



**TO:** Mayor and Councilmembers

**FROM:** Carmen Nichols, Deputy City Manager

**SUBJECT:** Cannabis Business Tax Methodology and Consideration of a Draft Ordinance, for the Purpose of Enacting a Cannabis Business Tax

**RECOMMENDATION:**

- A. Receive information and a presentation regarding Cannabis Business Tax Methodology for the purpose of placing a tax measure on the November 2018 ballot regarding cannabis sales and commercial activity.
- B. Consider a Draft City Council sponsored Initiative Ordinance, entitled, "Ordinance No. \_\_\_\_ An Ordinance of the People of City of Goleta, California, Adding Chapter 3.08 to the City of Goleta Municipal Code, Approving and Implementing a Cannabis Business Tax";
- C. Direct Staff to place a Council-initiated ordinance approving and implementing a Cannabis Tax on the November 2018 ballot;
- D. Direct the City Clerk to forward the Council-initiated Ordinance to the City Attorney for preparation of an Impartial Analysis.

**BACKGROUND:**

Proposition 64 legalized recreational adult use of cannabis. The passage of Proposition 64 also provided the authority for the State as well as local government to tax commercial cannabis-related businesses. In response to Proposition 64, the California legislature adopted Senate Bill 94 in 2017, which outlines a state regulatory system for the various commercial activities associated with the legalization. On September 7, 2017, the City Council instructed staff to develop a cannabis ordinance that allows and regulates recreational (adult-use) cannabis uses and consolidate these regulations with the City's existing medical cannabis uses regulations. After conducting two public workshops with the Planning Commission on October 23 and 30, 2017, staff began development of the ordinance and on April 26, 2018 staff presented a Draft Cannabis Ordinance at a joint session of the City Council and Planning Commission.

Members of the City Council and Planning Commission provided feedback on specific details within the Draft Ordinance that will be incorporated in preparation for public ordinance adoption hearings for May and June. Furthermore, the City Council directed staff to move forward exploring business tax methodologies in preparation of a cannabis business tax ballot measure for the November 2018 general election. The City Council also directed staff to work on a Health & Safety Ordinance, or Business License Ordinance.

SCI Consulting assisted City staff with the Cannabis Land Use Ordinance and is also assisting staff with the tax methodologies and business license components of the City's regulation of cannabis activities. Due to the constrained timelines to file a ballot measure timely for the November 2018 General Election (should the Council wish to sponsor the initiative), staff is presenting options of tax methodologies for the various allowable activities and incorporating the input received by the members of the City Council and Planning Commission on April 26, 2018, which included using a tax base at approximately the same level as the City of Santa Barbara and the County of Santa Barbara, so as to allow for a fair share of the industry, and to discourage "black market" activity.

The Cannabis Land Use Ordinance is scheduled to be heard by the Planning Commission on May 21, 2018 for a final review and recommendation to the City Council, and is scheduled for the first reading at a public hearing with the City Council on June 5<sup>th</sup>, followed by a second hearing on June 19, 2018.

## **DISCUSSION:**

### **Cannabis Land Use Ordinance**

The Draft Cannabis Land Use Ordinance (Attachment 1) proposes a permitting scheme for medical cannabis operators including indoor cultivators, nurseries, transporters, distributors, testing laboratories, manufacturers, deliveries, and dispensaries. The proposed regulations incorporate siting criteria, operating standards and best management practices for commercial medical cannabis operations, as well as regulations and standards for personal cultivation of both medical and nonmedical cannabis.

### **Cannabis Business Taxation Ordinance**

In consideration of Council feedback, and the experiences of other jurisdictions, staff is proposing a Cannabis Business taxation ballot measure be submitted to the voters with the following key provisions:

1. A general use tax which will allow the City Council flexibility through budgeting discretion to use any revenue generated where it is most needed.
2. Taxation based on gross receipts (as opposed to square footage) in order to tax the Cannabis Business industry in proportion to revenue generated.
3. Scalable taxation rates in order to respond to community impacts.

4. Flexible applicability to Cannabis Business types to allow for future Council discretion as to licensing and allowed Commercial Cannabis activities.

Staff is proposing a general use tax, rather than a special use tax, because of the budgetary flexibility this method allows the Council. A special use tax requires the City to commit to certain uses for any tax revenue generated. As many potential impacts are currently unknown, and will likely change over time, a general use tax is recommended.

A 4/5 vote of the Council is needed to adopt a resolution asking the voters to approve a Council-initiated ordinance to impose the Cannabis Business General Tax. As the law applies today, imposition of a general use tax for general purposes would require the ballot measure to receive majority approval of the local electorate that casts a ballot on this measure. However it is important to note that an initiative to create a constitutional amendment called the Tax Fairness, Transparency and Accountability Act of 2018 may be on the November 2018 ballot. This initiative would require that all taxes, regardless of whether they are general or special, to pass with 2/3 voter approval of the electorate. As of February 26, 2018, its proponents certified to the Secretary of State that they collected a quarter of the signatures necessary to place the initiative on the ballot. It is not clear yet whether they will be able to collect all required signatures. If passed, the Act would invalidate all local taxes adopted or increased in 2018 unless they meet the 2/3 vote requirement. Therefore, if the Act passes at the same time our cannabis tax passes, the cannabis tax can be applied only if 2/3 of the electorate voted for the cannabis tax. Staff will continue to monitor progress of the Act. If it appears that it will make it onto the ballot, voters will be informed of its impact to the Cannabis Business Tax Measure in the impartial analysis written by the City Attorney.

Other jurisdictions have proposed tax measures that include a tax on square footage for cultivation and nurseries or manufacturers. While these taxes provide the City predictable and easily administered revenue, they are due regardless of revenue generated. Because of this, they place the risk entirely on the Cannabis Businesses and do not take into account the possibility of crop failure, natural disaster, or other unanticipated occurrences. Because of this apparent unfairness, as well as previous City Council direction to incorporate a tax base at similar level as the City of Santa Barbara and the County of Santa Barbara, staff is not recommending a tax based on square footage. The advantages of a square footage methodology include that it is the most predictable option when calculating revenue since it is not expected that the square footage of the operation will fluctuate or change. Other advantages are that tax revenue is protected against crop loss, and it will take less time to administer. However some known disadvantages to the square footage methodology is that it proposes a flat revenue that does not scale with sales or impact. Also, the grower or manufacturer must pay tax regardless of revenue realized.

Instead, staff is recommending a tax based on gross receipts. A tax based on gross receipts is in proportion to revenue generated, including being due only after revenue is realized. Staff also believes that a gross receipts tax will most closely be in proportion to the impacts of Cannabis Businesses on the City of Goleta.

Below is a summary of jurisdictions with enacted or proposed taxation:

Jurisdiction	Gross Receipts Tax	Square Footage Tax	Comments
City of Santa Barbara	Proposed gross receipts tax: 6% retail dispensary, 4% manufacturing, 2% indoor cultivation, 4% distribution, 4% testing	N/A	City Council proposed direction for upcoming tax ordinance.
Santa Barbara County	Proposed gross receipts tax - 6% retail dispensaries, 3% manufacturers, 4% cultivation, 1% nurseries & distributors, 6% microbusinesses	N/A	Tax measure planned for June, 2018 ballot
San Luis Obispo County	Proposed - 4% initial rate with annual automatic increases of 2%, max rate of 10% on gross receipts, 0% for testing laboratories	Proposed Sq. Ft. Fee (non-tax) to cover direct costs - .50 to 1.00	Square foot charge depends on number licenses and size of the grow.
City of Lompoc	0% - No commercial Cannabis tax		City Council voted not to impose a cannabis tax.
City of Pismo Beach	N/A	N/A	Commercial ban
City of San Luis Obispo	N/A	N/A	Considering tax measure for 2018
City of Gonzales	5% gross receipts tax on manufacturers capped at 15%	\$15 per sq.ft. cultivation tax capped at \$25	Tax Approved 2016
City of Greenfield	10% gross receipts tax on non-cultivation activities	\$25 per sq.ft. cultivation tax with CPI	Tax Approved 2016
City of Atascadero	5% gross receipts tax on all commercial cannabis activities	\$5 per square foot of cultivation facility	Cultivators can choose to pay gross receipts or per sq.ft. Tax Approved 2016
City of Berkeley	Medical businesses - 2.5%, Adult-use businesses 5%		Council voted to reduce Adult-use taxes to 5%
City of Costa Mesa	6% gross receipts tax on all cannabis businesses	N/A	

Based on Council direction to incorporate tax rates at approximately the same level of the City of Santa Barbara and the County of Santa Barbara, staff proposes a maximum tax rate for cannabis businesses of 10% of gross receipts, with initial tax rates at the rates as shown below with the included provision of a cap that in no event shall any person, conducting multiple of the below operations, pay more than 8% of gross receipts:

- Retail Dispensary – 6%
- Manufacturing – 3.5%
- Cultivation – 3%
- Distribution – 2.5%
- Testing – 1%
- Nurseries – 1.5%

The City can adjust these rates up or down at any time in the future by resolution, and with increases up to the maximum rate of 10%.

While a flat tax rate across all activities has the appearance of simplicity, it can have the effect of inflating prices to the point where consumers could be driven to the black market. For example, a flat rate of 4% applied to each step of the supply chain would effectively add 16% the consumer's end price for cannabis that was cultivated, distributed, tested, and sold at retail, while the presented varied rate structure would add 12.5% for the same supply chain. Additionally, because the State allows for vertically integrated operations, a cap of 8% was included so that an individual conducting multiple of the above operations would not pay more than 8% of gross receipts, this model has the effect of creating a wholesale rate and is the same as that introduced by the County of Santa Barbara.

The advantages of gross receipts is that it is a straightforward calculation of tax based on sales and tax revenue scales with sales and impact. The grower or manufacturer is not penalized for failed crop. Some disadvantages to this methodology is that there is increased administrative overhead in tracking gross receipts, also the revenue less predictable.

### **Potential Revenue**

There is a degree of uncertainty in the industry regarding potential revenue. Considerable variation in forecasts may result from changes in important assumptions, including: the number and type of Cannabis Business licenses that are issued, the variance in wholesale prices, and the productivity/yield of individual plants, changes in other jurisdictions' approach to cannabis businesses, and the amount sold through retailers in the City.

Based on the initial tax rates proposed above and estimates provided SCI Consulting, which takes into account industry trends, the population of the City and surrounding areas, and reports from other jurisdictions, adoption of a cannabis tax is anticipated to create increased revenue, in the range shown below (Attachment 2):

### **Gross Receipts –Tax Revenue Estimates**

Low end: \$434,000  
Middle: \$830,000  
High end: \$1,650,000

It should be noted that it may be one to three years before the licensed businesses are generating revenue at the levels assumed above. If the market becomes saturated, economics suggest that the price per pound of cannabis will drop, which would have a proportional effect on tax revenue.

### Other Considerations

Any tax measure proposed by the City and approved by the voters would be in addition to State of California taxation measures already in effect. The State currently applies the following taxes to cannabis uses:

State excise tax – 15% of retail sales price

State dry weight tax – \$9.25 per oz.

State/local sales tax – 7.75% (6% State + 0.5% Special + 0.7% City + 0.55% County)

### Financial Considerations

Voter approval of a cannabis tax is expected to create additional revenues in the range listed above dependent upon the rates of taxation approved. As a revenue raising measure, taxes collected will be available to be used to fund general municipal expenses such as police services, library services, recreation/parks and street improvements.

### Ballot Measure Language

Staff is proposing draft ballot measure language for consideration. The City Attorney's office will create final draft language based on the input provided by the City Council and its final direction. The City Clerk will return on June 19, 2018 with a Resolution approving the ballot measure text submitted to the voters. The text cannot exceed 75 words, not including the title.

Shall an ordinance be adopted imposing a Cannabis Business Tax on Cannabis operators upon their gross receipts at a rate not to exceed 10%, with initial rates of 6% on retailers, 3.5% on manufacturers, 3% on cultivators, 2.5% on distributors, 1.5% on nurseries and 1% on testing laboratories with a cap of 8% for multiple operation types estimated to raise \$430,000 to \$1.6 million to fund general municipal expenses?	YES	
	NO	

### FISCAL IMPACTS

The anticipated cost to file a ballot measure for the November 2018 election is \$10,200. The amount of revenue generated for the General Fund is approximately \$434,000 - \$1,650,000 per annum according to industry trends, however, impacted by considerable variations including the number and types of issued licenses, pricing, and productivity of operators.

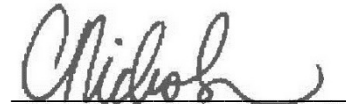
**ALTERNATIVES:**

The City Council may direct staff to provide additional information in preparation of a ballot measure. Alternatively, the City Council may decide to not take further action.

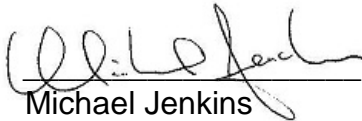
**Reviewed By:**

**Legal Review By:**

**Approved By:**



Carmen Nichols  
Deputy City Manager



Michael Jenkins  
City Attorney



Michelle Greene  
City Manager

**ATTACHMENTS:**

1. Draft Proposed Land Use Ordinance (with revisions as if 05/07/2018)
2. Business Tax Projections Worksheet
3. Draft Proposed Cannabis Business Tax Ordinance
4. Draft Resolution to place the Cannabis Business Tax General Tax Measure on the November 2018 General Election Ballot





**Attachment 1**

Draft Proposed Land Use Ordinance (with revisions as if 05/07/2018)



*A. Purpose.* This Ordinance establishes standards to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with State law, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment by establishing minimum land use requirements for all cannabis activities including the cultivation, distribution, transportation, storage, manufacturing, processing, and sales.

*B. Applicability.* The standards of this Section apply to all cannabis activities as defined in Section D - Cannabis-Related Use Classifications. Additionally,

1. All cannabis activities shall comply with the provisions of this Section, as well as all applicable State laws, regardless of whether the use existed or occurred prior to the effective date of this Ordinance.
2. Nothing in this Section is intended, nor shall it be construed, to allow persons to engage in conduct that endangers others or causes a public nuisance, or allows any use relating to personal or commercial cannabis activity that is illegal under State law.
3. Nothing in this Section is intended, nor shall it be construed, to exempt cannabis uses from compliance with all other applicable City regulations, including development standards, as well as other applicable provisions of the Goleta Municipal Code, State and local cannabis licensing requirements, or compliance with any applicable State laws.
4. All persons operating facilities and conducting cannabis activities, as defined in this Section, are subject to possible federal prosecution, regardless of the protections provided by State or local law.

*C. Cannabis-Related Definitions.* When used in this Ordinance, the following words are defined as follows. If a word is not defined in this Section or in other provisions of the Goleta Municipal Code, the definition shall be as in State law or, in cases where a definition is not provided in State law, as determined by the Director.

1. "Accessory Use". A use that is customarily associated with, and is incidental and subordinate to, a permitted use and located on the same premises as the permitted use.
2. "Cannabis". All parts of the 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" 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 division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

3. "Cannabis Concentrate". Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.
4. "Cannabis Products". Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
5. "Canopy". The designated area(s) at a cannabis business, except nurseries, that will contain mature plants at any point in time.
  - a. Canopy is calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
  - b. Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary which include, but are not limited to: interior walls and shelves; and
  - c. If mature plants are being cultivated using a shelving system, the surface area of each level is included in the total canopy calculation.
6. "Commercial Cannabis Activity". Activities that include the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, dispensing, or retail sale of cannabis and cannabis products as provided for in Senate Bill 94 (2017) or other State law and as it may be amended.

7. "Cultivation". Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
8. "Cultivation Site". A location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
9. "Day Care Center". Day care center has the same meaning as in Section 1596.76 of the Health and Safety Code.
10. "Delivery". The commercial transfer of cannabis or cannabis products to a customer. Delivery also includes the use by a retailer of any technology platform.
11. "Director". The Planning and Environmental Review Department Director of the City of Goleta or his/her designee.
12. "Dispensing". Any activity involving the retail sale of cannabis or cannabis products from a retailer.
13. "Distribution". The procurement, sale, and transport of cannabis and cannabis products between licensees.
14. "Edible Cannabis Product". Cannabis product that is intended to be used, in whole or in part, for human consumption, and is not considered food. Edible cannabis product has the same meaning as Business and Professions Code section 26001 and as it may be amended.
15. "Extraction". A process by which cannabinoids are separated from cannabis plant material through chemical, physical, or any other means.
16. "License or State License". A permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.
17. "Manufacture". To compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Manufacture includes the following processes: Extraction processes; Infusion processes; Packaging or repackaging of cannabis products; and Labeling or relabeling the packages of cannabis products.
18. "Owner". Any of the following:

- a. A person with an aggregate ownership interest of 20 percent or more in the use applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
  - b. The chief executive officer of a nonprofit or other entity.
  - c. A member of the board of directors of a nonprofit.
  - d. An individual who will be participating in the direction, control, or management of the person applying for a license.
19. "Premises". A legal parcel, or leasehold interest in land, or a leased or owned space in a building where the commercial cannabis use or activity is or will be conducted.
20. "State Cannabis Laws". Laws of the State of California, which include California Health and Safety Code Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program); California Health and Safety Code Sections 26000 through 26211 (Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA", Senate Bill 94 (2017))); California Health and Safety Code Sections 26220 through 26231.2; the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all state regulations adopted pursuant to MAUCRSA; and all other applicable laws of the State of California.
21. "Topical Cannabis". A product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
22. "Volatile solvent". A solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
23. "Youth Center". The same meaning as in Section 11353.1 of the Health and Safety Code.

*D. Cannabis-Related Use Classifications.*

- 1. "Cannabis Cultivation". Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

- a. "Outdoor Cultivation". The cultivation of cannabis without the use of light deprivation and/or artificial lighting in the canopy area. Supplemental low intensity lighting is permissible only to maintain immature plants as a source for propagation.
  - b. "Mixed-Light Cultivation". The cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting.
  - c. "Indoor Cultivation". The cultivation of cannabis within a permanently affixed, fully enclosed structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.
  - d. "Nursery". Operation that produces only cannabis clones, immature plants, seeds, and other agricultural products used in cannabis cultivation.
  - e. "Processor". A cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and nonmanufactured cannabis products. Cultivation of cannabis plants is prohibited.
2. "Cannabis Distribution". Facility for the distribution of cannabis and cannabis products.
3. "Cannabis Manufacturing". A building, or portion thereof, used for a business involving the manufacture for off-site sale of cannabis products.
  - a. "Non-Volatile Solvent Manufacturing". Manufacture, including extractions, of cannabis products using nonvolatile solvents, or no solvents. May also conduct packaging and labeling of cannabis products.
  - b. "Volatile Solvent Manufacturing". Manufacture, including extractions, of cannabis products using volatile solvents. May also conduct infusion operations and packaging and labeling of cannabis products.
  - c. "Infusions". Production of edible products or topical products using infusion processes, or other types of medical cannabis products other than extracts or concentrates, and that do not conduct extractions.
  - d. "Packaging and Labeling". Establishments engaged only in the packaging or repackaging of medical cannabis products or labeling or relabeling of cannabis product containers in preparation of retail sale.
4. "Cannabis Microbusiness". A business involving any combination of the cultivation of cannabis on an area less than 10,000 square feet, cannabis distribution, manufacturing with non-volatile solvents, and

cannabis retail. In order to be considered a Cannabis Microbusiness, three of four of the activities described must be conducted on the same premises.

5. "Cannabis Testing". Establishments involving the materials testing, investigation, scientific research, or experimentation of medicinal or nonmedicinal cannabis or cannabis products.
6. "Cannabis Retailer". Establishment where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale and includes delivery.
  - a. "Storefront". Cannabis retailer with a premises, meaning a "brick and mortar" facility, with direct physical access for the public.
  - b. "Non-Storefront". Cannabis retailer with a premises, meaning a "brick and mortar" facility, that does not have a storefront with direct physical access for nor is open to the public.
7. "Personal Use Cultivation". The cultivation, harvest, drying, or processing plants with the intent to possess, smoke, or ingest cannabis or cannabis products for their own individual use but who does not provide, sell or distribute cannabis to any other person except as provided by Health & Safety Code section 11362.1(a), as amended.

*E. Personal Use Cultivation.* Personal Use Cultivation, consistent with the requirements of this Section, is allowed in all Zoning Districts, and a land use permit is not required.

1. Cultivation is limited to six plants per private residence unless otherwise allowed by State law.
2. Personal use cultivation is limited to indoor cultivation in a permanently affixed, fully enclosed structure.
3. No cannabis odors may be detectable from offsite, and the use of odor prevention devices, such as a ventilation system with a carbon filter, must be utilized if necessary.
4. No exterior evidence of cultivation occurring at the property can be visible from the public right-of-way.
5. Cultivation is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.



6. Grow lights must not exceed 1,200 watts per light and are prohibited from producing a glare that interferes with other residents' reasonable enjoyment of life or property.
7. Cannabis plants cultivated must remain at least 12 inches below the ceiling.
8. Cultivation may not occur on required on-site parking areas unless that required parking is replaced in compliance with the City's Inland and Coastal Zoning Ordinances.
9. Cultivation may not interfere with the primary occupancy of the building or structure, including regular use of the kitchen(s) or bathroom(s).
10. The living plants and any cannabis produced by the plants in excess of 28.5 grams must be kept within the person's private residence in a locked space.
11. Generators. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use.
  - a. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations § 93115, as may be amended.
  - b. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.
12. The use of CO<sub>2</sub> or any volatile solvents to manufacture cannabis products is prohibited.
13. Nothing in the section is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting personal cultivation by tenants.
14. Nuisance abatement. Any violation of this Section is declared to be a public nuisance and may be abated by the City pursuant to Title I of the Goleta Municipal Code.

*F. Allowed Commercial Cannabis Uses by Land Use Designation.* Commercial cannabis uses are only allowed as prescribed in Table 1, Allowed Commercial Cannabis Uses, provided all other requirements of this Section are met and a Cannabis Business License is obtained from the City [Pending Direction on Cannabis Business Licenses]. Use locations are identified based on the Land Use Designations provided on Figure 2-1: Land Use Plan Map of the City's General Plan/Coastal Land Use Plan

regardless of the zoning district as identified on the City's Zoning Map. Outdoor Cultivation and Mixed-Light Cultivation are prohibited.

TABLE 1: ALLOWED COMMERCIAL CANNABIS USES BY GENERAL PLAN LAND USE DESIGNATION				"P" – Land Use Permit or Coastal Development Permit is Required "MU" -- Mino Conditional Use Permit Required "- " - Use Not allowed				
Uses	Land Use Designations							
	CR	CC	OT	CG	BP	OI	IS	IG
Cannabis Cultivation	See Subclassifications below.							
Indoor Cultivation	-	-	-	-	P	-	P	P
Nursery	-	-	-	-	P	-	P	P
Processor	-	-	-	-	P	-	P	P
Cannabis Distribution	-	-	-	P	-	-	P	P
Cannabis Manufacturing	See Subclassifications below.							
Non-Volatile Solvent Manufacturing	-	-	-	-	P	-	P	P
Volatile Solvent Manufacturing	-	-	-	-	-	-	-	P
Infusions	-	-	-	-	P	-	P	P
Packaging and Labeling	-	-	-	-	P	-	P	P
Cannabis Microbusiness	Allowed based on allowance for primary use if secondary uses are consistent with the Accessory Uses standards below.							
Cannabis Testing	-	-	-	-	P	P	-	P
Cannabis Retailer	See Subclassifications below.							
Storefront	MU	MU	MU	MU	-	-	-	-
Non-Storefront	-	-	-	P	-	-	P	P

### G. Accessory Uses.

1. A commercial cannabis use may only be accessory to a permitted or conditionally permitted cannabis use. Commercial cannabis uses may not have non-cannabis related accessory uses.
2. Accessory cannabis use(s) must be located on the same premises as the primary use.
3. All accessory cannabis uses must adhere to the Specific Use Standards for such uses as identified below.

4. Storefront retail is allowed as an accessory use but must obtain the permit required if Storefront Retail was the primary use.
5. Volatile Manufacturing is only allowed in IG as an accessory use.

*H. Cannabis Events.* Cannabis Events are prohibited.

*I. Specific Use Standards.* In addition to any other requirements of this Title and State law, cannabis activities must be located, developed, and operated in compliance with the following standards, where allowed by Section F, Allowed Commercial Cannabis Activities by Land Use Designation.

1. All Cannabis Uses.
  - a. Licenses Required.
    - i. State License. The permittee of a cannabis use that requires one or more of the State cannabis license types set forth in California Business and Professions Code must:
      1. Obtain the requisite State cannabis license for the cannabis use prior to the commencement of the use.
      2. Conduct the cannabis use in compliance with the State cannabis license at all times.
    - ii. City Cannabis Business License (CBL). The permittee of a cannabis use must:
      1. Obtain a CBL from the City of Goleta prior to the commencement of the use.
      2. Conduct the cannabis use in compliance with the CBL at all times.
  - b. Location Limitations. No buffers are required from schools, day cares, and youth centers.
  - c. Outdoor Lighting.
    - i. Outdoor lighting necessary for security must consist solely of motion-sensor lights.
    - ii. Any outdoor lighting used for the illumination of parking areas and/or loading areas, or for security, must be fully shielded, directed downward, and dark sky compliant.
  - d. Odor. The applicant must submit to the Department for review and approval an Odor Abatement Plan. The Odor Abatement Plan must be reviewed by City staff and approved by the City prior to permit issuance. The Odor Abatement Plan must be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project

as applicable. The Odor Abatement Plan must include the following [Potentially Moved to Business License]:

- i. A floor plan, specifying locations of odor-emitting activity(ies) and emissions.
  - ii. A description of the specific odor-emitting activity(ies) that will occur.
  - iii. A description of all equipment and methods to be used for reducing odors and ensuring that odors do not migrate off-site. Odor control equipment should consist of a building ventilation system that collects the air from all potential odor-generating activities and direct to a control device such as an activated carbon system. A Professional Engineer or a Certified Industrial Hygienist must review and certify that the equipment and methods to be used for reducing odors are consistent with accepted and available industry-specific best control technologies and methods designed to ensure that odors from the use do no migrate off-site.
- e. Operation. Once a cannabis use is established on the subject parcel, any cessation of operation must be for less than one year. The one-year limit may be extended by the decision-maker with jurisdiction over the project one time for good cause show, provided a written request, including a statement of reasons for the time extension request, is filed with Planning and Environmental Review prior to the end of the one-year period. If the one-year period ends and no extension request has been filed, the land use entitlement will be considered null and void.

2. Storefront Cannabis Retailer.

- a. Location Separation. A Storefront Cannabis Retailer shall be located a minimum of 300 feet from the closest property line of a lot on which another Storefront Cannabis Retailer is entitled.
- b. Location Limitations. The distances specified in this Section must be the horizontal distance measured in a straight line from the closest property line of the lot on which the cannabis activity is to be located without regard to intervening structures.
  - i. Storefront Cannabis Retailer uses on a lot within 600 feet from the closest property line of a lot on which a school is located require a Major Conditional Use Permit pursuant to the City's Inland and Coastal Zoning Ordinances.

- ii. Storefront Cannabis Retailer uses on a lot within 100 feet of a residential land use designation as identified in the City's General Plan require a Major Conditional Use Permit pursuant to the City's Inland and Coastal Zoning Ordinances.
  - c. On-Site Consumption is Prohibited. The premises of each Storefront Cannabis Retailer shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the retailer is prohibited.
  - d. Edibles. Only commercially prepackaged, shelf-stable edible cannabis products may be sold.
- 3. Non-Storefront Cannabis Retailer
  - a. Edibles. Only commercially prepackaged, shelf-stable edible cannabis products may be sold.
  - b. Hours of Operation. Hours of operation are limited to 10:00 am to 8:00 pm.
- 4. Indoor Cultivation.
  - a. From a public right-of-way, there shall be no exterior evidence of cannabis cultivation except for any signage authorized by the City.
  - b. Canopy size is limited to 5,000 square feet.
  - c. Energy Use.
    - i. Any applicant for indoor cultivation under this Ordinance must provide proof of consultation with Southern California Edison prior to application submittal.
  - d. Generators. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use.
    - i. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations § 93115, as may be amended.
    - ii. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.
  - e. Indoor cultivation activities, including materials and equipment storage, must occur solely in fully enclosed buildings.
- 5. Nursery
  - a. Nurseries must adhere to all standards for indoor cultivation pursuant to this Ordinance.

*J. Permit Procedures.*

1. **Required Permit.** A Land Use Permit (pursuant to §35-314 of the City's Inland Zoning Ordinance) or Coastal Development Permit (pursuant to §35-169 of the City's Coastal Zoning Ordinance) is required for all cannabis activities except Personal Use Cultivation unless a Conditional Use Permit is otherwise required pursuant to this Section or another provision of this Title.
2. **Public Notice.** In addition to the noticing requirements of the required permit, mailed notice must be provided to all property owners of record of property within 300 feet of the exterior boundaries of the subject property(ies) at least 10 days before the date of the public hearing or at the time of a complete application if there is no hearing.

*K. Inspection.* All permitted cannabis use sites are subject to review and inspection from Law Enforcement, Fire Department, and the Building Department or any agents of the State or City charged with enforcement of this Ordinance and any other State or local license.

*L. Revocation.* Any entitlement to allow cannabis activities may be revoked in compliance with Section 35-314.7 and 35-315.10 of the City's Inland Zoning Ordinance and 35-169.9 and 35-172.10 of the City's Coastal Zoning Ordinance as applicable.

*M. Enforcement.* Any entitlement to allow cannabis activities may be revoked in compliance with Section 35-330 of the City's Inland Zoning Ordinance and 35-185 of the City's Coastal Zoning Ordinance as applicable.

**Attachment 2**  
Business Tax Projections Worksheet





**CITY OF GOLETA  
CANNABIS TAX REVENUE ESTIMATES**

Attachment 2

**Gross Receipts**

Retail Dispensary - 6%			
Total Tax Revenue	\$36,000	\$48,000	\$86,400
Manufacturing - 3.5%			
Total Tax Revenue	\$168,000	\$238,000	\$364,000
Cultivation - 3%			
Total Tax Revenue	\$179,197	\$447,825	\$966,000
Distribution - 2.5%			
Total Tax Revenue	\$14,933	\$37,319	\$80,500
Testing - 1%			
Total Tax Revenue	\$27,300	\$42,000	\$127,500
Nurseries - 1.5%			
Total Tax Revenue	\$8,400	\$16,800	\$25,500
<b>TOTAL</b>	<b>\$433,830</b>	<b>\$829,944</b>	<b>\$1,649,900</b>
	Low	Mid	Max
City of Goleta Cannabis Business Tax Revenue Estimates			

**Sqaure Footage**

Retail Dispensary - \$20/sq.ft.			
Total Tax Revenue	\$40,000	\$60,000	\$80,000
Manufacturing - \$12/sq.ft.			
Total Tax Revenue	\$174,000	\$261,000	\$360,000
Cultivation - \$10/sq.ft.			
Total Tax Revenue	\$150,000	\$300,000	\$400,000
Distribution - \$8/sq.ft.			
Total Tax Revenue	\$16,000	\$24,000	\$48,000
Testing - \$4/sq.ft.			
Total Tax Revenue	\$20,000	\$40,000	\$80,000
Nurseries - \$5/sq.ft.			
Total Tax Revenue	\$12,250	\$22,500	\$24,500
<b>TOTAL</b>	<b>\$412,250</b>	<b>\$707,500</b>	<b>\$992,500</b>
	Low	Mid	Max
City of Goleta Cannabis Business Tax Revenue Estimates			



**Attachment 3**  
Draft Proposed Cannabis Business Tax Ordinance



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

**AN ORDINANCE OF THE PEOPLE OF CITY OF GOLETA, CALIFORNIA, ADDING  
CHAPTER 3.08 TO THE CITY OF GOLETA MUNICIPAL CODE, APPROVING  
AND IMPLEMENTING A CANNABIS BUSINESS TAX**

**THE PEOPLE OF CITY OF GOLETA ORDAIN:**

**SECTION 1.** Chapter 3.08 is added to the City of Goleta Municipal Code to read as follows:

**Sections:**

- 3.08.010 Title
- 3.08.020 General tax.
- 3.08.030 Purpose.
- 3.08.040 Intent.
- 3.08.050 Cannabis-related definitions.
- 3.08.060 Tax imposed.
- 3.08.070 Reporting and remittance of tax.
- 3.08.080 Delinquencies.
- 3.08.090 Penalties and interest.
- 3.08.100 Action to collect.
- 3.08.110 Appeal process.
- 3.08.120 Refunds.
- 3.08.130 Administration.
- 3.08.140 Audit and examination of records.
- 3.08.150 Payment of tax does not authorize unlawful business or activity.
- 3.08.160 Severability.
- 3.08.170 Modification, amendment or repeal.

**3.08.010 Title.**

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

**3.08.020 General Tax.**

The commercial cannabis business tax is a general tax enacted solely for general governmental purposes for the City and not for specific purposes. All the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and can be used for general governmental purposes.

**3.08.030 Purpose**

This is adopted to achieve the following purposes, among others, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a tax on the privilege of cultivating, manufacturing, processing, storing, laboratory testing, labeling, packaging, transporting, distributing, delivering, or sale of commercial cannabis and cannabis products and accessories by cannabis businesses in the City of Goleta.
- B. To impose a tax on lawful commercial cannabis business pursuant to Sections 37101 and 37100.5 of the California Government Code.
- C. To specify the type of tax and rate of tax to be levied and the method of collection; and
- D. To comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue.
- E. To specify the Cannabis Business Tax is not a sale and use tax, a tax upon income, or a tax upon real property.

#### **3.08.040 Intent.**

The intent of this Ordinance is to levy a tax on all cannabis businesses that operate in the City. Nothing in this Ordinance shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

#### **3.08.050 Cannabis-Related Definitions**

For the purposes of this Chapter.

- A. *Business* shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.
- B. *Cannabis* means all parts of the 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 marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "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 that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

- C. *Cannabis product* means raw 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 marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.
- D. *Commercial Cannabis Business* means any commercial business activity relating to cannabis, including but not limited to cultivating, manufacturing, processing, storing, laboratory testing, labeling, packaging, transporting, distributing, delivering or sale of adult-use and medicinal cannabis or cannabis product, except as related to Business and Professions Code Section 19319, and as they may be amended or Health and Safety Code Sections 11362.1 through 11362.45 and as they may be amended.
- E. *Cannabis Cultivation* means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Also includes the storing, packaging, and labeling of nonmanufactured cannabis products.
- F. *Cannabis Distribution* means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.
- G. *Cannabis Manufacturing* means any aspect of the cannabis extraction and infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Cannabis manufacturing also includes any processing, preparing, holding, or storing of components and ingredients. Cannabis Manufacturing does not include Cannabis Distribution or Cultivation.
- H. *Cannabis Nursery* means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis for non-personal use.
- I. *Cannabis Retailing* means business, other than a business all of whose sales constitute Cannabis Distribution, where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for sale, including an establishment that delivers cannabis or cannabis products as part of a sale.
1. *Adult-Use Cannabis Retailing* means any Cannabis Retailing that does not qualify as Medicinal Cannabis Retailing, such as sales intended for adults 21 years of age and over and who do not possess a physician's recommendation.
  2. *Medicinal Cannabis Retailing* means the sale of cannabis or cannabis products that are intended for cannabis patients who possess a physician's recommendation for the use of cannabis.

- J. *Commercial Cannabis Testing* means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body and registered with the State Department of Public Health.
- K. *Engaged in business* means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the area of the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:
1. Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
  2. Such person or person's employee owns or leases real property within the City for business purposes;
  3. Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
  4. Such person or person's employee regularly conducts solicitation of business within the City;
  5. Such person or person's employee performs work or renders services in the City; and
  6. Such person or person's employee utilizes the streets within City in connection with the operation of motor vehicles for business purposes.
- The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."
- L. *Fiscal year* means July 1 through June 30 of the following calendar year.
- M. *Gross receipts*, except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, any excise tax included within the purchase price however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:
1. Cash discounts where allowed and taken on sales;
  2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;



3. Sales tax required by law to be added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale 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;
5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
7. Cash value of sales, trades or transactions between departments or units of the same business;
8. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
9. Transactions between a partnership and its partners;
10. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:
  - a. The voting and non-voting stock of which is owned at least eighty (80) percent by such other corporation with which such transaction is had; or
  - b. Which owns at least eighty (80) percent of the voting and non-voting stock of such other corporation; or
  - c. At least eighty (80) percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.
11. Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection 9. Above;

12. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);
  13. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.
- N. *Person* includes 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.
- O. *Sale* means and includes any sale, exchange, or barter.
- P. *State* means the State of California.
- Q. *State license, license, or registration* means a State license issued pursuant to California Business and Professions Code Section 26000 et seq. or other applicable State law.

### **3.08.060 Tax Imposed.**

- A. Tax on Commercial Cannabis Businesses by Gross Receipts:
1. Every person who is engaged in a commercial cannabis business in the City of Goleta shall pay to the City an annual cannabis business tax at the initial rates established as follows should the City allow such activity:
    - a. Retail: 6% of gross receipts; and
    - b. Manufacturing: 3.5% of gross receipts; and
    - c. Cultivation: 3% of gross receipts; and
    - d. Distribution (excludes Distributor Transport Only): 2.5% of gross receipts; and
    - e. Nurseries: 1.5% of gross receipts; and
    - f. Testing: 1% of gross receipts; and
- B. The City Council may at its discretion, at any time by resolution, increase or decrease the rates for the different categories of cannabis business. However, in no event may the City Council set any adjusted rate that exceeds the maximum rate. The maximum rate for all commercial cannabis businesses shall be set at ten percent (10%) of gross receipts.

### **3.08.070 Reporting and Remittance.**

- A. The cannabis business tax imposed by this chapter is an annual tax payable in quarterly installments. The tax year for purposes of this chapter runs from January 1 through December 31 of each calendar year. No later than the last day of the month following the end of each calendar quarter, each taxpayer shall file with the Treasurer/Tax Collector, a statement of the tax owed for that calendar quarter and the basis for calculating that tax. The tax shall be due and payable on the same date that the statement for the calendar quarter is due.
- B. If the due date would fall on a Saturday, Sunday or a holiday observed by the City, the due date shall be the next regular business day on which the City is open to the public
- C. The quarterly installment shall be no less than the amount calculated by applying the relevant tax rate to the paid based on the actual gross receipts for the quarter.
- D. No later than January 31 of each year, each taxpayer shall file with the City their final tax statement with respect to all commercial cannabis business activities during the prior calendar year. If the total of all installment payments made for the tax year is less than the final annual tax due, the difference shall be remitted to the City along with the tax statement. If the total of all installment payments exceeds the final annual tax due, then the excess payment shall be applied as a credit against the subsequent year's installment payments.
- E. Any quarterly installment or final tax payment that is not timely made shall be subject to the penalties set forth in Section 3.08.090.

### **3.08.080 Delinquencies.**

The taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in Section 3.08.070.

### **3.08.090 Penalties and interest.**

- A. Any person who fails or refuses to pay the cannabis business tax pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:
  - 1. A penalty equal to ten percent (10%) 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 the rate of one percent (1.0%) per month.
  - 2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties.

3. Interest shall be applied at the rate of one percent (1.0%) per month on the first day of the month for the full month and will continue to accrue monthly on the tax and penalty until the balance is paid in full.
- B. Whenever a check or electronic payment is submitted in payment of a cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this Section, and any other amount allowed under state law.

### **3.08.100 Action to collect.**

Any taxes, penalties and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the City. Any person owing money to the City under the provisions of this Chapter shall be liable in an action brought in the name of the City for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the City to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

### **3.08.110 Appeal process.**

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the City Council by filing a notice of appeal with the City Clerk within thirty (30) calendar days of the serving or mailing of the determination of tax due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such operator at the last known place of address. The finding of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this Chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

### **3.08.120 Refunds.**

- A. Whenever the amount of any cannabis business tax, delinquency amount or interest has been overpaid, paid more than once, or has been erroneously collected or received by the City under this Chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Treasurer-Tax Collector within one (1) year of the date the tax was originally due and payable.
- B. The Tax Administrator, his or her designee or any other City officer charged with the administration of this Chapter 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.

- C. In the event that the cannabis operations tax was erroneously paid and the error is attributable to the City, the City shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.
- D. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business or operation.

**3.08.130 Administration.**

- A. The Tax Administrator is authorized to collect the taxes, delinquency amounts, interest, penalties and fees, and perform the duties required by this Chapter.
- B. The Tax Administrator shall promulgate administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this Chapter to ensure the efficient and timely collection of the cannabis business tax.
- C. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to:
  - 1. Provide to all cannabis business tax payers forms for the reporting of the tax;
  - 2. Provide information to any taxpayer concerning the provisions of this Chapter;
  - 3. Receive and record all taxes remitted to the City as provided by this Chapter;
  - 4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
  - 5. Assess delinquency amounts and interest to taxpayers pursuant to this Chapter; and
  - 6. Determine amounts owed and enforce collection pursuant to this Chapter.

**3.08.140 Audit and examination of records.**

- A. Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the City Council by filing a notice of appeal with the City Clerk within thirty (30) calendar days of the serving or mailing of the determination of tax due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such operator at the last known place of address. The finding of the City Council shall be final and conclusive and shall be served upon the appellant in the manner

prescribed by this Chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

- B. It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

**3.08.150 Payment of tax does not authorize unlawful business or Activity.**

The payment of any commercial cannabis business tax required under the provisions of this Chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal matter. Nothing in this section implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless authorized by California and Federal Law. Nothing in this section shall be applied or construed as authorizing the sale of cannabis.

**3.08.160 Severability.**

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

**3.08.170 Modification, amendment or repeal.**

This Chapter may be repealed or amended by the City Council without a vote of the people to the extent allowed by law. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter above the maximum rates established by this Chapter. The people of the City of Goleta affirm that the following actions shall not constitute an increase of a tax:

- A. Any restoration or adjustment of the rate of the tax to a rate that is no higher than that maximum rate set by this Chapter, if the City Council has acted to reduce the rate of the tax; or
- B. 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; or
- C. The collection of the tax imposed by this Chapter, even if the City had, for some period of time, failed to collect the tax.

**SECTION 2.** This Ordinance shall take effect immediately upon its approval of a majority of the votes cast by voters voting upon the Ordinance at the November 6, 2018 election.

**SECTION 3.** The City Clerk shall publish this ordinance as required by applicable law. Upon approval by the voters, the City Clerk shall certify the passage of this ordinance by the voters and cause the ordinance to be codified in the City of Goleta Municipal Code.

**PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF GOLETA AT THE STATEWIDE ELECTION HELD THE 6<sup>TH</sup> DAY OF NOVEMBER 2018, by the following vote tally:**

DRAFT





**Attachment 4**

Draft Resolution to place the Cannabis Business Tax General Tax Measure on the  
November 2018 General Election Ballot



RESOLUTION NO. \_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA APPROVING BALLOT MEASURE TEXT TO BE SUBMITTED TO THE VOTERS OF THE CITY IMPOSING A CANNABIS BUSINESS TAX; REQUESTING THE ASSISTANCE OF THE COUNTY OF SANTA BARBARA IN CONNECTION WITH THAT ELECTION; AND REQUESTING CONSOLIDATION OF THAT ELECTION WITH ANY OTHER ELECTION HELD ON THAT DATE**

**WHEREAS**, Sections 37101 and 37100.5 of the California Government Code authorize the City to levy a license tax, for revenue purposes, upon business transacted in the City; and

**WHEREAS**, as a result of recent voter-approved changes to state law, there has been a very strong interest by cannabis businesses to operate in the City; and

**WHEREAS**, cannabis businesses create demands upon City services that are not covered by the fees paid by such businesses for operating permits, and the City does not currently impose any taxes upon cannabis businesses, aside from generally applicable municipal taxes; and

**WHEREAS**, the City Council desires to seek to impose a business license tax upon cannabis businesses, to be known as the “Cannabis Business Tax”; and

**WHEREAS**, the Cannabis Business Tax cannot be imposed without voter approval; and

**WHEREAS**, the City Council desires to submit a Cannabis Business Tax measure to the voters of the City at the General Municipal Election to be held on Tuesday, November 6, 2018, and to be consolidated with any other election to be held on that date; and

**WHEREAS**, the proposed Cannabis Business Tax is more completely described in the ordinance attached hereto as Attachment “A” and incorporated herein by reference (the “Tax Ordinance”).

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council hereby finds and determines that the foregoing recitals are true and correct.

**SECTION 2. Proposal.** The City Council hereby proposes the Cannabis Business Tax.

**SECTION 3. Election.** The City Council hereby calls a General Municipal Election for Tuesday November 6, 2018 (the “Election”) and orders, pursuant to Section 9222 of the Elections Code, that the Tax Ordinance be submitted to the voters at that election.

**SECTION 4. Ballot Question.** The question submitted by Section 3 of this Resolutions shall appear on the ballot as follows:

Shall an ordinance be adopted imposing a Cannabis Business Tax on Cannabis operators upon their gross receipts at a rate not to exceed 10%, with initial rates of 6% on retailers, 3.5% on manufacturers, 3% on cultivators, 2.5% on distributors, 1.5% on nurseries and 1% on testing laboratories with a cap of 8% for multiple operation types estimated to raise \$430,000 to \$1.6 million to fund general municipal expenses?	<b>YES</b>	
	<b>NO</b>	

**SECTION 5. Approval.** Pursuant to Section 2(b) of Article XIII A of the Constitution, this measure requires approval by a majority of those casting ballots on the measure.

**SECTION 6. Consolidation.** Pursuant Section 10400 et seq. of the Elections Code, the Board of Supervisors of Santa Barbara County is requested to consolidate the Election with other elections held on the same day in the same territory or in the territory that is in part the same.

**SECTION 7. Canvass.** The Board of Supervisors is authorized to canvass the returns of the Election pursuant to Section 10411 of the Elections Code.

**SECTION 8. Conduct of Election.** Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County Clerk to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the City agrees to reimburse the County, in accordance with current County pro-rations and allocation procedures.

**SECTION 9. Filing with County.** The City Clerk shall file a certified copy of this Resolution with the County Clerk.

**SECTION 10. Analysis and Argument.** The City Attorney shall prepare an impartial analysis of the measure. Any person or persons may file an argument either for or against the ballot measure. An argument for or against the measure shall not exceed 500 words in length. If more than one argument is submitted for the measure, or more than one argument against the measure, the City Clerk shall select the argument to be included with the ballot materials. Rebuttal arguments shall be permitted pursuant to applicable law.

**SECTION 11. Effective Date.** This Resolution shall be effective immediately upon adoption

**SECTION 12.** The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_, 2018.

\_\_\_\_\_  
PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
DEBORAH S. LOPEZ  
CITY CLERK

\_\_\_\_\_  
MICHAEL JENKINS  
CITY ATTORNEY

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

I, Deborah S. Lopez, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 18-\_\_ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

\_\_\_\_\_  
DEBORAH S. LOPEZ  
CITY CLERK