of this analysis, we anticipate that the high number of students in this age range would likely increase the overall licensed cannabis sales beyond what would otherwise be attributable to adults ages 21 years and over. However, due to the uncertainties above and to the fact that such second-hand sales are illegal, we have made no attempt to specifically quantify the portion of sales that may fall into this age group.

As discussed above, we have assumed that cannabis retailers in Goleta would primarily serve consumers in the City and the immediate surrounding area, including Isla Vista and the unincorporated area between Goleta and Santa Barbara. We have estimated the total population of this service area at 92,000 people.

Retailers in the City of Goleta are only allowed to be open for business until 8:00 p.m., while retailers in the City of Santa Barbara are permitted to stay open until 10:00 p.m., which likely allows them to capture sales during those hours that might otherwise go to retailers in Goleta. An analysis of sales data from retailers in nearby jurisdictions indicates that sales are generally slower after 8:00 pm on weekdays but are significantly higher during these hours on Fridays and Saturdays. This suggests that retailers in Goleta are likely experiencing additional sales leakage to retailers in the City of Santa Barbara during these hours.

Estimates of the percentage of the population that uses cannabis on a regular basis vary from around 10% to 13%^{ix}, up to as high as 22%^x. This percentage is influenced by social acceptance of cannabis within the local community. Applying these estimates to our service area population of 92,000 would yield between roughly 9,200 and 20,240 potential cannabis consumers. However, we anticipate that sales to cannabis consumers in the unincorporated area between Goleta and the City of Santa Barbara would likely be split between retailers in both jurisdictions. For purposes of our projections, we have estimated the overall leakage factor at 20% which brings our consumer base down to between 7,360 and 16,192.

Cannabis retailers typically average around 120 customers per day^{xi}, with an average transaction amount of \$73 and an average frequency of twice a month^{xii}. This would suggest a range of annual gross receipts generated by cannabis retailers in Goleta of between roughly \$13.8 million and \$30 million. However, we anticipate that licensed retailers would still experience some leakage to black market sales, especially to consumers in the 18-to-20 year-old age range. Data derived from Weedmaps shows that there are a number of unlicensed cannabis delivery services serving Goleta and Santa Barbara, as shown below in Figure 8 (Licensed cannabis retailers and delivery services are shown in green, and unlicensed delivery services are shown in red)⁵.

Figure 8:



⁵ Unlicensed cannabis delivery services appear to be shown based on the areas they deliver to, rather than their 'home' location, so a single delivery service may be represented multiple times on this map.

To account for these unlicensed sales we have applied a leakage factor of 30% here, which reduces the anticipated gross receipts range to between roughly \$9.5 million and \$21 million. Lastly, we have subtracted 10% of licensed cannabis sales to account for non-taxable sales of medicinal cannabis products⁶. This brings the total range of taxable sales down to between \$8.7 million and \$19 million.

Applying the City's current tax rate of 5.0% to this range would generate between \$434,000 and \$955,000 in annual cannabis tax revenue for the City. HdL commonly recommends a range of 4% to 6% for cannabis retailers. Reducing the current tax rate to 4% would generate between \$347,000 and \$764,000 for the City, while increasing the rate to 6% would generate between \$521,000 and \$1,146,000 in annual revenue. These calculations are shown below in Figure 9.

Figure 9:

| Revenue Projections for Cannabis Retailers, HdL Recommended Rates | | | |
|---|--------------|-----------------|---------------|
| | Low Estimate | "Best" Estimate | High Estimate |
| Goleta population | 31,000 | 31,000 | 31,000 |
| Population of surrounding area | 61,000 | 61,000 | 61,000 |
| Total service area population | 92,000 | 92,000 | 92,000 |
| Percentage of population that uses cannabis | 10% | 13% | 22% |
| Number of cannabis users | 9,200 | 11,960 | 20,240 |
| Existing retailers in nearby jurisdictions | 6 | 6 | 6 |
| Net leakage to other jurisdictions (20%) | 1,840 | 2,392 | 4,048 |
| Total customer base | 7,360 | 9,568 | 16,192 |
| Average transaction amount | \$78 | \$78 | \$78 |
| Transaction frequency (per month) | 2 | 2 | 2 |
| Monthly gross receipts | \$1,148,160 | \$1,492,608 | \$2,525,952 |
| Annual gross receipts | \$13,777,920 | \$17,911,296 | \$30,311,424 |
| Leakage to black market (30%) | \$4,133,376 | \$5,373,389 | \$9,093,427 |
| Adjusted annual gross receipts | \$9,644,544 | \$12,537,907 | \$21,217,997 |
| Non-taxable medicinal sales (10%) | \$964,454 | \$1,253,791 | \$2,121,800 |
| Total taxable sales | \$8,680,090 | \$11,284,116 | \$19,096,197 |
| Cannabis business tax rate: | | | |
| 4.00% | \$347,204 | \$451,365 | \$763,848 |
| 5.00% | \$434,004 | \$564,206 | \$954,810 |
| 6.00% | \$520,805 | \$677,047 | \$1,145,772 |

⁶ The State of California exempts cannabis sales to qualified patients who present a valid Medical Marijuana Identification Card (MMIC) from all regular state and local sales taxes. This exemption does not apply to voter-approved cannabis taxes or other local transaction and use taxes. However, the City of Goleta's cannabis tax exempts all retail sales of medicinal cannabis products to qualified patients, whether the customer presents a valid MMIC at time of purchase or not.

VI. Cannabis Manufacturers

The manufacturing sector is still evolving and expanding, which presents significant opportunities for innovation, business development and job growth. The range of products being produced includes an ever-increasing variety of edibles such as candies, cookies, dressings, and infused (non-alcoholic) drinks. Manufacturers may produce their own extract on site, or they may buy extract from other Type 6 or Type 7 licensees. Much like any other industry, cannabis manufacturers often depend upon other businesses to supply them with the various materials or components that go into their final product. These suppliers do not have to be located in or even near the same jurisdiction as the final manufacturer, and may be located anywhere throughout the state.

Some manufacturers may handle all steps from extraction to packaging the end product in the form of vape pens or other such devices. Others may handle only discreet steps, such as making the raw cannabis concentrate, which is then sold either directly to retailers or to a Type N manufacturer who will package it into vapor cartridges or other end consumer products. Manufacturers also produce a wide variety of tinctures, as well as topicals such as cannabis infused lotions, salves, sprays, balms, and oils.

As of March 11th, 2021, the Manufactured Cannabis Safety Branch (MCSB) of the California Department of Public Health shows 911 cannabis manufacturing licenses statewide. Of these, 505 are for non-volatile extraction, 198 are for volatile extraction, 153 are for non-extraction manufacturing, 33 are for packaging and labeling, and 22 are for manufacturers using a shared-use facility. Those 911 licenses are owned by 864 separate businesses.

911 licenses represents a decline of 8% from the 995 active manufacturing licenses in April of 2020. While we do not have clear data to indicate the cause of this downturn, we note that neighboring Oregon showed a nearly 5% year-over-year decline in cannabis sales for May of 2021^{xiii}. The California Department of Tax and Fee Administration (CDTFA) has similarly reported a decline in State cannabis tax revenue over the past 2 quarters, though some part of this may be due to a change in reporting and remittance deadlines^{xiv}. It's also conceivable that part of this decline may be due to smaller, local businesses being unable to compete for shelf space against larger state-wide brands.

In its regulatory impact analysis, the MCSB estimated that there may ultimately be as many as 1,000 cannabis manufacturing businesses in California, employing around 4,140 people. This would indicate an average of 4 new jobs per manufacturer, though this figure likely varies significantly depending on the size and nature of each business. Despite recent declines, we believe these figures for both the potential number of cannabis manufacturing businesses and for the average number of employees to be on the low side. HdL is aware of individual manufacturers which have over 100 employees. While this may not be the norm, it demonstrates that cannabis manufacturers have the potential to far exceed the MCSB's early predictions.

In addition, 70% of cities and counties in California continue to ban cannabis businesses outright^{xv}, which greatly limits the size of the market available to legal businesses. As more jurisdictions allow and permit commercial cannabis retailers, the number of cultivators, manufacturers and distributors should increase to supply this growing market.

HdL has reviewed pro-formas for numerous cannabis manufacturers seeking permits in counties and cities throughout California. From our review we have seen a range of gross receipts from around \$1 million to well over \$20 million⁷, with an average generally in the range of \$2 million to \$3 million.

The City currently has one licensed manufacturer that has been operating for one full year, which also operates as a licensed distributor. The business is licensed for both medicinal and adult-use business activities. We believe that the City of Goleta could reasonably attract additional manufacturers in the future.

We have provided three scenarios to estimate the potential revenue that could be generated from various tax rates on cannabis manufacturers. The scenarios assume 1, 2 or 3 manufacturers that have each been fully operational for more than a year, with average gross receipts of \$2.5 million each. We note that these are generic projections that are not based upon the one manufacturer currently operating in the City⁸. These projections only consider that portion of gross receipts generated through manufacturing operations and do not consider any portion of profits that may be generated through companion operations such as distribution. Further, these projections assume that both adult-use and medicinal cannabis operations are taxed equally.

HdL commonly recommends a rate of between 2.5% and 4.0% of gross receipts for cannabis manufacturers. The City's current tax rate for adult-use manufacturers is 2.0%, which is slightly below our recommended initial rate. A single manufacturer with average gross receipts of \$2.5 million per year could generate around \$50,000 in cannabis tax revenue under the City's current rate, or between \$62,500 and \$100,000 at HdL's recommended rates. 2 manufacturers could generate \$100,000 in revenue under the City's current rate, or between \$125,000 and \$200,000 under HdL's recommended rates, and 3 manufacturers could generate \$150,000 under the City's current rate or between \$187,500 and \$300,000 under HdL's recommended rates. These projections are shown in Figure 10, below.

Figure 10:

| Cannabis Manufacturers; Current and Recommended Rates | | | | | | |
|--|----------------------|---------------------------|-----------------------------|--------------------------------|--------------------------------|--------------------------------|
| Type 6/7/N/P Manufacturer | # of Licenses | Avg Gross Receipts | Total Gross Receipts | Revenue @ 2.0% Tax Rate | Revenue @ 2.5% Tax Rate | Revenue @ 4.0% Tax Rate |
| Scenario 1 | 1 | \$2,500,000 | \$2,500,000 | \$50,000 | \$62,500 | \$100,000 |
| Scenario 2 | 2 | \$2,500,000 | \$5,000,000 | \$100,000 | \$125,000 | \$200,000 |
| Scenario 3 | 3 | \$2,500,000 | \$7,500,000 | \$150,000 | \$187,500 | \$300,000 |

⁷ We are aware of at least one large manufacturer with claimed earnings of over \$90 million per year, but this business is also a distributor and it is unclear what portion of their gross receipts comes from each of these different business activities.

⁸ HdL does not disclose or discuss confidential earnings or tax information for individual cannabis businesses.

VII. Cannabis Distributors

Perhaps more than any other part of the cannabis supply chain, distributors are greatly dependent upon the number and variety of other cannabis business types within their service area. Essentially, distributors need a certain “critical mass” of other cannabis businesses for them to serve. Because of this, distributors tend to be located in cities or regions which have a large base of cultivation or manufacturing, as well as a large surrounding customer base.

As a very general figure, the number of cannabis distributors statewide is roughly 1/4 of the number of all other cannabis licenses, combined, or 1 distributor for every 4 other cannabis businesses. In addition, virtually all (281 out of 287) licensed microbusinesses in California include distribution as one of their licensed activities. We can reasonably extrapolate from this to assume that a similar ratio of distributors to other businesses is necessary within any defined region.

The business model for distributors is based on a percentage markup on the price paid to their suppliers. This markup commonly averages 20% to 30%, though this depends upon the actual services being provided. However, it is important to note that the distributor category may include a variety of services, not all of which are provided by all licensed distributors. Just 12.5% of distributors hold Type 13 licenses that allow self-distribution or transport only. A distributor which is only buying and reselling cannabis at wholesale may make as little as 10% on a transaction, while a distributor which is purchasing raw flower and packaging it as pre-rolls for retail sale may make 50% or more on such a value-added transaction.

Distributors may have annual revenues ranging from less than \$1 million to well over \$70 million. The vast majority of distributors are local or regional businesses that fall at the lower end of that range, with those at the high end being statewide operators which qualify as statistical outliers. While there is not yet an abundance of data to determine the average gross receipts for distributors, HdL has reviewed a number of pro-formas for distributors seeking licenses in other jurisdictions. These indicate anticipated gross receipts commonly in the range of \$2 million to \$3 million per year, with an average of \$2.5 million. Again, though, these are merely statistical averages.

The City currently has 3 cannabis distributors, plus 4 licensed microbusinesses that all conduct distribution as one of their business activities^{xvi}. Confidential cannabis tax information provided by the City demonstrates a significant range both in the overall gross receipts of these businesses and in the portion of the receipts from microbusinesses that is reported as being derived from their distribution operations⁹.

Half of the cannabis businesses in Goleta (7 out of 14) conduct distribution as at least a part of their activities. This is far greater than the statewide ratio of one distributor for every four other cannabis businesses. However, when we look at the entire Santa Barbara region as shown in Figure 4 on Page 8, we see that there are 35 distributors out of a total of 185 cannabis businesses in the region, which is in line with this statewide ratio. Given this, we believe that Goleta and the Santa Barbara region are already well-served by cannabis distributors. While it is certainly possible that the regional market can accommodate additional distributors, they would likely have to compete by taking clients and business from established distributors, rather than by filling an existing void.

⁹ HdL does not disclose or discuss confidential earnings or tax information for individual cannabis businesses.

In Figure 11, below, we have applied both the City's current rate of 1.0% of gross receipts and HdL's recommended rates of 2.0% to 3.0% to a scenario that includes 3 cannabis distributors with average receipts of \$2.5 million per year. While the City has provided HdL with confidential cannabis tax data for these businesses, we shall use generic projections here to protect that confidentiality. As with our discussion of cannabis manufacturers, our projections assume that both adult-use and medicinal sales are taxed at the same rate. We have not included microbusinesses within these projections as there are too many variables and assumptions necessary to make any projections meaningful.

Applying the City's current rate of 1.0% to these three generic distributors would generate \$75,000 per year in revenue for the City. Applying HdL's recommended initial rate of 2.0% would generate \$150,000, and our maximum recommended rate of 3.0% would generate \$225,000 in annual revenue for the City. These figures are provided here only for comparison purposes when considering the setting or adjusting of cannabis tax rates.

Figure 11:

| Cannabis Distributors; Current and Recommended Rates | | | | | | |
|---|----------------------|---------------------------|-----------------------------|--------------------------------|--------------------------------|--------------------------------|
| Distributors | # of Licenses | Avg Gross Receipts | Total Gross Receipts | Revenue @ 1.0% Tax Rate | Revenue @ 2.0% Tax Rate | Revenue @ 3.0% Tax Rate |
| Scenario 1 | 3 | \$2,500,000 | \$7,500,000 | \$75,000 | \$150,000 | \$225,000 |

VIII. Cultivation

The City of Goleta currently has 3 businesses that are licensed by the state to conduct cultivation activities. One of these is licensed as a cannabis nursery, one is a microbusiness that is licensed to cultivate up to 10,000 square feet of canopy, and one is licensed as a processor, which allows it to process harvested cannabis but does not allow it to otherwise grow or cultivate cannabis.

While the state includes processing within the category of cultivation licenses, Measure Z taxes processing as a manufacturing activity. Measure Z also specifies a tax rate of 1.0% for cannabis nurseries. The only one of these businesses that would be subject to Measure Z's cultivation tax rate of 4.0% would be the one microbusiness.

The CalCannabis Division of the California Department of Food and Agriculture has been issuing temporary cultivation licenses since January 1, 2018. As of May 5th, CalCannabis shows 6,032 active cultivation licenses statewide, held by 2,669 distinct businesses¹⁰ comprising 1,528 acres of cultivation which are conservatively estimated to be capable of producing over 13 million pounds of cannabis per year. A Standardized Regulatory Impact Assessment (SRIA) prepared for the California Department of Food and Agriculture (CDFA) in 2017 estimated the amount of cannabis consumed by California residents at just 2.5 million pounds^{xvii}.

These figures suggest that the cannabis cultivation market in California has already far exceeded its saturation point. However, this has been the case since early 2018, and yet new cultivation businesses are entering the market on an almost daily basis. Statewide cannabis sales in 2020 reached \$4.4 billion^{xviii}, which suggests that every pound of cannabis cultivated in California contributes to around \$340 in end value to the consumer.

Though the cultivation sector continues to grow, entry into this highly competitive marketplace can be filled with risk, and requires ample capitalization and a clear strategy to win shelf space. Given this, we believe any additional cannabis cultivation businesses seeking to locate in Goleta would likely be small indoor facilities, similar to the one existing microbusiness.

The City of Goleta has requested that HdL examine whether it may be advantageous to replace the gross receipts cultivation tax established by Measure Z with either a tax based on square footage or one based on weight. Any of these methods can be accommodated, and each can be adjusted to generate an equivalent amount of revenue. Each method also has its advantages and disadvantages. The reasons for choosing one method over another can best be summarized as a question: What is it, exactly, that the City wishes to tax?

A tax based on square footage can be seen essentially as a tax on area of impact, under the assumption that the greater the size of the operation, the higher the impact on the surrounding neighborhood and City services. A square footage tax has the advantage that the amount of annual tax liability is generally known in advance by both the City and the tax-paying business, as it is keyed to the permitted amount of cultivation area. This allows both parties to budget accordingly. Variances in the actual amount of

¹⁰ The actual number of distinct businesses is somewhat lower, as minor typos or inconsistencies in how a name is written appear as separate business names in the CalCannabis database.

cultivation area being planted per cycle can be accommodated through advance notification, monitoring and regular inspections or audits. The amount of tax paid does not automatically increase with inflation, making it necessary to include a mechanism to adjust the tax rate annually in accordance with the Consumer Price Index (CPI).

Taxing cannabis cultivation by weight is essentially a tax on production. The tax is on the volume of product, rather than on the size of the operation or the profits generated. This method assumes that the volume of cannabis being produced creates a commensurate impact on the community. The State tax rate for cultivation is set by weight at \$9.65 per ounce of dried flower or \$2.87 per ounce of dried leaf. Because these rates are set by weight, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$500 per pound or top-grade cannabis at \$2,500 per pound. Reporting and remittance for a weight-based tax can be tied to the figures being reported to the State. As with the square-footage tax, it is necessary to annually adjust the tax rate to reflect changes in the CPI.

A tax on gross receipts taxes the gross income of the business, not the actual profits. As such, a gross receipts tax is effectively a tax on conducting business, regardless of the physical size of the operation, the volume of cannabis being produced, or the profitability of the business. A gross receipts tax has the advantage of increasing or decreasing in accordance with income and automatically adjusting for inflation. Because the cannabis industry largely operates on a cash basis, annual financial audits are highly recommended to ensure that all receipts have been properly reported and all taxes fairly remitted.

Determining an equivalent rate between a tax on square footage, gross receipts or weight can be accomplished using a few basic assumptions. In Figure 12 (next page) we have projected the amount of cannabis that can be produced from a typical 10,000 square foot indoor cultivation facility. We have assumed that the facility will achieve four harvest cycles per year, which is fairly standard (though many operators are able to achieve more).

Yield is assumed to average one pound of cannabis flower for every 10 square feet of cultivation area. This metric is drawn from a 2010 study by the Rand Corporation^{xix}. Though the study is fairly old for such a young industry, its findings are consistent with more recent studies. Some cultivation facilities can yield one pound for every eight square feet, and others cite yields that are much lower (more square feet per pound), but 10 square feet remains a commonly used metric which provides for conservative estimates. Using this figure, a 10,000 square foot cultivation facility operating 4 cycles would produce around 4,000 pounds of cannabis per year.

The price per pound is conservatively assumed to be \$1,000. This figure is somewhat lower than the current average for indoor-grown cannabis, but there is still great variability in the market and, over the long term we anticipate that wholesale prices for raw cannabis will continue to decline. Applying this figure, our 10,000 square foot facility would generate \$4 million in gross receipts.

Having developed figures for both yield and gross receipts, we can now easily translate the equivalent tax rates between the different methods. Figure 12 shows that the current 4.0% tax rate under Measure Z is roughly equivalent to \$40 per pound, or \$16.00 per square foot of canopy. Reducing the gross receipts rate to 2.50% would be roughly equivalent to \$25 per pound or \$10 per square foot. Reducing the rate even further to 1.75% would be roughly equivalent to \$17.50 per pound or \$7.00 per square foot.

Figure 12:

| Cultivation Tax Rate Converter; Gross Receipts to Square Feet | | | | | | | | | |
|---|----------------------|---------------------|---------------------------|-----------------|----------------|---------------------------|-----------------------|--------------------|-----------------|
| Cultivation Type | Harvest Cycles /Year | Sample Area (sq ft) | Yield @ 1 lb/10 sf /cycle | Price per pound | Gross Receipts | Tax Rate % Gross Receipts | Total Annual Tax Paid | Tax Rate per Pound | Tax Rate per SF |
| Indoor | 4 | 10,000 | 4,000 | \$1,000 | \$4,000,000 | 4.00% | \$160,000 | \$40.00 | \$16.00 |
| Indoor | 4 | 10,000 | 4,000 | \$1,000 | \$4,000,000 | 2.50% | \$100,000 | \$25.00 | \$10.00 |
| Indoor | 4 | 10,000 | 4,000 | \$1,000 | \$4,000,000 | 1.75% | \$70,000 | \$17.50 | \$7.00 |

HdL commonly recommends that cities set a tax rate for cultivation within the range of \$7.00 per square foot to \$10.00 per square foot. Should the City wish to reduce its tax rate to fit this range, it could be done without having to fundamentally change the gross receipts structure of Measure Z, which could only be accomplished through another ballot measure. The City could achieve the same effect by reducing the tax rate for cultivation to between \$1.75% and \$2.50% of gross receipts.

HdL recommends that the City retain the existing gross receipts-based tax on cannabis cultivation and continue to set the rate at 4.0%. Though this rate is higher than the square-footage equivalent rates we commonly recommend, it is consistent with the rate set by Santa Barbara County, which has one of the largest and most established cannabis cultivation sectors in the state. We believe cannabis cultivators in Goleta are likely more influenced by the local industry in the surrounding county than by other cultivators elsewhere in the state.

IX. Testing Laboratories

California law requires that all dried cannabis flower or leaf must be tested for tetrahydrocannabinol (THC) and cannabidiol (CBD) content, contaminants, impurities and other factors before it can be sold to a manufacturer, distributor, dispensary or end user. The cost of this mandated testing and the loss of product for a testing sample can add around 0.7% to the wholesale cost.

The Bureau of Cannabis Control has only issued licenses for 36 testing laboratories in all of California. While some laboratories are located in areas with a large cannabis industry presence, most tend to be located in areas with a large customer base such as the Los Angeles basin, San Diego, Sacramento and the San Francisco Bay Area. Perhaps surprisingly, there is only one testing laboratory in all of Santa Barbara County (located in Lompoc), and none in Humboldt County or Mendocino. Essentially, most of these businesses have chosen to locate themselves downstream in the cannabis supply chain.

With one testing laboratory already in Lompoc to the north and most of the product from Santa Barbara County moving south to the Los Angeles area, we do not see a strong argument for why an additional testing laboratory would seek to locate in Goleta. However, this is not entirely unreasonable.

Testing is an independent, semi-regulatory function mandated by the State to protect consumer health and safety, and which amounts to a State-imposed cost on the product. HdL is not aware of any similar testing of agricultural products that is subject to a separate tax on top of the cost of mandated testing. More commonly, the costs for similar services for other agricultural products may be subsidized by the USDA or other sources that are not available to cannabis farmers.

Many jurisdictions choose to not apply any tax to testing laboratories, in recognition of the semi-regulatory function they serve. For those cities that do wish to impose a tax on cannabis testing facilities, HdL recommends that the rate be limited to between 1% and 2.5%.

HdL makes no recommendation regarding the rate for cannabis testing laboratories. HdL's recommended rates for testing laboratories are provided for those jurisdictions which wish to impose a tax on such businesses. However, we recognize that these testing laboratories perform a quasi-regulatory function, do not in any way profit off the value of the product and are prohibited from sharing ownership with any other type of cannabis business. Seen through this lens, the City's current rate of 0.0% seems appropriate.

X. APPENDIX

| | |
|---|---------|
| a. Legal and Regulatory Background for California | Page 23 |
| b. State Tax Considerations | Page 26 |
| c. General Economic Impacts | Page 28 |
| d. References | Page 30 |

a. Legal and Regulatory Background for California

The legal and regulatory status of cannabis in the State of California has been continually evolving ever since the passage of Proposition 215, the Compassionate Use Act of 1996 (CUA), which de-criminalized the use, possession and cultivation of cannabis for qualifying patients and their primary caregivers when such use has been recommended by a physician. The CUA did not create any regulatory program to guide implementation, nor did it provide any guidelines for local jurisdictions to establish their own regulations. The lack of legal and regulatory certainty for medical marijuana (or cannabis) continued for nearly 20 years, until the passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in October of 2015. MCRSA created a State licensing program for commercial medical cannabis activities, while allowing counties and cities to maintain local regulatory authority. MCRSA required that the State would not issue a license without first receiving authorization by the applicable local jurisdiction.

On November 8, 2016, the voters of the State of California approved Proposition 64, the Adult Use of Marijuana Act (AUMA), which allows adults 21 years of age or older to legally grow, possess, and use marijuana for personal, non-medical “adult use” purposes, with certain restrictions. AUMA requires the State to regulate non-medical marijuana businesses and tax the growing and selling of medical and non-medical marijuana. Cities and counties may also regulate non-medical marijuana businesses by requiring them to obtain local permits or restricting where they may be located. Cities and counties may also completely ban marijuana related businesses if they so choose. However, cities and counties cannot ban transport of cannabis products through their jurisdictions, nor can they ban delivery of cannabis by licensed retailers to addresses within their jurisdiction (added later through regulations).

On June 27, 2017, the Legislature enacted SB 94, which repealed MCRSA and incorporated certain provisions of MCRSA into the licensing provisions of AUMA. These consolidated provisions are now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA revised references to “marijuana” or “medical marijuana” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively. MAUCRSA generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with certain exceptions. MAUCRSA also made a fundamental change to the local control provisions. Under MCRSA, an applicant could not obtain a State license until they had a local permit. Under MAUCRSA, an applicant for a State license does not have to first obtain a local permit, but they cannot be in violation of any local ordinance or regulations. The State licensing agency shall contact the local jurisdiction to see whether the applicant has a permit or is in violation of local regulations, but if the local jurisdiction does not respond within 60 days, then the applicant will be presumed to be in compliance and the State license will be issued.

MAUCRSA authorizes a person to apply for and be issued more than one license only if the licensed premises are separate and distinct. With the passage of AB 133 in 2017, a person or business may co-locate multiple license types on the same premises, allowing a cultivator to process, manufacture or distribute their own product from a single location. This includes the allowance to cultivate, manufacture, distribute or sell cannabis for both medical and adult use from a single location. Licensees of cannabis testing operations may not hold any other type of license. However, these allowances are still subject to local land use authority, so anyone seeking to operate two or more license types from a single location would be prohibited from doing so unless local regulations allow both within the same zone.

The table below provides a detailed overview of the license types available under MAUCRSA and state cannabis regulations:

| State License Types Under MAUCRSA | | | | | |
|-----------------------------------|---|---|---|------------------|---------|
| Type | Activity | Description | Details | Licensing Agency | Notes |
| 1 | Cultivation | Outdoor; Specialty, Small | Up to 5,000 sf, or 50 plants on non-contiguous plots | CDFA | A, B |
| 1A | Cultivation | Indoor; Specialty, Small | 501 sf - 5,000 sf | CDFA | A, B |
| 1B | Cultivation | Mixed-Light; Specialty, Small | 2,501 sf - 5,000 sf | CDFA | A, B |
| 1C | Cultivation | Outdoor/indoor/mixed; Specialty Cottage, Small | Up to 25 plants outdoor; up to 2,500 sf mixed light; up to 500 sf indoor | CDFA | A, B |
| 2 | Cultivation | Outdoor; Small | 5,001 sf - 10,000 sf | CDFA | A, B |
| 2A | Cultivation | Indoor; Small | 5,001 sf - 10,000 sf | CDFA | A, B |
| 2B | Cultivation | Mixed Light, Small | 5,001 sf - 10,000 sf | CDFA | A, B |
| 3 | Cultivation | Outdoor; Medium | 10,001 sf - one acre | CDFA | A, B, C |
| 3A | Cultivation | Indoor; Medium | 10,001 sf - 22,000 sf | CDFA | A, B, C |
| 3B | Cultivation | Mixed-Light; Medium | 10,001 sf - 22,000 sf | CDFA | A, B, C |
| 4 | Cultivation | Nursery | | CDFA | A, B |
| - | Cultivation | Processor | Conducts only trimming, drying, curing, grading and packaging of cannabis | CDFA | A, B, E |
| 5 | Cultivation | Outdoor; Large | Greater than 22,000 sf | CDFA | A, B, D |
| 5A | Cultivation | Indoor; Large | Greater than 22,000 sf | CDFA | A, B, D |
| 5B | Cultivation | Mixed-Light; Large | Greater than 22,000 sf | CDFA | A, B, D |
| 6 | Manufacturer 1 | Extraction; Non-volatile | Allows infusion, packaging and labeling | OMCS | A, B |
| 7 | Manufacturer 2 | Extraction; Volatile | Allows infusion, packaging and labeling, plus non-volatile extraction | OMCS | A, B |
| N | Manufacturer | Infusion for Edibles, Topicals | No extraction allowed | OMCS | A, B, E |
| P | Manufacturer | Packaging and Labeling | No extraction allowed | OMCS | A, B, E |
| S | Manufacturer | Shared-use manufacturer | Manufacturing in a shared-use facility | OMCS | A, B, E |
| 8 | Testing | | Shall not hold any other license type | BCC | A |
| 9 | Retailer | Non-storefront retail delivery | Retail delivery without a storefront | BCC | A, F |
| 10 | Retailer | Retail sale and delivery | | BCC | A, B |
| 11 | Distributor | | | BCC | A, B |
| 12 | Microbusiness | Cultivation, Manufacturer 1, Distributor and Retailer | < 10,000 sf of cultivation; must meet requirements for all license types | BCC | A, B |
| | | | | | |
| CDFA | California Department of Food and Agriculture | | | | |
| OMCS | California Department of Public Health, Office of Manufactured Cannabis Safety | | | | |
| BCC | Bureau of Cannabis Control | | | | |
| A | All license types valid for 12 months and must be renewed annually | | | | |
| B | All license types except Type 8 Testing must be designated "A" (Adult Use), "M" (Medical) or "A/M" (Both) | | | | |
| C | CDFA shall limit the number of licenses allowed of this type | | | | |
| D | No Type 5 licenses shall be issued before January 1, 2023 | | | | |
| E | Established through rulemaking process | | | | |

AUMA, and its successor MAUCRSA, required three state agencies, the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health, to permit commercial cannabis licensees and to adopt regulations for the cannabis industry. On January 16, 2019, all three agencies announced that the state's Office of Administrative Law officially approved state regulations, which took immediate effect and replaced emergency regulations that had been in effect since 2017. The final regulations were largely similar to the emergency regulations, but somewhat controversially, Section 5416(d) of the Bureau of Cannabis Control regulations authorizes deliveries of cannabis products into any city or county in the state, even if a city or county has banned commercial deliveries.

b. State Tax Considerations

To determine what local tax rates might be most appropriate, they must be considered in the context of other taxes imposed by the State. Any local taxes will be in addition to those taxes applied through the Adult Use of Marijuana Act (AUMA), which imposes both a 15% excise tax on purchases of cannabis or cannabis products and a separate cultivation tax on harvested cannabis that enters the commercial market, as well as sales tax. Taxes are most commonly expressed as a percent of price or value, so some method of conversion is necessary to allow development of an appropriate cultivation tax based on square footage.

The State tax rate for cultivation is set at \$9.65 per ounce of dried flower or \$2.87 per ounce of dried leaf. Because these rates are set per ounce, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$500 per pound or top-grade cannabis at \$2,500 per pound. The cultivator is generally responsible for payment of the tax, though that responsibility may be passed along to either a manufacturer or distributor via invoice at the time the product is first sold or transferred. The distributor is responsible for collecting the tax from the cultivator upon entry into the commercial market, and remitting it to the California

Department of Tax and Fee Administration.

| Cumulative Cannabis Taxes | | | |
|----------------------------|------------------|----------|------------------|
| Category | Amount | Increase | Cumulative Price |
| Producer Price | \$1,000 | \$1,000 | \$1,000 |
| State Cultivation Tax | \$9.65/oz | \$154 | \$1,154 |
| Local Tax | 3.75% | \$38 | \$1,192 |
| Batch Testing | \$75/lb, + 0.75% | \$75 | \$1,267 |
| Wholesale Price w/ Taxes | | \$1,267 | |
| Total Tax at Wholesale | | \$267 | |
| Tax as % | | 26.65% | |
| Distributor Markup | 20.00% | \$253 | \$1,520 |
| Local Tax | 10.00% | \$152 | \$1,672 |
| Total Distributor Price | | \$1,672 | |
| Total Taxes at Distributor | | \$418 | |
| Total Tax as % | | 25.03% | |
| Retailer Markup | 100.00% | \$1,672 | \$3,344 |
| Local Tax | 10.00% | \$334 | \$3,678 |
| State Excise Tax | 15.00% | \$502 | \$4,179 |
| Total Retailer Price | | \$4,179 | |
| Total Taxes at Retail | | \$1,254 | |
| Total Tax as % | | 30.01% | |
| CA Sales Tax (non-medical) | 6.25% | \$261 | \$4,441 |
| Local Sales Tax | 2.00% | \$84 | \$4,524 |
| Total Taxes at Retail | | \$1,599 | |
| Total Tax as % | | 35.35% | |
| Total Local Tax | | 13.43% | \$607.43 |

The cultivation tax of \$9.65 per ounce of dried flower is equivalent to \$154 per pound. Just 2 years ago, HdL would have assumed an average wholesale market price for dried flower of around \$1,500 per pound, which would make that \$154 equal to roughly 10% of value. Since then, however, prices have declined. Competitive market forces enabled by legalization have brought the average price for indoor cannabis down to around \$1,000 per pound, or even less (cannabis prices vary greatly based on product quality).

Conversations with cannabis industry trade groups suggest that the cumulative tax rate on the end product should remain at or around 30%. Higher rates create too much price disparity between legal and illegal cannabis, making it harder for the regulated industry to compete with the illicit market. Higher local tax rates can also make a county or city less attractive to the industry, especially for manufacturers and distributors, which have greater flexibility in choosing where to locate. We believe that setting rates that adhere to this 30% rule will help keep the local cannabis industry competitive with other cultivators across California, thus encouraging the transition to a legal industry.

The above table shows how the cumulative tax rate on adult-use cannabis builds as the product moves towards market. The value of the product increases as it moves through the supply chain towards market, with manufacturers, distributors and retailers each adding their own markup. Testing laboratories do not add a direct markup to the product, but the cost of testing and the loss of a small test sample can add around \$75 per pound. Any or all of these activities may be taxed.

This model assumes a hypothetical case where cultivation, manufacturing, testing, distribution and retail sale all happen within the same jurisdiction and are thus all subject to that jurisdiction's tax rates. In actuality, this is unlikely to be the case. Manufacturers may work with product purchased from anywhere in California, and may sell their product to retailers elsewhere, as well. The cumulative tax burden for any product at retail sale will almost always include a variety of tax rates from numerous jurisdictions.

c. General Economic Impacts

Discussion of regulating and taxing the cannabis industry can too often overshadow the larger jobs and economic development issues that typically accompany efforts to attract new industry. Word that a new business or industry is looking to bring hundreds of new jobs to a community is more commonly met with open arms and offers of tax incentives. The cannabis industry is perhaps completely unique in that the inherent jobs and economic development benefits are welcomed more grudgingly and met with the disincentive of special taxes.

As with any other industry, the cannabis industry does not exist in a vacuum. Those businesses that actually grow, process, manufacture, distribute and sell cannabis products support a wide variety of other businesses that may never touch the actual product itself. Cultivators support garden supply stores, green house manufacturers, irrigation suppliers, soil manufacturers, and a wide variety of contractors including building and construction, lighting and electrical, HVAC, permitting, and engineering. Manufacturers support many of these same businesses, plus specialized tooling and equipment manufacturers, and product suppliers for hardware, packaging, and labeling. All of these businesses support, and are supported by, a host of ancillary businesses such as bookkeepers, accountants, tax preparers, parcel services, marketing and advertising agencies, personnel services, attorneys, mechanics, facilities maintenance, security services, and others.

The economic benefits are not limited to those in the cannabis industry, itself. Cultivators bring new money into the community by selling their products into a statewide market. Their profits and the salaries they pay move into the general local economy, supporting stores, restaurants, car dealerships, contractors, home sales and other businesses. In Humboldt County, a study done in 2011 found that at least \$415 million dollars in personal income was entering the local economy annually from the cannabis industry, roughly equal to one quarter of the county's entire \$1.6 billion economy.

While Humboldt is likely an outlier, research done by HdL for other clients suggests that other counties and cities see similar, if smaller, economic inputs from this industry, with some in the range of \$100 million dollars or more annually. As this industry adapts to a legal paradigm, the challenge for some counties will be mitigating and minimizing the economic loss as the black market slowly fades away.

Because of the emerging nature of this industry, it is currently populated primarily (but not solely) by small, independently-owned businesses. Numerous studies have demonstrated that locally-owned, independent businesses recirculate a far higher percentage of every dollar back into the local community than large, corporately-owned businesses do. The same economic development arguments that are used to support other independent, locally-owned businesses apply to this industry, too. Host cities or counties should expect to see typical economic benefits from these new (or newly daylighted) businesses on par with other new businesses, separate from any tax revenue that may be generated.

Industry experts believe that California's current statewide production is five to eight times higher than the State's population consumes, a figure derived from the SRIA done for CDFA's cannabis cultivation program. That assessment found that California's cannabis industry produces some 13.5 million pounds of cannabis per year, which would be enough to provide over half a pound of cannabis per year for every Californian 21 and over. However, the assessment also found that California's 4.5 million cannabis users only consume about 2.5 million pounds of cannabis per year.

The Bureau of Cannabis Control projects that more than half of the adult use purchases currently in the illicit market will transition to the legal market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller. Essentially, the easier, cheaper and more reliable it is for consumers to access quality cannabis legally, the less reason they will have to purchase it through the illicit market. That same study projects that 60% of those currently in the legal, medical cannabis market will shift to the adult use market, for the reasons noted above. The availability of legal adult use cannabis is also anticipated to produce a small 9.4% increase in consumer demand.

Given these figures, cities and counties should expect to see some increase in retail sales as these shifts occur in the market. More significantly, the existence of legally permitted cannabis retailers will allow a far greater portion of existing cannabis sales to be captured by legal (and tax-paying) retailers.

The shift from medical to adult use sales is not expected to change the overall volume of sales, only the category into which they fall. Once the legal, adult use market is properly functioning, it is anticipated to capture about 61.5% of the overall cannabis market in California. The legal medical cannabis market is projected to decline to just 9% of the overall market. The other 29.5% is expected to remain in the illicit market.

These numbers only apply to the 2.5 million pounds of cannabis that is consumed in California, representing the potential size of the legal cannabis market. If 29.5% of the cannabis consumed in California continues to come from the illicit market, then the size of the market for legal cannabis must be adjusted downward accordingly. This would reduce the size of the legal market in California to 1.76 million pounds.

The CalCannabis Division of the California Department of Food and Agriculture has been issuing temporary cultivation licenses since January 1, 2018. As of May 5th, CalCannabis shows 6,032 active cultivation licenses statewide, held by 2,669 distinct businesses comprising 1,528 acres of cultivation which are conservatively estimated to be capable of producing over 13 million pounds of cannabis per year. A Standardized Regulatory Impact Assessment (SRIA) prepared for the California Department of Food and Agriculture (CDFA) in 2017 estimated the amount of cannabis consumed by California residents at just 2.5 million pounds.

d. References

-
- ⁱ U.S. News and World Report “Best Colleges Ranking” <https://www.usnews.com/best-colleges/university-of-california-santa-barbara-1320/student-life>
- ⁱⁱ Wikipedia “Isla Vista, California” https://en.wikipedia.org/wiki/Isla_Vista,_California
- ⁱⁱⁱ United States Census Bureau, “Age and Sex Demographics for Goleta, California, 2010 through 2019” <https://data.census.gov/cedsci/table?q=goleta,%20ca&tid=ACSST5Y2019.S0101&hidePreview=false>
- ^{iv} Statista (January 20, 2021) “Population share of California by age group 2019” <https://www.statista.com/statistics/912915/california-population-share-age-group/>
- ^v Statista (October 2020) “Share of Consumers in the United States Who Currently Use Marijuana as of July 2019, by Age Group” <https://www.statista.com/statistics/737849/share-americans-age-group-smokes-marijuana/>
- ^{vi} Wikipedia “Goleta, California” https://en.wikipedia.org/wiki/Goleta,_California
- ^{vii} Visit Goleta, “Goleta Visitor Profile 2016/2017–(September 2016 –August 2017)”
- ^{viii} Visit Goleta, “Goleta Visitor Profile 2016/2017–(September 2016 –August 2017)”
- ^{ix} CBS News (2018) “17 stoner states: Where’s marijuana use highest?” <https://www.cbsnews.com/pictures/17-stoner-states-where-marijuana-use-highest/9/>
- ^x Christopher Ingraham (April 20, 2017) “How many Americans regularly use pot? The number is, errr, higher than you think” Sacramento Bee <http://www.sacbee.com/news/nation-world/national/article145681414.html>
- ^{xi} Eli McVey, et al. (2017) “Marijuana Business Factbook 2017” Marijuana Business Daily
- ^{xii} Eli McVey, et al. (2017) “Marijuana Business Factbook 2017” Marijuana Business Daily
- ^{xiii} Cannabis Benchmarks (June 8, 2021) “Oregon Cannabis Retail Sales Decline in May” www.cannabisbenchmarks.com/oregon-cannabis-retail-sales-decline-in-may/
- ^{xiv} Seth Kerstein (June 2, 2021) “Cannabis Tax Revenue Update, June 2, 2021”, Tax Notes
- ^{xv} Eli McVey, et al. (2017) “Marijuana Business Factbook 2017” Marijuana Business Daily
- ^{xvi} Bureau of Cannabis Control License Search database, <https://aca5.accela.com/bcc/customization/bcc/cap/licenseSearch.aspx>, accessed October 10, 2019
- ^{xvii} Duncan McEwan, et al (January 2017) “Economic Impact Analysis of Medical Cannabis Cultivation Program Regulations” California Department of Food and Agriculture
- ^{xviii} Lindsey Barlett (January 2021) “Cannabis Sales In California Reach \$4.4 Billion In 2020: ‘Essential’, Edibles, And The Election”, Forbes, <https://www.forbes.com/sites/lindseybartlett/2021/01/29/cannabis-sales-in-california-reach-44-billion-in-2020-essential-edibles-and-the-election/?sh=469dc1b1313c>
- ^{xix} John P. Caulkins (2010) “Estimated Cost of Production for Legalized Cannabis”, the Rand Drug Policy Research Center

ATTACHMENT 5

Staff Presentation

First Reading- Cannabis Business Tax and Cannabis Business License Ordinance Amendments

City Council Meeting
November 7, 2023

Presentation by:
Luke Rioux, Finance Director



Background

July 2018 – Adopted Cannabis Business License Ordinance

- Ordinance No. 18-02: Cannabis Business License Ordinance, codified as Chapter 5.09 into Goleta Municipal Code

November 2018– Cannabis Business Tax

- Voters passed Measure Z2018, which established a tax on cannabis business operations

May 2019 – Major Amendments to Cannabis Ordinances

- Amended Chapter 5.09 to include more robust application review process, which included moving regulations from previous cannabis land use ordinance to business license ordinance.

July 2021 –Organizational Changes

- Licensing review and approval functions, including Live Scan reviews previously under the Neighborhood Services and Public Safety Department to the Finance Department

March 2022 – Revenue Enhancement Workshop

- Cannabis report and analysis on City's current cannabis tax rates and business types

Proposed Amendments

Chapter 3.08 – Cannabis Business Tax Proposed Amendments

► Medicinal-Use Cannabis Retailing, change from 0% to 5%

| Cannabis Business Classification | Activities Taxed | Current Tax Rate | Proposed Tax Rate |
|-------------------------------------|------------------|------------------|-------------------|
| Adult Use Cannabis Retailing | Gross Receipts | 5% | 5% |
| Medicinal-Use Cannabis Retailing | Gross Receipts | 0% | 5% |
| Manufacturing | Gross Receipts | 2% | 2% |
| Cultivation | Gross Receipts | 4% | 4% |
| Distribution | Gross Receipts | 1% | 1% |
| Testing | Gross Receipts | 0% | 0% |
| Nurseries | Gross Receipts | 1% | 1% |
| Maximum Tax Limit | Gross Receipts | 10% | 10% |
| Maximum Cap for Multiple Operations | Gross Receipts | 10% | 10% |

Proposed Amendments

Chapter 5.09 – Commercial Cannabis Businesses – Proposed Amendments

| GMC Section | GMC Section Name | Summary of Proposed Amendments |
|-------------|---|---|
| 5.09.020 | Definitions | 1. Added and revised various definitions. These definitions include “Director”, “Financial Interest”, “Financial Interest holder”, “Owner”, “Person”, and “Premise”, which aligns with the City process and the State. |
| 5.09.030 | General Provisions for Commercial Cannabis Activities in the City | 2. Updated license types to include a table that compares the State license types and Goleta’s license types for transparency and comparison purposes, and clarified the City does not allow events per GMC section 17.41.090. 3. Updated section on license issuance and changes in organizational structure or ownership, to include a process for changes in ownership, as separate section 5.09.045 (see below for more detail). |
| 5.09.040 | Cannabis Business License Application Procedures and Requirements | 3. Removed Social Security Card requirement. 4. Updated background check language to be specific on receiving copies of Department of Justice Live Scan receipts for all applicants, owners, persons having at least twenty percent financial interest, managers, and supervisors of a cannabis operation and removed all employees– to match State requirements. |

Proposed Amendments

| GMC Section | GMC Section Name | Summary of Proposed Amendments |
|-------------------|---|--|
| 5.09.045 (new) | Changes to Licensed Commercial Cannabis Businesses | <ul style="list-style-type: none"> 5. Added Change in Ownership section. 6. Added Change in Premise section. |
| 5.09.070 | Maintenance of Records and Reporting | <ul style="list-style-type: none"> 7. Updated information needed to be retained for all persons with any financial interest in commercial cannabis business. 8. Added section that operators to retain their completed employee criminal history checks and subject to inspection by the City. |
| 5.09.080 | Operating Requirements for All Commercial Cannabis Businesses | <ul style="list-style-type: none"> 9. Updated comprehensive general liability insurance to require \$1 million per each occurrence and \$2 million per aggregate. 10. Updated language on Department of Justice “Live Scan” to remove all employees, and only applicable to applicants, owners, persons having at least twenty percent financial interest, managers, and supervisors. 11. Moved the paragraph related to physical modification of the permitted premises to its own section under 5.09.045. 12. Added language that operators will be responsible for their own criminal background check policy and procedures for all employees. The criminal background check will be equivalent to, and may include the use of, live scan, or other as approved by the City. |

Proposed Amendments

| GMC Section | GMC Section Name | Summary of Proposed Amendments |
|-------------|--|--|
| 5.09.090 | Operating Requirements for Storefront Cannabis Retailers | 13. Updated hours of operation from 10:00 a.m. to 8:00 p.m. to 6:00 a.m. to 10:00 p.m. to align with both the State and the County. |
| 5.09.100 | Operating Requirements for Non-Storefront Retailers (Delivery) | <p>14. Updated and clarified language for businesses located outside of the City but make deliveries into the City, and listed requirements.</p> <p>15. Updated hours of operation from 9:00 a.m. to 9:00 p.m. to 6:00 a.m. to 10:00 p.m. to align with both the State and the County.</p> <p>16. Updated section on criminal background checks to be consistent with proposed requirements for employees under 5.09.080.</p> <p>17. Updated section on the quantity of cannabis and cannabis products that only meet the weekly demand to the maximum limit set by State law. (The State currently does not set limits on inventory quantity but allows the operator to conduct its business accordingly. It's stated this way if the State ever considers limits in the future).</p> |
| 5.09.110 | Operating Requirements for Cannabis Manufacturing Businesses | 18. Updated hours of operation from 10:00 a.m. to 8:00 p.m. to 6:00 a.m. to 10:00 p.m. to align with both the State and the County. |

Fee Schedule Update

| Current Cannabis Business License Fee Types: | Current Fees: |
|---|---------------|
| Cannabis Business License – New | \$15,463.00 |
| Cannabis Business License – Additional for Accessory Use | \$113.00 |
| Cannabis Business License – Renewal | \$12,527.00 |
| Cannabis Business License – Outside City Limits Delivery Services – New | \$451.00 |
| Cannabis Business License – Outside City Limits Delivery Services – Renewal | \$451.00 |
| Cannabis Business License Appeal | \$4,965.00 |
| Cannabis Additional Staff Time | Actual Costs |
| Cannabis Business License Letter (Cannabis Zoning Conformity Determination) | \$685.00 |
| Proposed Additional Fee Type: | Proposed Fee: |
| Request to Modify a Cannabis Business License – Change in Premises | \$4,530 |

- Current fees are as of today and have not been adjusted for previous year annual CPI, which will be brought to Council on December 5, 2023.
- Proposed additional fee will be included in the Citywide User Fees and Charges Schedule that will be brought to Council on December 5, 2023. No CPI factor on this fee since it has been calculated based on current rates.

Recommended Actions

- A. Introduce and conduct first reading (by title only) and waive further reading of Ordinance No. 23-__, entitled “An Ordinance of the City of Goleta, California Amending Chapter 3.08 of Title 3 of the City of Goleta Municipal Code Entitled Cannabis Business Tax and Amending Chapter 5.09 of Title 5 of the City of Goleta Municipal Code Entitled Commercial Cannabis Businesses;” and
- B. Find that the adoption of the Ordinance is exempt from the California Environmental Quality Act under Guideline 15301(c) and direct staff to file a Notice of Exemption within five business days.