COUNTY OF SONOMA

SPECIAL ELECTION

TUESDAY, JUNE 6, 2017

County Voter Information Guide

Compiled and Distributed by Sonoma County Registrar of Voters

IMPORTANT NOTICE - YOUR POLLING PLACE MAY HAVE CHANGED. ***The location of your polling place for this election is shown on the back cover.***

POLLS ARE OPEN FROM 7 A.M. TO 8 P.M.

TO SAVE TIME AT THE POLLS -

> ***Mark your choices in this County Voter Information Guide and take it with you to your polling place.***

> ***If possible, vote during the "non-rush hours," mid-morning and mid-afternoon.***

OR VOTE BY MAIL, APPLICATION ON BACK

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

INSTRUCTIONS TO VOTERS

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

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

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

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

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

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

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

HOW TO VOTE YOUR BALLOT CARDS

MAKE SURE YOU VOTE BOTH SIDES OF YOUR BALLOT CARDS

STEP 1

Remove ballot cards from the secrecy holder.

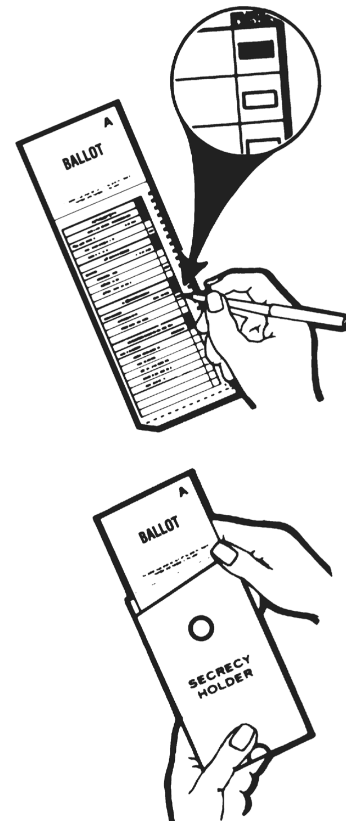
STEP 2

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

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

STEP 3

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



MAY
22
2017

LAST DAY TO REGISTER TO VOTE IN THIS ELECTION

You must be registered to vote in your county of residence by this date to be eligible to vote in this election.

1) If you were registered to vote and moved to another address ***within the same county,*** and failed to re-register, ***you are still eligible to vote*** (see sub-paragraphs a and b below).

a) If you were registered to vote in Sonoma County and moved within the county on, or prior to, the date shown, you may re-register and vote at the Registrar of Voters Office between the date shown and Election Day, inclusive, or you may vote a provisional ballot at the polling place for your new address on Election Day. Call for the location of your new polling place.

b) If you moved after the date shown, you may re-register and vote at the Registrar of Voters Office between the date shown and Election Day, inclusive, or you may vote a provisional ballot at the polling place for your new address on Election Day; or you may vote at the polling place for your former address (or by mail) for this election only. If you choose to vote from your former address, you must re-register and vote from your new address in future elections. To re-register, visit vote.sonoma-county.org or call to request a voter registration form.

2) If you were registered to vote and moved to ***another county prior to the date shown, you are not eligible to vote in this election and must re-register in that county.***

3) If you were registered to vote and moved to ***another county after the date shown, you may vote at the polling place for your former address (or by mail) for this election only.*** You must re-register and vote from your new address in future elections.

To return application separate here

49-AV-E223502

FROM

____

____

____

DID YOU SIGN YOUR APPLICATION?

PLEASE
AFFIX
FIRST
CLASS
POSTAGE

PLACE STAMP HERE

SONOMA COUNTY CLERK &
REGISTRAR OF VOTERS
P O BOX 11485
SANTA ROSA, CA 95406-1485

To return application separate here

COUNTY OF SONOMA REGISTRAR OF VOTERS

IMPORTANT NUMBERS TO CALL

GENERAL INFORMATION
(707) 565-6800
(800) 750-VOTE

TDD (HEARING IMPAIRED)
(707) 565-6888

VOTE BY MAIL BALLOT INFORMATION
(707) 565-6800

PRECINCT OFFICER INFORMATION
(707) 565-6816

SPECIAL ELECTION LAST DAY TO REQUEST A VOTE BY MAIL BALLOT

MAY 30 2017

To receive a Vote by Mail ballot you must:

1) Be a registered voter eligible to vote in the election (see below).
2) Print your name and SIGN your request.
3) Submit your request to the Registrar of Voters Office no later than **5 p.m.** on this date.

For information regarding obtaining a Vote by Mail ballot after the date shown, please call (707) 565-6800.

RETURNING YOUR VOTE BY MAIL BALLOT

JUNE 6 2017

Voted ballots may be hand delivered to the Elections Office or any polling place in Sonoma County NO LATER THAN 8 p.m. ON ELECTION DAY. Ballots returned by mail must be postmarked before or on Election Day.

ASSISTANCE FOR THE HEARING OR VISUALLY IMPAIRED

The Sonoma County Registrar of Voters Office TDD (Telecommunications Device for the Deaf) election information and assistance number is (707) 565-6888. Audio tapes of state and local ballot measures are available from the Registrar of Voters Office by telephoning (707) 565-6800 or 1-800-750-VOTE.

POLLING PLACE ACCESSIBLE?

If the letter **"Y"** appears to the right of the polling place location shown above, your polling place is accessible to the disabled. Each polling place is equipped with a "Disabled Access Unit" on which to vote.

If the letter **"N"** appears to the right of the polling place location shown above, your polling place does not strictly meet the criteria for polling place accessibility; however, depending on the extent of your disability, you may be able to access your polling place. If you wish to know more about the accessibility of your polling place, please phone the Registrar of Voters Office at (707) 565-6800 or 1-800-750-VOTE.

If you are disabled and your polling place is not accessible, a precinct board member will bring a ballot to you at a place which is accessible, as near to the polling place as possible. All voters are entitled to permanent Vote by Mail status. If you wish to claim permanent Vote by Mail status, check the appropriate box on the application for a Vote by Mail ballot.

A

OFFICIAL BALLOT

NONPARTISAN BALLOT

Sonoma County

June 6, 2017

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

I HAVE VOTED—HAVE YOU?

Sample Ballot

MEASURES SUBMITTED TO THE VOTERS

CITY

CITY OF SANTA ROSA

C **City of Santa Rosa Rent Stabilization.** Shall those provisions of the City of Santa Rosa Residential Rent Stabilization and Other Tenant Protections Ordinance that establish rent control for certain residential rental properties, prohibit landlords from evicting tenants of certain properties except for specified reasons, and provide other protections to tenants, be approved?

- Yes
- No

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

- Yes
- No

49-A003

A

N

Sample Ballot

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)
Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

CITY OF SANTA ROSA
MEASURE C

C **City of Santa Rosa Rent Stabilization.** Shall those provisions of the City of Santa Rosa Residential Rent Stabilization and Other Tenant Protections Ordinance that establish rent control for certain residential rental properties, prohibit landlords from evicting tenants of certain properties except for specified reasons, and provide other protections to tenants, be approved?

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE C

Generally, landlords may set the amount of rent charged to tenants, and may evict a tenant for any reason except for an unlawful reason, such as unlawful discrimination. Under some circumstances, a city may adopt an ordinance to limit rents for certain residential rental units and may restrict the reasons why landlords may evict tenants.

The Santa Rosa City Council adopted such an ordinance ("the Ordinance"). Certain residents of the City challenged the Ordinance through a referendum petition. The City Council has placed a measure on the ballot asking voters whether to approve the Ordinance. The Ordinance will not go into effect unless a majority of those voting on the measure vote "yes."

If approved, the Ordinance will reset rents to the rents that were in effect on January 1, 2016, but tenants will not be reimbursed for any increase in rents that were in place between January 1, 2016 and the effective date of the Ordinance. The Ordinance allows a landlord to increase rents up to 3% annually and, in certain circumstances, provides for a hearing process for landlords to request rent increases above 3% as well as for tenants to request reduced rent.

The Ordinance also prohibits landlords from evicting tenants unless there is "just cause" (such as when a tenant fails to pay rent or breaches the lease), or unless there are certain specific "no fault" circumstances (such as when a landlord will move into the rental unit or permanently withdraw the unit from the rental market). Where a landlord evicts a tenant for a "no fault" reason, the Ordinance requires the landlord to pay the tenant relocation fees equal to three months' rent for a comparable rental unit, plus $1,500.

Not all residential rental units in the City are subject to the Ordinance. The Ordinance does not apply to single family residences (including condominiums), duplexes, triplexes where the owner resides in one of the three units and multi-family units for which the initial certificate of occupancy was issued after February 1, 1995. Other types of accommodation are also not subject to the Ordinance, such as where the landlord has agreed with a governmental agency to limit the amount of the rent, roommate situations, rooms in hotels and institutional facilities, "granny" units and mobile homes.

Each year the City Council will set a fee imposed on landlords to cover the City's costs of administering the program and one-half of that fee may be passed on to tenants. The City previously estimated its annual cost of administering the program to be approximately $1,250,000, or about $113 per unit.

The Ordinance makes it unlawful for a landlord to retaliate against a tenant for exercising rights under the Ordinance and imposes fines and penalties for violating the Ordinance.

The City Council is to review the Ordinance annually and any other time when the residential vacancy rate is above 5% for 12 months.

s/ Teresa L. Stricker
Interim City Attorney

ARGUMENT IN FAVOR OF MEASURE C

A Yes vote on Measure C reinstates Santa Rosa's rent control and protections that: Keep thousands of current renters in their homes, including families, seniors, college students and the disabled. Reduce crime with stable neighborhoods and less renter turnover. Improve learning by keeping students from being moved from school to school. Benefit public health by decreasing stress related to repeated moves and eviction threats. Support local businesses due to residents having more money to spend at local stores, and not just for rent.

Our housing crisis affects our entire community. Seniors are forced out of their homes where they've lived for decades. College students sleep in their cars. Mothers are evicted for no reason. Now 12,000 rental units that would be covered by rent control face unaffordable rent increases. That's why last year, after months of debate, study and community meetings, our City Council approved this ordinance to help renters and agreed to build more affordable housing.

Measure C by law guarantees landlords a fair return on their investment, allowing increases at 3% / year, and a process for just cause evictions. This modest measure is fair to both renters and landlords, but it's being challenged by a powerful special-interest group of apartment owners based in Sacramento and Los Angeles. Remember these Facts when voting: Santa Rosa's rent increases are among the highest in the United States; Our vacancy rate is just 1%; Almost half of Santa Rosa residents are renters; And nearly half of those are "overpaying households" where 30% or more of their income goes to housing costs; 4,500 low-income families are on a list for housing assistance – the average wait time is seven years.

Measure C will help immediately, providing dignity, stability and a better community for everyone. Help keep Santa Rosa Fair and Affordable – Vote Yes on Measure C! www.FairAndAffordableSantaRosa.com

s/ Chris Coursey
Mayor, City of Santa Rosa

s/ Dorothy E Battenfeld
SRJC Trustee, Housing Advocacy Group

s/ David R Mongeau
MBA, Chess Financial Planning LLC

s/ Sibyl Day
Landlord/Realtor/NBOP Officer

SANTA ROSA TEACHERS ASSOCIATION
s/ Ola King-Claye, President

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE C

One thing we all agree on is the fact that the lack of affordable rental housing in Santa Rosa is a serious problem, but Measure C is the wrong solution. Measure C won't address our rental housing crisis – 80% of Santa Rosa's housing isn't even covered by Measure C, and as a result, rents will soar. Measure C won't address homelessness – those who are most in need.

Proponents fail to mention renters and taxpayers are on the hook to pay for part of the cost associated with the new bureaucracy at City Hall – largely by hiring new city employees to enforce Measure C – totaling an estimated $1.4 million annually. Taxpayers could be on the hook for millions more through added judicial/bureaucratic hearings and unforeseen public safety costs when handling problem tenants that cannot be evicted for issues such as committing crimes or dealing drugs.

Measure C doesn't explain or even mention how it will help low-income/homeless residents or require the construction of more affordable housing. Measure C fails to provide targeted help for those actually in need – low-income families and seniors on waiting lists for housing assistance. Measure C is so poorly written that there are no income limits or even priority for low-income renters, so even the wealthiest Santa Rosa resident could qualify for a rental unit covered by Measure C.

Don't be fooled by lofty claims or empty promises – the fact is, Measure C costs too much, fails to alleviate homelessness, won't lower rents or provide more affordable housing, and is bad for Santa Rosa.

Vote No on Measure C. www.FairHousingforAll.com

s/ Mark Ihde
Retired Sheriff/Non-Profit Executive

s/ Carolina L. Spence
Senior Advocate

s/ Elizabeth Barron
Tax Advisor/CPA

s/ Janet L. Condron
Former Santa Rosa Mayor

s/ Cecilia Rosas
Renter/Small Business Owner

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)
Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

ARGUMENT AGAINST MEASURE C

Affordable housing is a real problem in Santa Rosa, but Measure C is not the answer. It will cost taxpayers millions, have unintended consequences on neighborhood safety, and will not provide any new affordable housing options for Santa Rosa families. Measure C will cost taxpayers more than $1.4 million annually and will create a whole new bureaucracy at City Hall. Measure C does nothing to address homelessness, provide new affordable housing or lower rents. In fact, 80% of Santa Rosa's housing supply will not be covered under Measure C. Renters in single-family homes, condominiums, duplexes, owner-occupied triplexes, and apartments built after 1995 will not be covered by the provisions of Measure C.

The State Legislative Analyst's Office notes that a policy like Measure C "does very little to address the underlying cost of California's high housing cost: a shortage of housing." Their report shows that rent control is not effective at creating affordable housing. In fact, it could reduce the amount of affordable rental housing in Santa Rosa by reducing turnover and allowing any available housing covered by Measure C to go to residents with higher credit scores and income levels, instead of prioritizing those units for seniors, families and other residents who actually need affordable housing.

Measure C also makes evicting problem tenants virtually impossible. Those who put the safety of their neighbors at-risk by dealing drugs or engaging in other dangerous activities will be safeguarded from evictions, degrading neighborhood quality of life. Voting No on Measure C is a vote to keep fair and equitable housing for all our residents. That's why renters, homeowners, small business owners, seniors and working families have come together to vote No on Measure C.

Don't be fooled! Measure C won't address our lack of affordable housing, but will cost taxpayers. Vote No on Measure C. www.FairHousingforAll.com

s/ John Sawyer
Santa Rosa City Councilmember

s/ Tom Schwedhelm
Santa Rosa City Councilmember

s/ Ernesto Olivares
Santa Rosa City Councilmember

s/ Sharon Wright
Former Santa Rosa Mayor

s/ Cecilia Rosas
Renter/Small Business Owner

REBUTTAL TO ARGUMENT AGAINST MEASURE C

Measure C protects 12,000 rental homes in Santa Rosa – for our neighbors, teachers, police officers, firefighters, working class families, and seniors. Measure C is fair. Landlords pay for administrative costs, not homeowners or taxpayers. The City Attorney's Impartial Analysis clearly states administration is paid with "a fee imposed on landlords" – starting at under $5 / month. It's fair to mom-and-pop landlords.

Measure C keeps Santa Rosa affordable for current renters. With a 1% vacancy rate, we are fast approaching what other cities have become – a playground for the super-rich. We want our kids and grandkids to live here. Our workforce shouldn't be forced to move and drive long distances, or worse, become homeless.

Opponents have a pattern of spreading falsehoods. They've falsely claimed drug-dealers will be "safeguarded," when in fact landlords can evict "if the tenant's conduct is illegal" (Section 6-90.125, paragraph D). They're also not telling the whole truth when they disregard the City's efforts to build more affordable housing.

Measure C is opposed by big apartment corporations based outside Santa Rosa that profit from huge rent increases. Voting yes stops rent gouging by those who don't live here. Don't be fooled by their onslaught of misleading mailers, mobile and online ads. Remember who this ordinance really helps: the single mother unable to put a roof over her and her children's heads; the local working family being forced away; seniors being priced out of the neighborhood where they've lived for years.

Let's keep Santa Rosa Fair & Affordable – Vote Yes on C!

s/ Julie N. Combs
SR City Council Member

s/ Ed Sheffield
SCCA Board Member, City Schools Trustee

s/ David J. Harris, PhD
SR Housing Authority Vice-Chair

s/ Leticia Romero
Community Health Clinic Outreach Coordinator

s/ Linda Adrain
President, SR Manufactured-Home Owners Assoc.

FULL TEXT OF MEASURE C

ORDINANCE NO. 4072

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 6-90 TO THE SANTA ROSA MUNICIPAL CODE CONCERNING, AS TO CERTAIN RESIDENTIAL RENTAL UNITS IN THE CITY, (A) RENT STABILIZATION, LIMITATIONS ON THE TERMINATION OF TENANCIES AND THE PAYMENT OF RELOCATION ASSISTANCE AND REPEALING IN THEIR ENTIRETY ORDINANCE NUMBERS 4067, 4069 AND 4070

WHEREAS, community members have reported (a) to the City Council at City Council meetings, (b) to the City Council in written communications, (c) and through the press that in the City there have been substantial increases in rent and there have been a substantial number of terminations of tenancies without cause; and

WHEREAS, in response, the City Council directed City staff to analyze various tenant protection policy options, including legislation to establish rent control/stabilization and/or just cause eviction policies; and

WHEREAS, community members also reported that the City Council's discussion and direction to study rent stabilization and just cause eviction policy options have created market uncertainty and concern among some property owners that if they do not immediately increase rents and/or take action to terminate tenancies without just cause, they could face a loss of income and/or loss of property value; and

WHEREAS, in Santa Rosa, approximately 47% of its residents are renters; and

WHEREAS, according to the U.S. Census Bureau, 2009-2013 American Community Survey, 9% of families in Santa Rosa live below the poverty level and the number of persons living below the poverty level in Santa Rosa has increased since 2000; and

WHEREAS, according to C-STAR (2015 Q-2), the monthly rent and occupancy rates of market rate units of apartment buildings of fifty or more units in Santa Rosa have increased 9% in the past year and more than 20% in the past 2.5 years; and

WHEREAS, according to the U.S. Census Bureau, 2009-2013 American Community Survey, 47.1% of Santa Rosa renter households are "overpaying households", meaning a household which pays 30% or more of its household income on housing costs; and

WHEREAS, the vacancy rate for residential rental units in the City of Santa Rosa is approximately one percent and therefore there is not enough supply of vacant units to offer tenants a meaningful choice in the residential rental market; and

WHEREAS, increasing poverty in Santa Rosa, decreasing median income and increasing rents have created a growing "affordability gap" between household incomes and rents as demonstrated by the increase in "overpaying renter households"; and

WHEREAS, the Section 8 Housing Choice Voucher program, through which tenants can obtain affordable housing, has a wait list of over 4500 households, with an average wait time of over seven years in which to obtain a Voucher; and

WHEREAS, given this increased housing cost burden faced by many City of Santa Rosa residents, excessive rental increases threaten the public health, safety, and welfare of the City's residents, including seniors, those on fixed incomes, those with very low-, low-, or moderate-incomes, and those with other special needs, to the extent that such persons may be forced to choose between paying rent and providing food, clothing, and medical care for themselves and their families; and

CONT. NEXT PAGE

FULL TEXT OF MEASURE C, CONT.

WHEREAS, on May 3, 2016, following several meetings of a Council committee that considered a number of tenant protection options, the City Council directed City staff to present to the Council legislation that would limit annual rent increases and limit termination of tenancies to situations where there is "just cause" for terminating a tenancy; and

WHEREAS, on May 17, 2016, in light of numerous concerns about rising rents and other adverse impacts resulting from a substantial decrease of affordable rental housing within the City, the City Council determined that it was in the interest to preserve immediately the public health, safety and general welfare to adopt interim Ordinance No. 4063, imposing a 45 day moratorium on rent increases with the City of Santa Rosa, and directed staff to draft a comprehensive rent stabilization program; and

WHEREAS, on July 7, 2016, the City Council adopted Ordinance No. 4067, an urgency ordinance enacting a further 90-day moratorium on certain residential rent increases within the City of Santa Rosa, that superseded Ordinance No. 4063, and on July 19, 2016, the City Council adopted Ordinance No. 4069, an urgency ordinance correcting certain clerical errors in Ordinance No. 4067; and

WHEREAS, for the reasons expressed in these Recitals, on July 19, 2016, the City Council found and determined that the lack of a just cause eviction requirement put some tenants at risk of evictions by landlords seeking to increase rents in the face of the recently adopted moratorium on rent increases and Council determined that it was in the interest to preserve the public health, safety and general welfare to introduce an ordinance to prohibit landlords from terminating certain tenancies without just cause to do so; and

WHEREAS, on August 2, 2016, the City Council voted to continue the Just Cause Eviction Ordinance second reading to the August 16, 2016 Council session; and

WHEREAS, on August 16, 2016 the City Council adopted the Just Cause Eviction Ordinance by vote at the second reading; and

WHEREAS, the City Clerk published and posted a notice of a public hearing for the City Council's regular meeting on August 16, 2016 for the purposes of considering this Ordinance and other tenant protection measures; and

WHEREAS, the City Council has considered the staff reports, public testimony and documentary evidence presented at its September 1, 2015, January 26, 2016, May 3, 2016, May 17, 2016, July 7, 2016, July 19, 2016, and August 16, 2016 meetings; and

WHEREAS, the City Council finds and determines that if an ordinance limiting the percentages and frequency of rent increases were not enacted now, as to those rental units to which the City may impose such limitations, the public peace, health and safety will be threatened because landlords will have an immediate incentive to increase rents thereby (a) imposing an undue burden on the finances of many Santa Rosa residents and (b) compelling such residents either to pay the increased rent or face the choice, due to a critically low vacancy factor, of either finding housing elsewhere and at a higher rent or not paying for food, clothing and medical care for themselves and their families; and

WHEREAS, the City Council finds and determines that if an ordinance limiting the grounds for terminating tenancies without cause were not enacted now, the public peace, health and safety will be threatened because landlords will have an immediate incentive to serve notices to terminate certain tenancies without cause, thereby displacing many tenants in the City who, because of a critically low vacancy factor in the City, will be compelled to find housing elsewhere and at a higher rent; and

WHEREAS, the City Council finds and determines that if an ordinance compelling the payment of relocation assistance to certain displaced tenants were not enacted now, the public peace, health or safety will be threatened because tenants who are displaced through no fault of their own may not have the financial wherewithal to pay for relocation costs, such as a first and last month's rent at a different rental unit and for moving expenses, thereby causing significant economic hardship to those tenants; and

WHEREAS, the City Council likewise recognizes that rental property owners have the right to receive a fair, just and reasonable return on their properties and that this ordinance provides a process that protects and satisfies those rights; and

WHEREAS, the City Council finds and determines that the Recitals herein are true and correct; and

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guidelines, Section 15378 (not a project) and Section 15061(b)(3) (no significant environmental impact).

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

Section 1. Chapter 6-90 is hereby added the Santa Rosa Municipal Code to read as follows:

"CHAPTER 6-90 RESIDENTIAL RENT STABILIZATION AND OTHER TENANT PROTECTIONS

6-90.010 Title.

This Ordinance shall be known as the "City of Santa Rosa Residential Rent Stabilization and Other Tenant Protections Ordinance."

6-90.015 Definitions.

Unless the context requires otherwise, the terms defined in this Ordinance shall have the following meanings:

A. "Allowable annual adjustment" means a rent increase that on a cumulative basis over the 12 months preceding the effective date of a proposed rent increase is 3%.

B. Base rent. "Base rent" is the rent that the tenant is required to pay to the landlord in the month immediately preceding the effective date of the rent increase.

C. Base Rent Year. "Base Rent Year" means 2015.

D. Capital improvement. "Capital improvement" means an improvement or repair to a rental unit or property that materially adds to the value of the property, appreciably prolongs the property's useful life or adapts the property to a new use, and has a useful life of more than one year and is required to be amortized over the useful life of the improvement under the straight line depreciation provisions of the Internal Revenue Code and the regulations issued pursuant thereto.

E. Capital improvement plan. "Capital improvement plan" means a plan that meets the criteria of a capital improvement as defined above and also meets the following four criteria: (1) is submitted by a landlord (a) on the landlord's own initiative or (b) as a result of the landlord's obligation to comply with an order of a local, state or federal regulatory agency, such as the City's building or fire department, or (c) in order for the landlord to repair damage to the property as a result of fire, flood, earthquake or other natural disaster, (2) the cost of which improvement is not less than the product of eight times the amount of the monthly rent multiplied by the number of rental units to be improved, (3) the implementation of which may render one or more rental units uninhabitable and (4) is approved by the Program Administrator.

F. City. "City" means the City of Santa Rosa.

G. Condominium. "Condominium" means the same as defined in Section 783 and 1351(f) of the California Civil Code.

CONT. NEXT PAGE

FULL TEXT OF MEASURE C, CONT.

H. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for All Urban Consumers ("CPI-U") for the San Francisco-Oakland-San Jose CA Region, published by the U.S. Department of Labor, Bureau of Labor Statistics.

I. Costs of operation. "Costs of operation" means all reasonable expenses incurred in the operation and maintenance of the rental unit and the building(s) or complex of buildings of which it is a part, together with the common area, if any, and include but are not limited to property taxes, insurance, utilities, professional property management fees, pool and exterior building maintenance, supplies, refuse removal, elevator service and security services or system, but costs of operation exclude debt service, depreciation, attorneys and expert witness fees incurred in seeking rent increases that exceed the allowable annual adjustment and capital improvements to the extent those costs have been recovered through a capital improvement plan.

J. Council. "Council" means the City Council of the City of Santa Rosa.

K. Debt service. "Debt service" means the periodic payment or payments due under any security financing device that is applicable to the rental unit or building or complex of which it is a part, including any fees, commissions or other charges incurred in obtaining such financing.

L. Housing and Community Services Director. "Housing and Community Services Director" means the Housing and Community Services Director of the City, or his/her designee.

M. Housing services. "Housing services" means those services provided and associated with the use or occupancy of a rental unit including, but not limited to, repairs, replacement, maintenance, painting, lighting, heat, water, elevator service, laundry facilities and privileges, janitorial services, refuse removal, allowing pets, telephone, parking, storage, computer technologies, entertainment technologies including cable or satellite television services and any other benefits, privileges or facilities.

N. Housing unit. "Housing unit" means a room or group of rooms that includes a kitchen, bathroom and sleeping quarters, designed and intended for occupancy as a dwelling unit by one or more persons as separate living quarters, but does not mean a room or rooms in a single dwelling unit, condominium or stock cooperative.

O. Landlord. "Landlord" means an owner, lessor, sub-lessor or any other person or entity entitled to offer any rental unit for rent or entitled to receive rent for the use and occupancy of any rental unit, and includes an agent, representative or successor of any of the foregoing.

P. Net operating income. "Net operating income" means the gross revenues that a landlord has received in rent or any rental subsidy in the twelve months prior to serving a tenant with a notice of a rent increase less the costs of operation in that same twelve-month period.

Q. Notice to vacate. "Notice to vacate" means a notice to vacate a rental unit that a landlord serves on a tenant under Section 1946.1 of the California Civil Code and Section 1162 of the California Code of Civil Procedure.

R. Party. "Party" means a landlord or tenant.

S. Programs. "Programs" mean the programs created by this Ordinance.

T. Program Administrator. "Program Administrator" is a person designated by the City to administer one or more of the Programs.

U. Program fee. "Program fee" means the fee the City imposes on each property owner or landlord to cover the costs to provide and administer the programs.

V. Rent. "Rent" means a fixed periodic compensation including any amount paid for utilities, parking, storage, pets or any other fee or charge associated with the tenancy that a tenant pays at fixed intervals to a landlord for the possession and use of a rental unit and related housing services; as to any landlord whose rental unit was but is no longer exempt from this Ordinance under paragraph (3) of subsection B of Section 6-90.020, rent shall include the subsidy amount, if any, received as part of the base rent.

W. Rent Dispute Hearing Officer. "Rent Dispute Hearing Officer" or "Hearing Officer" means a person designated by the Program Administrator to hear rent dispute petitions under this Ordinance.

X. Rent increase. "Rent increase" means any upward adjustment of the rent from the base rent.

Y. Rental unit. "Rental unit" means a housing unit offered or available for rent in the City of Santa Rosa, including apartments, condominiums, stock cooperatives, single dwelling units, multi-family units, and those accommodations identified in subsection C of Section 6-90.020 where the same tenant occupies a room for more than 30 consecutive days.

Z. Single dwelling unit. "Single dwelling unit" means a single detached structure containing one dwelling unit for human habitation, any accessory buildings appurtenant thereto, and any second dwelling unit as defined in Section 20-70.020 of the City Code, all located on a single legal lot of record.

AA. Stock cooperative. "Stock cooperative" means the same as defined in section 4190 of the California Civil Code.

BB. Subsidy amount. "Subsidy amount" means the amount of money that a landlord receives from any government program, such as the Section 8 Voucher Program, so that in conjunction with money the landlord receives from a tenant the landlord receives fair market rent as determined by that government program.

CC. Tenancy. "Tenancy" means the right or entitlement of a tenant to use or occupy a rental unit.

DD. Tenant. "Tenant" means a tenant, subtenant, lessee, sub-lessee or any other person or entity entitled under the terms of a rental agreement or lease agreement for the use and occupancy of any rental unit, and includes a duly appointed legal guardian or conservator of any of the foregoing.

6-90.020 Exemptions from the Ordinance.

The following shall be exempt from this Ordinance.

A. Rental units (1) that are (a) duplexes, (b) triplexes if an owner of the property resides in one of the units as the owner's principal place of residence, (c) separately alienable from the title of any other dwelling, e.g., a single dwelling unit, a condominium or a stock cooperative, (2) for which a certificate of occupancy was issued after February 1995, and (3) that are exempt under the Costa-Hawkins Housing Act (California Civil Code, section 1954.50 and following) or under any other applicable state or federal law.

B. Governmental agency owned, subsidized or regulated rental units. All rental units (1) owned, operated or subsidized by any governmental agency except those rental units occupied by recipients of tenant based rental assistance where the tenant based rental assistance program establishes the tenant's share of base rent as a fixed percentage of a tenant's income, such as the Housing Choice Voucher Program and (2) regardless of ownership, for which the rents are regulated by federal law (to the extent such law preempts this Ordinance) or by regulatory agreements between a landlord and (1) the City or (2) the Housing Authority of the City of Santa Rosa; provided, however, if the rental unit no longer qualifies for the exemption, for example, the landlord withdraws from a subsidy program or a regulatory agreement expires, the rental unit will immediately cease to be exempt.

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C. Accommodations in hotels, motels, inns, tourist homes, rooming or boarding houses, provided that such accommodations are not occupied by the same tenant or tenants for more than 30 consecutive days.

D. Commercial units, such as office condominiums or commercial storage units.

E. Institutional facilities. Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, non-profit home for the aged, fraternity or sorority house, housing accommodations owned, operated or managed by a bona fide education institution for occupancy its students or rental units that require intake, case management or counseling and an occupancy agreement as part of that occupation.

F. Rooms rented to boarders. A rental unit in which the landlord owns the rental unit, shares kitchen or bath facilities with one or more tenants, and occupies the rental unit, or a rental unit in the same building, as the landlord's principal residence.

G. Second dwelling units as defined in Section 20-70.020 of the City Code.

H. Mobile homes subject to the Mobilehome Residency Law (California Civil Code, Chapter 2.5).

I. Transient occupancies defined by California Civil Code section 1940 (b).

6-90.025 Limitations on Rent Following a Termination of Tenancy.

This Ordinance does not impose limitations on the amount of the rent a landlord may charge following a termination of tenancy except as otherwise provided in Section 6-90.125 G (violation of owner move in provisions), 6-90.125 I (temporary termination during capital improvement work), 9.24.125 J (violation of withdrawal of the unit from the rental market policy) and 6-90.125 K (tenant returning to the rental unit after landlord's compliance with a governmental order).

6-90.030 Notices and Materials to be Provided to Current and Prospective Tenants.

A. In addition to any other notice required to be given by law or this Ordinance, a landlord shall provide to a current tenant and to a prospective tenant (1) a written notice that the rental unit is subject to this Ordinance, receipt of which shall be acknowledged in writing by the tenant/prospective tenant, (2) a written copy of this Ordinance as such Ordinance exists at the time such notice is provided (3) a written copy of the then current City regulations promulgated to implement, this Ordinance and (4) a written copy of the then current informational brochure(s) that the City provides that explains this Ordinance.

B. For current tenants, a landlord shall comply with the requirements of subsection A of this Section 6-90.030 no later than 15 days from the date on which the landlord first receives the payment of rent from the tenant following the effective date of this Ordinance and annually thereafter. For a prospective tenant, a landlord shall comply with the requirements of subsection A of this Section 6-90.030 prior to the landlord and tenant entering into any agreement concerning the rental unit.

6-90.035 Disclosures.

A. A landlord shall in writing disclose to a potential purchaser of the rental unit or of property that has one or more rental units that such rental unit or property is subject to this Ordinance and all regulations that the City promulgates to implement this Ordinance.

B. The failure of a landlord to make the disclosure set forth in subsection A of this Section 6-90.035 shall not in any manner excuse a purchaser of such rental unit or property of any of the obligations under this Ordinance.

6-90.040 Documents That the Landlord Must File with the Program Administrator.

In addition to any other notice required to be filed with the Program Administrator by law or this Ordinance, a landlord shall file with the Program Administrator a copy of the following:

A. Where charges or fees have been unbundled or increased, information showing what charges or fees have been unbundled or increased and documentation showing that the amount of the increased charges and fees have been included in the calculation of the annual allowable adjustment. (Section 6-90.045);

B. The notice to the tenant that the landlord is proposing a rent Increase of more than 3% and has initiated the process to have the Program Administrator review the rent increase as required by Section 6-90.070;

C. The petition when the landlord disagrees with the decision of the Program Administrator and files a petition to have the rent increase or a rent adjustment heard by a Rent Dispute Hearing Officer. (Section 6-90.095);

D. Certain notices to terminate a tenancy (Section 6-90.125 G, H, I, J and K; Section 6-90.135);

E. The name and relationship of the person who is moving into the rental unit when the current tenancy is terminated due to an "owner move in" and documentation that the landlord is a "natural person" (Section 6-90.125 G);

F. Written notice that the landlord or the enumerated person who was intended to move into a rental unit either did not move into the rental unit within 90 days after the tenant vacated the rental unit or that the landlord or the enumerated person who moved into the rental unit did not remain in the rental unit for one year (Section 6-90.125 G.5.);

G. The requisite documents initiating the process to withdraw the rental unit from rent or lease permanently under Government Code, section 7060 et seq. (Section 6-90.125 J); and

H. Requests for a rent increase in conjunction with a capital improvement plan.

6-90.045 Limitations on Revising What is Included in the Rent and the Keeping of Pets.

A. As to any lease or month to month tenancy in which charges or fees for utilities, parking, storage, pets or any other fee or charges associated with the tenancy that the tenant pays at fixed intervals to the landlord for the possession and use of the rental unit that are not (or were not) identified separately within a lease or rental agreement, a landlord shall not unbundle such fees or charges or increase the amount of any of such charges or fees during the tenancy except for increased charges or fees that the tenant pays directly to the landlord for either utilities that are separately metered or charges for utilities that are pro-rated among the tenants pursuant to a Ratio Utility Billing System or a similar cost allocation system. To the extent a landlord unbundles or increases any of such charges or fees as part of a new or renewed lease, or as part of the terms of a revised month to month tenancy, the amount of such charges or fees shall be included in calculating the allowable annual adjustment. The landlord must submit to the Program Administrator what charges or fees have been unbundled or increased and documenting that the amount of such charges or fees have been included in calculating the allowable annual adjustment.

B. Notwithstanding subsection A of this Section 6-90.045, to the extent that a tenant requests housing services that were not included in the terms of an existing tenancy, such as a parking space or an additional parking space, storage space or additional storage space, a pet or an

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additional pet, or to the extent that either utilities are separately metered or the amount of such utility charges are pro-rated among the tenants pursuant to a ratio utility billing system or other similar cost allocation system but the charges are paid directly to the landlord, such fees for housing services or charges for utilities shall not be included in calculating the allowable annual adjustment.

C. Notwithstanding subsection A of this Section 6-90.045, if a landlord permitted a tenant to have one or more pets (with or without a pet deposit), the tenant may continue to have a pet(s) notwithstanding that the landlord's policy of allowing tenants to have pets has changed such that pets are prohibited or that a tenant is required to provide a pet deposit in an amount greater than the amount the tenant previously deposited.

6-90.050 Establishment of Base Rent and Limitations on the Amount and Frequency of Rent Increases.

A. Beginning the effective date of this Ordinance, the initial rental rate for any rental unit shall be in an amount no greater than the rent in effect as of January 1, 2016. If there were no rent in effect on January 1, 2016, but rent was in effect prior to the effective date of this Ordinance, the initial rental rate shall be the rent that was charged on the first date that rent was charged after January 1, 2016. For tenancies that begin on or after the effective date of this Ordinance, the initial rental rate shall be the rent in effect on the date the tenancy begins.

B. The initial rental rate, as established in subsection A of this Section 9.24.050, shall be the reference point from which the allowable annual adjustment shall be adjusted upward or from which rent shall be adjusted downward.

C. Except as provided in Section 6-90.080 or 6-90.085, (1) no landlord shall impose a rent increase greater than the allowable annual adjustment, (2) for rental units that were rented as of January 1, 2016 (which the rents have been rolled back), no landlord shall impose any rent increase earlier than January 1, 2017 and (3) for rental units that were not rented as of January 1, 2016, no landlord shall impose any rent increase for 12 months after the start of the tenancy.

D. No landlord shall impose a rent increase more than once in any twelve-month period.

6-90.055 Notice of Review Procedures for Rent Increases; Exceptions.

A. In addition to the notice of a rent increase required by Civil Code, section 827(b), at the time a landlord provides such notice to the tenant, the landlord shall also provide to the tenant a notice that the landlord has requested the Program Administrator to review the rent increase when the rent increase is more than the allowable annual adjustment.

B. Any notice of rent increase or a rent increase in violation of Section 6-90.065 shall be void and a landlord shall take no action to enforce such an invalid rent increase; provided, however, a landlord may cure the violation by re-serving the tenant with the notice that complies with the provisions of Section 6-90.065. A tenant may use as evidence in a tenant's defense to an unlawful detainer action based on the tenant's failure to pay the illegal rent increase of the landlord's violation of Section 6-90.065, or any other violation of this Ordinance.

6-90.060 Information in and Service of the Notice.

All notices of the rent review procedures under this Ordinance shall be in writing and shall provide the name, address, phone number and email address of the landlord. The landlord shall serve notice that the landlord has requested the Program Administrator to review the rent increase concurrently with, and in the same manner as, the notice of rent increase.

6-90.065 Content of Notice When the Rent Increase is Greater than the Allowable Annual Adjustment.

In addition to all other information that the landlord is required to provide to a tenant concerning the rent review procedures established by this Ordinance, if the rent increase is greater than the allowable annual adjustment, the notice shall state:

"NOTICE: Under Civil Code, section 827 (b), a landlord must provide a tenant with 30 days' notice prior to a rent increase of 10% or less and must provide a tenant with 60 days' notice of a rent increase greater than 10%. Because your landlord proposes a rent increase that is greater than the allowable annual adjustment (as defined in subsection A of Section 6-90.015 of the Santa Rosa Municipal Code), under Chapter 6-90 of the Santa Rosa Municipal Code your landlord must at the same time provide this Notice that advises you that the landlord has requested the City's Program Administrator to review the rent increase. At the earliest, the rent increase will not go into effect until the Program Administrator reviews and approves the rent increase.

After consulting with your landlord and you, the Program Administrator will make a decision concerning the rent increase. You and your landlord may agree to accept the Program Administrator's decision. If you do not or your landlord does not agree with the Program Administrator's decision, you or your landlord may file a petition with the Program Administrator within 15 calendar days of the Program Administrator's decision and have the determination of the rent increase decided by a neutral Rental Dispute Hearing Officer whose decision is final and binding. If you do not or your landlord does not agree with the Program Administrator's decision and you do not or your landlord does not file a timely petition, the Program Administrator's decision will be binding on you and your landlord.

It is illegal for a landlord to retaliate against a tenant for the tenant's lawfully and peacefully exercising his or her rights concerning a tenant's tenancy. Civil Code, section 1942.5. A landlord's efforts to evict a tenant within six months of a tenant's participating in the City's rent review process may be used as evidence of a retaliatory eviction."

6-90.070 Landlord's Request for Rent Review; Effective Date of Rent Increase.

A. A landlord must comply with all the notice provisions of this Ordinance and must request the Program Administrator to review a rent increase when the landlord proposes a rent increase by more than the allowable annual adjustment.

B. A landlord must within 15 calendar days from the date the landlord serves on the tenant the notice of rent increase either (a) mail or e-mail the written request for rent review to the Program Administrator and (b) submit to the Program Administrator a copy of the notice of rent increase.

C. A landlord's failure to comply with subsections A and B of this Section 6-90.070 shall render the rent increase null and void and the landlord shall neither take any action to enforce such rent increase nor notice another rent increase for twelve months from the date the proposed rent increase was to become effective.

D. If the requested rent increase is more than the allowable annual adjustment, regardless of the effective date of the rent increase in the notice of rent increase, the rent increase will be effective only as provided in subsections D and E of Section 6-90.080 (following the Program Administrator's decision).

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6-90.075 Tenant's Request for an Adjustment of Rent.

A tenant may request an adjustment of rent for reasons including, but not limited to, an error in the calculation used for the rent increase, a loss of or reduction in housing services, a disagreement whether the rental unit is exempt from the Ordinance or a violation of this Ordinance, by submitting such request to the Program Administrator. In any twelve-month period, a tenant shall make no more than one request for a rent adjustment based on the same, or substantially the same, reasons as the previous request.

6-90.080 Program Administrator's Review and Decision Concerning a Landlord's Request for a Rent Increase that Exceeds the Allowable Annual Adjustment for Reasons Unrelated to a Capital Improvement Plan.

A. The Program Administrator will review the landlord's request for a rent increase that exceeds the allowable annual adjustment for reasons unrelated to a capital improvement plan and will provide the landlord with an opportunity to explain and/or provide documentation in support of the landlord's request. The Program Administrator will contact the tenant(s) affected by the landlord's request for such rent increase and will provide the tenant with an opportunity to respond to the request.

B. The Program Administrator may take into consideration any factors that may assist the Program Administrator in determining a fair resolution concerning the rent increase taking into account the purposes of this Ordinance to eliminate imposing excessive rents increases while providing landlords with a just and reasonable return on property. Such factors may include, but not be limited to:

1. The frequency, amount and the presence or absence of prior rent increases, including that the landlord could not impose an allowable annual adjustment during 2016,
2. The landlord's costs of operation including, as to special historical or architectural buildings as so designated under Section 18-64.020 of the City Code, that costs to repair or maintain may be higher than comparable costs for other buildings not so designated,
3. Any increases or decreases in housing services since the last rent increase,
4. The existing market value of rents to rental units similarly situated,
5. The vacancy rate in the building or complex in comparison to comparable buildings or complexes in the same general area,
6. The existence of extraordinary circumstances such as a special relationship between the landlord and the tenant, the failure to increase rents over multiple years or other circumstances unrelated to market conditions that have resulted in the rent being significantly below those of comparable rental units in the same general area, and
7. Providing the landlord with a just and reasonable return on property; provided, however, the Program Administrator shall not determine just and reasonable return solely by the application of a fixed or mechanical accounting formula but there is a rebuttable presumption that maintenance of net operating income, as adjusted by inflation over time, provides a landlord with a just and reasonable return on property.

C. The Program Administrator will render a decision concerning the rent increase.

D. If the landlord and tenant agree with the Program Administrator's decision, the landlord and tenant shall sign a document, in a form to be provided by the Program Administrator, to that effect. The document will reflect the amount of the rent increase and the effective date thereof.

E. If the landlord or the tenant does not agree with the Program Administrator's decision, the landlord or the tenant may file a petition for further review of the rent increase as set forth in Section 6-90.095. If the landlord or the tenant does not file a timely petition, the Program Administrator's decision will be binding on the landlord and the tenant and the rent increase shall be effective upon the expiration of the time to file the petition. If the landlord or the tenant files a petition, the rent increase shall take effect only as provided in subsection D of Section 6-90.095.

6-90.085 Program Administrator's Review and Decision Concerning a Landlord's Request for a Rent Increase that Exceeds the Allowable Annual Adjustment in Connection with a Capital Improvement Plan.

A. A landlord that is seeking a rent increase that exceeds the allowable annual adjustment for capital improvements that satisfy the criteria under the City's Policy Concerning Capital Improvement Plans for Rental Units in Santa Rosa must first submit to the Program Administrator a capital improvement plan as set forth in that Policy.

B. The Program Administrator's review and decision concerning such rent increase shall be as set forth in the Policy and shall be final and binding.

6-90.090 Program Administrator's Review and Decision Concerning a Tenant's Request for an Adjustment of Rent.

A. The Program Administrator will review a tenant's request for an adjustment in rent and will afford the tenant the opportunity to explain and/or provide documentation in support of the adjustment.

B. The Program Administrator will contact the landlord and provide the landlord with the opportunity to respond to the tenant's request. The Program Administrator may take into consideration any factors that assist the Program Administrator in determining a fair resolution concerning the adjustment.

C. Such factors may include, but not be limited to: a miscalculation of the rent, a material reduction in housing services, a substantial deterioration of the rental unit other than ordinary wear and tear or due to the actions of the tenant or the tenant's guests, the landlord's failure to comply with this Ordinance, the landlord's failure to comply with applicable housing, health and safety codes, and a determination whether the rental unit is subject to this Ordinance.

D. The Program Administrator will make a decision concerning the request for an adjustment of the rent and advise the tenant and the landlord.

E. If the tenant and the landlord agree with the decision, they will sign a document, in a form to be provided by the Program Administrator, that will set forth the adjusted rent, if any, and the effective date thereof.

F. If either the tenant or the landlord does not agree with the Program Administrator's decision, either the tenant or the landlord may file a petition for further review of the adjustment as set forth in Section 6-90.095 or 6-90.100. If either the tenant or the landlord does not file a timely petition, then the Program Administrator's decision will be final and binding and the adjustment of rent, if any, will be effective upon the expiration of the time to file a petition. If a petition is filed, the adjustment, if any, will take effect only as provided in subsection D of Section 6-90.095 or subsection D of Section 6-90.100.

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6-90.095 Petitions Filed by Landlords Following the Program Administrator's Decision.

A. Any landlord who does not agree with the Program Administrator's decision under either Section 6-90.080 or Section 6-90.090 may initiate a hearing process by filing a petition with the Program Administrator provided that the landlord shall also notify in writing all tenants subject to such proposed rent increase or adjustment of rent that the landlord has filed such petition. The landlord shall include with the petition a list of names and addresses of all such tenants.

B. Petitions must be filed on a form prescribed by the Program Administrator and must be accompanied by such supporting material as the Program Administrator may prescribe including, but not limited to, a copy of the landlord's notice of the rent increase.

C. If the landlord does not file the petition and the prescribed documentation within 15 calendar days of the date of the Program Administrator's decision and, as to the Program Administrator's decision as to an adjustment of rents, the tenant has not filed a timely petition, the Program Administrator's decision will be binding on the landlord.

D. Provided that a petition has been filed as provided in this Section 6-90.095 or Section 6-90.100, the rent increase or adjustment of rent shall not take effect until 60 days after a decision of a Hearing Officer or, if that decision is judicially challenged, until there is a final judgment from a court of competent jurisdiction or other resolution, such as a settlement.

6-90.100 Petitions Filed by Tenants Following the Program Administrator's Decision.

A. Any tenant who does not agree with the Program Administrator's decision under Section 6-90.080 or Section 6-90.090 may initiate a hearing process by filing a petition with the Program Administrator provided the tenant shall also notify in writing the landlord that the tenant has filed such petition.

B. Petitions must be filed on a form prescribed by the Program Administrator and must be accompanied by such supporting material as the Program Administrator may prescribe.

C. If the tenant does not file the petition and the prescribed documentation within 15 calendar days of the date of the Program Administrator's decision, the Program Administrator's decision will be binding on the tenant unless the landlord has filed a timely petition concerning the adjustment of rent.

D. Provided that a petition has been filed as provided in this Section 6-90.100 or as provided in Section 6-90.095, the adjustment of rent shall not take effect until 60 days after a decision of the Hearing Officer or, if that decision is judicially challenged, until there is a final judgment from a court of competent jurisdiction or other resolution, such as a settlement.

6-90.105 Hearing Process.

A. The Housing and Community Services Director shall assign a Rent Dispute Hearing Officer to decide any petition, including its timeliness and other procedural matters, which is filed under this Ordinance.

B. The parties in the hearing shall be the petitioning party, i.e., the landlord, the tenant or both and the Program Administrator. The non-petitioning party may also participate in the hearing.

C. The Hearing Officer shall endeavor to hold the hearing within 30 days of the filing of the petition or within such time as the Hearing Officer, after consultation with the parties, so orders.

D. The Hearing Officer shall conduct the hearing employing the usual procedures in administrative hearing matters, i.e., the proceeding will not be governed by the technical rules of evidence and any relevant evidence will be admitted. Hearsay evidence may be admitted solely for the purpose of supplementing or explaining other evidence.

E. The petitioning party shall have the burden of proof and the Hearing Officer shall use the preponderance of evidence test, i.e., that what the petitioning party is required to prove is more likely to be true than not and, after weighing all of the evidence, if the Hearing Officer cannot decide that something is more likely to be true than not true, the Hearing Officer must conclude that the petitioning party did not prove it.

F. The petitioning party, a non-petitioning party and the Program Administrator may offer such documents, testimony, written declarations, or other evidence as may be pertinent to the proceeding. Each party shall comply with the Hearing Officer's request for documents and information and shall comply with any other party's reasonable requests for documents and information. The Hearing Officer may proceed with the hearing notwithstanding that a party has failed to provide the documents or information requested by the Hearing Officer or a party has failed to provide documents or information requested by any other party. The Hearing Officer may take into consideration, however, the failure of a party to provide such documents or information.

G. The hearing will be recorded by a certified court reporter for purposes of judicial review.

6-90.110 Hearing – Findings and determination.

Within 30 days of the close of the hearing, the Hearing Officer shall make a determination, based on the preponderance of evidence and applying the criteria set forth in Section 6-90.115, whether the proposed rent increase or adjustment or rent is reasonable under the circumstances or not, and shall make a written statement of decision upon which such determination is based. The Hearing Officer's allowance or disallowance of any rent increase or portion thereof, or allowance or disallowance of any adjustment of rent may be reasonably conditioned in any manner necessary to effectuate the purposes of this Ordinance. Copies of the statement of decision concerning rent increases or an adjustment of rent shall be served on the landlord, the tenant and the Program Administrator.

6-90.115 Criteria to be applied to rent increases and adjustments of rent.

In determining whether or not a rent increase or an adjustment of rent is reasonable, the Hearing Officer shall take into account the purposes of this Ordinance to eliminate imposing excessive Rent increases while providing landlords with a just and reasonable return on property, and may consider the non-exclusive factors set forth in Sections 6-90.080 and 6-90.090 regardless of whether the Program Administrator considered any or all of such factors. The Hearing Officer shall not determine just and reasonable rate of return solely by the application of a fixed or mechanical accounting formula but there is a rebuttable presumption that maintenance of net operating income for the base year, as adjusted by inflation over time, provides a landlord with a just and reasonable rate of return on property.

6-90.120 Rent Dispute Hearing Officer's Decision—Final Unless Judicial Review is Sought.

The Hearing Officer's decision shall be final and binding on the landlord and the tenant, unless judicial review is sought within 60 days of the date of the Hearing Officer's decision. If judicial review is timely sought, the Hearing Officer's decision is stayed.

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6-90.125 Terminations of Tenancies.

No landlord shall take action to terminate any tenancy including, but not limited to, making a demand for possession of a rental unit, threatening to terminate a tenancy, refusing to renew a tenancy, serving any notice to quit or other notice to terminate a tenancy, e.g. an eviction notice, bringing any action to recover possession or be granted possession of a rental unit except on one of the following grounds:

A. Failure to pay rent. The tenant upon proper notice to quit or pay rent has failed to quit or to pay the rent to which the landlord is entitled under a written or oral agreement; provided, however, that the "failure to pay rent" shall not be cause for terminating the tenancy if (i) the tenant cures the failure to pay rent by tendering the full amount of the rent due within the time frame in the notice but the landlord refuses or fails to accept the rent, (ii) the tenant tenders some or all of the rent due and the landlord accepts some or all of the rent or (iii) the rent the landlord is requiring the tenant to pay is a result of a violation of this Ordinance or is a rent amount in excess of the rent permitted by this Ordinance.

B. Habitual late payment of rent. The tenant habitually pays the rent late or provides checks that are frequently returned because of insufficient funds in the account on which the checks are drawn. For purposes of this subsection B, habitual late payment of rent means that on more than five occasions within any consecutive twelve-month period, the tenant has paid the rent 10 or more days later than the date on which the rent is due; checks are frequently returned because of insufficient funds in the account on which the checks are drawn means that on more than five occasions within any consecutive twelve-month period, the tenant's check has been returned due to insufficient funds.

C. Violation of the obligations of the tenancy. The tenant has continued, after the landlord has served the tenant with a written notice to cease, to violate a lawful, material and substantial obligation or covenant of the tenancy, other than the obligation to surrender possession upon proper notice as provided by law, provided, however, that the landlord need not serve a written notice to cease if the violation is for conduct that is violent or physically threatening to landlord, other tenants or members of the tenant's household, guests or neighbors.

1. Notwithstanding any contrary provision in subsection C of this Section 6-90.125, a landlord shall not take action to terminate a tenancy as a result of the addition to the rental unit of a (a) tenant's spouse or registered domestic partner, (b) a tenant's parent, grandparent, child or grandchild, regardless of whether that person is related to the tenant by blood, birth, adoption or registered domestic partnership or (c) the foster child or grandchild of the tenant or any of the individuals described in subparagraphs (a) or (b) of this paragraph, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health and Safety Code, section 17922.
2. Before taking any action to terminate a tenancy based on the violation of a lawful obligation or covenant of tenancy regarding subletting or limits on the number of occupants in the rental unit, the landlord shall serve the tenant a written notice of the violation that provides the tenant with the opportunity to cure the violation within 14 calendar days. The tenant may cure the violation by making a written request to add occupants to which request the landlord reasonably concurs or by using other reasonable means, to which the landlord reasonably concurs, to cure the violation including, but not limited to, causing the removal of any additional or unapproved occupant.

D. Nuisance. The tenant has continued, after the landlord has served the tenant with a written notice to cease, to commit or expressly permit a nuisance on the rental unit or to the common area of the rental complex, or to create a substantial interference with the comfort, safety or enjoyment of the landlord, other tenants or members of a tenant's household or neighbors, provided, however, a landlord need not serve a notice to cease if the tenant's conduct is illegal activity, has caused substantial damage to the rental unit or the common area of the rental complex, or poses an immediate threat to public health or safety.

E. Refusal to renew a tenancy. The tenant has refused to agree to a new lease or a month to month tenancy upon expiration of a prior lease, after written request by the landlord to do so, but only where the new tenancy has provisions that are substantially the same as the provisions under the prior tenancy and is not inconsistent with local, state or federal laws.

F. Failure to provide access. The tenant has continued to refuse, after the landlord has served the tenant with a written notice, to provide the landlord with reasonable access to the rental unit for the purpose of inspection or of making necessary repairs or improvements required by law, for the purpose of showing the rental unit to any prospective purchaser or mortgagee, or for any other reasonable purpose as permitted or required by the lease or by law.

G. Owner or relative move in. The landlord seeks in good faith to recover possession of the rental unit for use and occupancy as a primary residence by (1) the landlord, (2) the landlord's spouse or registered domestic partner, (3) the landlord's parent, grandparent, brother, sister, child or grandchild, whether that person is related to the landlord by blood, birth, adoption, marriage or registered domestic partnership or (4) as to a building or complex of four or more rental units, a resident manager.

1. For purposes of this subsection G, a "landlord" shall include only a landlord who is a natural person and has at least a 50% ownership interest in the property. The landlord shall provide to the Program Administrator documentation that the landlord meets the definition of landlord as provided in this paragraph. For purposes of this paragraph, a "natural person" means a human being but may also include a living, family or similar trust where the natural person is identified in the title of the trust.
2. No action to terminate a tenancy based on an "owner move-in" may take place if (a) there is a vacant rental unit on the property and the vacant rental unit is comparable in size and amenities to the rental unit for which the action to terminate the tenancy is sought or (b) the landlord or one of the enumerated persons in (2) or (3) of subsection G above already occupies one of the rental units on the property.
3. The notice terminating the tenancy under this subsection G shall set forth the name and relationship to the landlord of the person intended to occupy the rental unit.
4. The landlord or the enumerated person must intend in good faith to move into the rental unit within 90 days after the tenant vacates and to occupy the rental unit as that person's primary residence for at least one year.

CONT. NEXT PAGE

FULL TEXT OF MEASURE C, CONT.

5. If the landlord or enumerated person specified on the notice terminating the tenancy fails to occupy the rental unit within 90 days after the tenant vacates or if the landlord or enumerated person vacates the rental unit without good cause before occupying the rental unit as that person's primary residence for one year, the landlord shall:
   a) Notify the Program Administrator in writing;
   b) Offer the rental unit to the tenant who vacated it and at the same rent that was in effect at the time the tenant vacated the rental unit; and
   c) Pay to the tenant all reasonable and documented expenses incurred in moving to and from the rental unit, to the extent such expenses exceed the relocation assistance the landlord has already paid to the tenant as provided in Section 6-90.130.

H. Demolition. The landlord seeks in good faith to take action to terminate a tenancy to demolish the rental unit and remove the property permanently from residential rental housing use; provided, however, the landlord shall not take any action to terminate such tenancy until the landlord has obtained all necessary and proper demolition and related permits from the City.

I. Capital Improvement Plan. The landlord seeks in good faith to take action to terminate a tenancy in order to carry out an approved capital improvement plan and where that capital improvement plan permits the landlord to terminate a tenancy.

J. Withdrawal from the rental market. The landlord seeks in good faith to take action to terminate a tenancy by filing with the Program Administrator the requisite documents to initiate the process to withdraw the rental unit from rent or lease under Government Code, section 7060 et seq. with the intent of completing the withdrawal process and, as to only the rental unit or units on the property, going out of the residential rental business permanently.

K. Compliance with a governmental order. The landlord seeks in good faith to take action to terminate a tenancy to comply with a government agency's order to vacate, or any other order that necessitates the vacating of the building or the rental unit as a result of a violation of the City of Santa Rosa's Municipal Code or any other provision of law, other than a governmental agency's order to vacate the rental unit due to fire, flood, earthquake, other natural disasters or other occurrences that render the rental unit uninhabitable due to no fault of the landlord.
   a. The landlord shall offer the rental unit to the tenant who vacated the rental unit when the landlord has satisfied the conditions of the governmental agency that caused the governmental agency to order the rental unit vacated and at the same rent that was in effect at the time the tenant vacated the rental unit.
   b. The landlord shall pay to the tenant all reasonable expenses incurred in vacating the rental unit, as provided in Section 6-90.130 and all reasonable and documented expenses incurred in moving into the rental unit should the Tenant do so.

6-90.130 Required Payment of a Relocation Fee.

A. If the landlord has taken any action to terminate a tenancy on the grounds set forth in subsections G, H, I, J or K of Section 6-90.125, except as to a governmental agency's order to vacate the rental unit due to fire, flood, earthquake, other natural disasters or other occurrences that render the rental unit uninhabitable due to no fault of the landlord, or at the end of a fixed term lease greater than nine months, the landlord shall pay to the tenant, regardless of the length of the tenancy, a relocation fee in an amount of (1) the equivalent of three months' rent (representing a first and last months' rent plus a security deposit) for a market rate rental unit comparable to the rental unit the tenant is vacating, plus (2) $1500. For purposes of this section 6-90.130, a rental unit is comparable based on the number of bedrooms. The Program Administrator will determine what the market rate rent is for a comparable unit. The $1500 will be adjusted on January 1 of each year based in the percentage change in the Consumer Price Index from the previous January 1.

B. The landlord shall pay the relocation fee as follows:
   1. The entire fee shall be paid to a tenant who is the only tenant in the rental unit and if the rental unit is occupied by two or more tenants, then each tenant who is on the lease or has financial responsibility to pay the rent shall be paid a pro-rata share of the relocation fee; provided, however, if a tenant or tenants receive, as part of the eviction, relocation assistance from a governmental agency, then the amount of that relocation assistance shall operate as a credit against any relocation fee to be paid to the tenant(s) under this subsection B.
   2. The landlord shall pay one half of the applicable relocation fee when the tenant has informed the landlord in writing that the tenant will vacate the rental unit as set forth in the notice to terminate the tenancy and the other half upon certification that the tenant has vacated the rental unit on the date provided in the notice.

6-90.135 Service and Contents of the Written Notices to Terminate a Tenancy.

A. In any notice purporting to terminate a tenancy the landlord shall state in the notice the cause for the termination, if any.

B. If the cause for terminating the tenancy is for the grounds in subsections A, B, C, D, E or F of Section 6-90.125 and a notice to cease is required, the notice shall also inform the tenant that the failure to cure may result in the initiation of an action to terminate the tenancy; such notice shall also include sufficient details allowing a reasonable person to comply and defend against the accusation.

C. If the cause for terminating the tenancy is for the grounds in subsections G, H, I, J or K of Section 6-90.125, the notice shall also inform the tenant that the tenant is entitled to a relocation fee in the amount then in effect.

D. If the cause for terminating the tenancy is for the grounds in subsection I of Section 6-90.125, the notice shall state the landlord has complied with that subsection by obtaining a City approved capital improvement plan.

E. The landlord shall file with the Program Administrator within seven calendar days after having served any notice required by subsections G, H, I, J or K of Section 6-90.125 a copy of such notice.

6-90.140 Retaliation Prohibited.

No landlord shall take any action to terminate a tenancy, reduce any housing services or increase the rent where the landlord's intent is to retaliate against the tenant (i) for the tenant's assertion or exercise of rights under this Ordinance or under state or federal law or (ii) for the tenant's participation in litigation arising out of this Ordinance. Such retaliation may be a defense to an action to recover the possession of a rental unit and/or may serve as the basis for an affirmative action by the tenant for actual and punitive damages and/or injunctive relief as provided herein. In an action against the tenant to recover possession of a rental unit, evidence of the assertion or exercise by the tenant of rights under this Ordinance or under state or federal law within 180 days prior to the alleged act or retaliation shall create a rebuttable presumption that the landlord's act was retaliatory; provided, however, a tenant may assert retaliation affirmatively or as a defense to the landlord's action without the presumption regardless of the period of time that has elapsed between the tenant's assertion of exercise of rights under this Ordinance and the alleged action of retaliation.

CONT. NEXT PAGE

FULL TEXT OF MEASURE C, CONT.

6-90.145 Program Fee.

A. There is hereby imposed on each rental unit in the City a program fee. The program fee shall be paid to the City annually. The program fee may be included as a cost of operation and one half of the program fee may be allocated to a tenant, to be paid by the tenant in 12 equal installments, which payment shall not be included in the calculation of the allowable annual adjustment.

B. The Housing and Community Services Director shall report to the City Council no less than once each year a recommendation as to the amount of the program fee necessary to recover the costs of administering the programs under this Ordinance. The amount of the fee shall be determined by resolution of the City Council adopted from time to time. The fee shall not exceed the amount found by the City Council to be necessary to administer the costs of the programs under this Ordinance, and the City Council's finding in this regard shall be final.

C. Any landlord responsible for paying the program fee who fails to pay the program fee within 30 calendar days of its due date shall, in addition to the program fee, pay an additional penalty assessment as determined by resolution of the City Council adopted from time to time.

6-90.150 Actions to Recover Possession.

In any action brought to recover possession of a rental unit, the landlord shall allege and prove by a preponderance of evidence compliance with this Ordinance.

6-90.155 Landlord's Failure to Comply.

A landlord's failure to comply with any requirement of this Ordinance may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the rental unit. Additionally, any attempt to recover possession of a rental unit in violation of this Ordinance shall render the landlord liable to the tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant may seek injunctive relief and money damages for wrongful eviction. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

6-90.160 Penalties for Violations.

A. The City may issue an administrative citation to any landlord and to the landlord's agent for a violation of this Ordinance. For the first violation, the violator shall be referred to educational program concerning the Ordinance. Thereafter, the fine for such violations shall be $250 for the first subsequent offense, a fine of $500 for a second subsequent offense within a one-year period and a fine of $1000 for three or more subsequent offenses within a one-year period. In addition, the first two violations of this Ordinance following the educational program shall be deemed infractions and the fines therefor for the first and second subsequent offenses shall be as set forth in the previous sentence. The third or subsequent violations in any one-year period shall constitute a misdemeanor, punishable as set forth in Chapter I of the City Code. If a violation of the Ordinance involves more than one rental unit, the City may issue a separate citation for each rental unit.

B. Notwithstanding subsection A of Section 6-90.160 it shall constitute a misdemeanor for any landlord to have demanded, accepted, received or retained any rent in excess of the maximum rent allowed by a binding decision of the Program Administrator, a decision of a Rent Dispute Hearing Officer, or by a final judgment of a court of competent jurisdiction should the Rent Dispute Hearing Officer's decision be challenged in court.

C. In addition to all other remedies provided by law, including those set forth above, as part of any civil action brought by the City to enforce this Ordinance, a court may assess a civil penalty in an amount up to the greater of $2500 per violation per day or $10,000 per violation, payable to the City, against any person who commits, continues to commit, operates, allows or maintains any violation of this Ordinance. The prevailing party in any such civil action shall be entitled to its costs and reasonable attorney's fees.

6-90.165 Waiver.

A. Any waiver or purported waiver of a tenant of rights granted under this Ordinance prior to the time when such rights may be exercised shall be void as contrary to public policy.

B. It shall be unlawful for a landlord to attempt to waive or waive, in a rental agreement or lease, the rights granted a tenant under this Ordinance prior to the time when such rights may be exercised.

6-90.170 Implementing Polices and Regulations.

The City Council may adopt by resolution such policies and regulations as necessary to implement this Ordinance.

6-90.175 Annual Review.

The Housing and Community Services Director shall annually prepare a report to the Council assessing the effectiveness of the programs under this Ordinance and recommending changes as appropriate.

6-90.180 Amendment, Suspension or Repeal of Ordinance.

If the annual vacancy rate for all rental units, including those defined in subsection A of Section 6-90.15, exceeds 5% over a twelve-month period, the Housing and Community Services Director shall prepare a report to the City Council in order for the Council to consider whether to amend, suspend or repeal this Ordinance based on that factor. The Housing and Community Services Director may rely on data from reliable sources including but not limited to the State of California's E-5 Population and Housing Estimates for Cities, Counties and the State as published by the State Department of Finance in determining whether the annual vacancy rate for all rental units exceeds 5% over a twelve-month period. The City Council shall consider all available data, as well as any other factors the Council deems relevant, in determining whether to amend, suspend or repeal this Ordinance."

Section 2 of Ord. 4072 is not included in the Provisions Subject to Voter Approval

Section 3. Severability. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 4. This Ordinance shall take effect on the 31st day following its adoption.

Section 5. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act pursuant to the following, each a separate and independent basis: CEQA Guidelines, section 15378 (adoption and implementation of the ordinance not a project) and Section 15061(b)(3) (no possibility that the implementation of this ordinance may have significant effects on the environment).

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FULL TEXT OF MEASURE C, CONT.

This ordinance was introduced by the Council of the City of Santa Rosa on August 16, 2016.

THIS ORDINANCE WAS DULY PASSED AND ADOPTED by the Council of the City of Santa Rosa this 30th day of August, 2016.

AYES: (4) Council Members Carlstrom, Combs, Coursey, Wysocky

NOES: (2) Vice Mayor Schwedhelm, Council Member Olivares

ABSENT: (0)

ABSTAIN/
RECUSED: (1) Mayor Sawyer

ATTEST: ___________________ APPROVED: ____________________
City Clerk Mayor

APPROVED AS TO FORM:

____
Interim City Attorney

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)
Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

CITY OF SANTA ROSA
MEASURE D

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

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE D

The City of Santa Rosa is in the process of expanding its regulation of cannabis businesses operating within the City limits. Currently, all businesses operating in Santa Rosa – including cannabis businesses – must pay a general business tax, capped at $3,000 per year.

The Santa Rosa City Council has placed on the ballot an ordinance ("the Ordinance") to impose a cannabis-specific business tax, rather than the general business tax, on certain cannabis-related businesses operating within City limits. The Ordinance will not go into effect unless a majority of those voting on the measure vote "yes."

If approved by the voters, the Ordinance will authorize the City Council to establish an excise tax on four types of cannabis-related businesses operating in the City – commercial cannabis cultivation (including nurseries), manufacturing, distribution and dispensaries. As an excise tax, the tax will be paid by cannabis businesses. It is not a sales or use tax imposed directly on cannabis users or consumers. Businesses that pay the excise tax under the Ordinance will be exempt from the City's general business tax. The tax does not apply to the use of cannabis or the cultivation of cannabis for personal use as authorized under state law.

The Ordinance authorizes the City Council to set and adjust the rate of the excise tax up to the maximum tax rates established in the Ordinance. For commercial cultivation, the annual tax rate may not exceed either $25 per square foot of cannabis cultivation area (adjusted annually by CPI) or 8% of annual gross receipts. For cannabis manufacturing, distribution and dispensaries, the annual tax rate may not exceed 8% of annual gross receipts.

Subject to those tax rate caps, the City Council may establish differing tax rates for different categories of cannabis businesses (such as different rates for medical or recreational cannabis, or for indoor or outdoor cultivation), and may exempt certain categories of businesses, leaving those businesses subject instead to the City's general business tax.

The City Council may periodically increase or decrease the tax rates applicable to cannabis businesses. An affirmative vote of at least five members of the City Council, however, is required for any proposed tax increase resulting in a tax rate of more than 5% of gross receipts.

The tax rates must be set for a minimum term of two years. At its discretion, the City Council may establish longer terms if desired.

The Ordinance requires all persons engaging in a cannabis business in the City – whether subject to the cannabis industry tax or the City's general business tax – to register with the City for purposes of tax collection.

The Ordinance includes procedures for tax reporting, remittance and enforcement that mirror procedures for other City taxes.

The tax imposed by the Ordinance is a general tax under state law. All taxes collected under the Ordinance will be placed in the City's general fund, and may be used for any City purpose. The amount of revenue to be generated by the tax is undetermined at this time.

s/ Teresa L. Stricker
Interim City Attorney

ARGUMENT IN FAVOR OF MEASURE D

Measure D will allow Santa Rosa to impose a tax on medical and recreational cannabis businesses operating within the City now that the State has enacted the Medical Cannabis Regulation and Safety Act, and the voters have approved Proposition 64, the Adult Use of Marijuana Act. Measure D will ensure that the City has the resources to properly support and regulate the cannabis industry without hurting our investment in core city services, such as maintaining neighborhood infrastructure and public safety.

Over 40 Cities and Counties in California have enacted similar taxes for cannabis businesses to address the inherent strain on the local agencies' budgets caused by cannabis legalization. Recently the City of Santa Rosa began issuing permits for medical cannabis businesses, and has identified areas where additional resources are needed to continue the support of this new industry.

Measure D is fiscally responsible, timely, and prudent. Over the past year, the City of Santa Rosa has addressed critical issues such as housing, homelessness and our aging road infrastructure, and has made key investments from a limited pool of resources. By proactively establishing a tax on cannabis activity, the City's budget will be protected from any new or unexpected costs associated with cannabis legalization and permitting, and protect resources for investment in other key priorities.

Measure D was carefully crafted with input from the industry in a public forum to find the right balance between generating the revenue needed while addressing certainty for this emerging industry. Adoption of a clear, fair, and easy to follow legal framework will encourage cannabis businesses to join the regulated market, ensuring protection for consumers, the environment, and public health.

With unanimous support from the Santa Rosa City Council, we respectfully request a Yes vote on Measure D.

SANTA ROSA CITY COUNCIL
s/ Chris Coursey, Mayor

NO ARGUMENT WAS SUBMITTED AGAINST MEASURE D

FULL TEXT OF MEASURE D

ORDINANCE NO. _______

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

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

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

"CHAPTER 6-10 CANNABIS INDUSTRY TAX

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

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

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

A. To impose an excise tax on businesses engaged in the cannabis industry operating within the City of Santa Rosa pursuant to the state Medical Cannabis Regulation and Safety Act (specifically California Business and Professions Code section 19320), the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" approved by the state's voters on November 8, 2016, and/or any other enabling legislation, or in violation of such legislation, and notwithstanding whether such state laws use the term "marijuana" or "cannabis;" and

B. To specify the type of tax and maximum rate of tax that may be levied and the method of collection; and

C. To comply with all requirements to impose a general excise tax, such tax to become operative only if and to the extent implemented by the City Council by resolution.

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

A. "Business" means "Business" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.

B. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972, and amended by the California Control, Regulate and Tax Adult Use of Marijuana Initiative, and as defined by other applicable state law.

C. "Cannabis business" or "cannabis industry" means any business activity in the City relating to cannabis, including but not limited to cultivation (including nurseries), transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (wholesale and/or retail sales) of cannabis or cannabis products, whether or not carried on for gain or profit. A cannabis business does not include any business whose only relationship to cannabis or cannabis products is the production or sale of cannabis accessories.

D. "Cannabis cultivation area" means the total aggregate area(s) of cannabis cultivation by a cannabis business as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, excluding non-production areas, as determined by the Director of Planning and Economic Development or his or her designee.

E. "Cannabis industry tax" means the tax due pursuant to this Chapter for engaging in cannabis business in the City.

F. "Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and those products described in Section 11018.1 of the Health and Safety Code.

G. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether the areas are contiguous or non-contiguous. The plant canopy need not be contained to a single parcel of land in determining the total square footage that will be subject to tax under this Chapter.

H. "City" means the City of Santa Rosa, either the entity or its territorial limits, as the context requires.

I. "City Council" or "Council" means the City Council of the City of Santa Rosa.

J. "Collector" means the City's Chief Financial Officer or his or her designee.

K. "Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a cannabis business. Commercial cannabis cultivation does not include personal medical cannabis cultivation, or cultivation for personal recreational use as authorized under the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" approved by the state's voters on November 8, 2016, for which the individual receives no compensation whatsoever.

L. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. "Cultivation" also includes nurseries. In addition, and without limiting the foregoing, "cultivation" includes "cultivation" as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted and amended from time to time.

M. "Dispensary" means a facility where cannabis or cannabis products, are offered, either individually or in combination, for retail sale, including an establishment that engages in delivery of cannabis or cannabis products as part of a retail sale. In addition, and without limiting the foregoing, "dispensary" includes "dispensary" as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

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FULL TEXT OF MEASURE D, CONT.

N. "Distributor" means a person engaged in procuring cannabis from a cultivator, and/or procuring cannabis products from a manufacturer, for sale to a dispensary. In addition, and without limiting the foregoing, "distributor" includes "distributor" as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time. "Distribution" means engaging in that conduct and a "distribution facility" is any real estate, whether or not improved, used in such conduct.

O. "Employee" means each and every person engaged in the operation or conduct of any cannabis business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such cannabis business for a wage, salary, commission, barter or any other form of compensation.

P. "Evidence of doing business" means "Evidence of doing Business" as that term is defined in Section 6-04.060 of the Santa Rosa City Code.

Q. "Gross Receipts," means "Gross Receipts" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.

R. "Manufacturer" means a person who conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or that packages or repackages cannabis or cannabis products or labels or re-labels its container. In addition, and without limiting the foregoing, "manufacturer" includes "manufacturer" as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

S. "Nursery" means a person who produces cannabis clones, immature plants, and/or seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of cannabis. In addition, and without limiting the foregoing, "nursery" includes "nursery" as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

T. "Person" means "Person" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.

U. "Personal medical cannabis cultivation" means cultivation, by either a qualified patient who cultivates cannabis exclusively for his or her personal medical use or by a caregiver who cultivates cannabis exclusively for medical use by qualified patients and who is exempt from State licensing requirements under the state Medical Cannabis Regulation and Safety Act.

V. "Sale" means "Sale" as that term is defined in Section 6-04.010 of the Santa Rosa City Code.

W. "State" means the State of California.

X. "State license," means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.

6-10.050 Tax Authorized. A cannabis industry tax is hereby imposed on every person who is engaged in cannabis business in the City as prescribed herein, from and after the effective date of a City Council resolution implementing the tax. It is unlawful for any person to transact or carry on any cannabis business in the City without paying, in accordance with this Chapter, the cannabis industry tax imposed by this section.

A. Tax on Commercial Cannabis Cultivation

1. There is hereby imposed on every person engaged in commercial cannabis cultivation in the City, an annual tax at a rate established by resolution of the City Council which rate shall not exceed either $25 per square foot of cannabis cultivation area or eight percent (8%) of annual gross receipts. The maximum square foot tax shall be adjusted annually each January 1st based on the year-over-year percentage change in Bureau of Labor Statistics San Francisco/Oakland/San Jose Consumer Price Index — All Urban Consumers (CPI-U) October to October comparison, or if such index is discontinued, a comparable successor consumer price index as determined by the City Council. The tax imposed under this Subsection (A)(1) shall be due and payable in installments as provided in Section 6-10.070 of this Chapter. The tax imposed under this Subsection (A)(1) shall not be implemented unless and until the City Council acts by resolution to do so.

2. The City Council may by resolution, in its discretion, implement a tax rate lower than the maximum rates set forth in Subsection (A)(1) for all persons engaged in commercial cannabis cultivation in the City or establish differing tax rates for different categories of commercial cannabis cultivation. For example, and without limitation, the City Council may set different tax rates for cannabis cultivation for medical or adult recreational use, or for indoor rather than outdoor or mixed light cultivation. The City Council may, by resolution, also decrease or increase any such tax rate from time to time, provided that the tax rate shall not, at any time, exceed the maximum tax rates established in Subsection (A)(1). An affirmative vote of at least five (5) members of the City Council is required for any tax increase resulting in a tax rate of over 5%. Tax rates shall be set for a minimum of a two (2) year term.

3. Persons subject to the tax imposed by Subsections (A)(1) and (A)(2) shall also register and pay the registration fee described in Section 6-10.060 of this Chapter, but shall be exempt from paying the general business tax required under Section 6-04.220 and 6-04.230 of the Santa Rosa City Code for any such cannabis business. A cannabis business not subject to the cannabis industry tax imposed by this Chapter is subject to the general business tax required under Sections 6-04.220 and 6-04.230 of the Santa Rosa City Code except as otherwise provided by Chapter 6-04 of this Code or other applicable law.

B. Tax on Cannabis Manufacturers, Distributors, and Dispensaries

1. There is hereby imposed on every person engaged in a cannabis business in the City as a manufacturer, distributor or a dispensary an annual tax at a rate established by resolution of the City Council which rate shall not exceed eight percent (8%) of annual gross receipts. The tax imposed under this Subsection (B)(1) shall be due and payable in installments as provided in Section 6-10.070 of this Chapter. The tax imposed under this Subsection (B)(1) shall not be implemented unless and until the City Council acts by resolution to do so.

2. The City Council may by resolution, in its discretion, implement a tax rate lower than the maximum rate established in Subsection (B)(1) for all persons engaged in a cannabis business in the City

CONT. NEXT PAGE

FULL TEXT OF MEASURE D, CONT.

as a manufacturer, distributor or a dispensary, or establish differing tax rates for different categories of cannabis business. For example, and without limitation, the City Council may set different rates for businesses serving medical or adult recreational use, or for different types of manufacturers, distributors or dispensaries. The City Council may, by resolution, also decrease or increase any such tax rate from time to time, provided that the tax rate shall not, at any time, exceed the maximum tax rate established in Subsection (B)(1). An affirmative vote of at least five (5) members of the City Council is required for any tax increase resulting in a tax rate of over 5%. Tax rates shall be set for a minimum of a two (2) year term.

3. Persons subject to the tax imposed by Subsections (B)(1) and (B)(2) shall also register and pay the registration fee described in Section 6-10.060 of this Chapter, but shall be exempt from paying the general business tax required under Section 6-04.220 and 6-04.230 of the Santa Rosa City Code for any such cannabis business. A cannabis business not subject to the cannabis industry tax imposed by this Chapter is subject to the general business tax required under Sections 6-04.220 and 6-04.230 of the Santa Rosa City Code except as otherwise provided by Chapter 6-04 of this Code or other applicable law.

C. No further voter approval shall be required for the adoption or increase of a tax under the authority granted by this Section 6-10.050 of this Chapter, it being the intent of the People of the City of Santa Rosa to authorize such a tax up to and including the maximum rates set forth above whenever implemented by the City Council hereafter.

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

A. All persons engaging in a cannabis business, whether an existing, newly-established or acquired business, shall register with the Collector within thirty (30) days of commencing operation or by July 31, 2017, whichever is later, and shall annually renew such registration by January 1 of each year thereafter. In registering, such persons shall furnish to the Collector a sworn statement, upon a form provided by the Collector, setting forth the following information:
   (1) The name of the business;
   (2) The names and addresses of each owner;
   (3) The exact nature or kind of business;
   (4) The place where such business is to be carried on; and
   (5) Any further information which the Collector may require.

B. Any financial information required under Subsection A will be used only to calculate and enforce the tax imposed under this Chapter, will be exempt from disclosure under the Public Records Act pursuant to Government Code section 6254(i), and will not be used by the City for criminal enforcement except as provided in Sections 6-10.270 and 6-10.280 of this Chapter.

C. An annual registration fee of $100 shall be presented with the sworn statement submitted under this section. This fee shall not be considered a tax and may be adjusted by resolution of the City Council.

D. Unless otherwise specifically provided by the Collector in writing, the annual fee under this section shall be due and payable in advance, on the first day of January, and shall be considered delinquent if unpaid after the last day of February. The date on which the fee becomes delinquent may be extended in writing by the Collector, upon good cause shown, to a date not later than March 31st.

E. For failure to pay the fee under this section when due, a penalty of 15 percent shall be added to the fee.

F. For failure to pay the fee under this section when due, interest on the delinquent fee (exclusive of penalty) at the rate of .84 percent per month shall be added to the fee for each month or portion of a month that fee, penalty and/or interest is not paid.

G. For each cannabis business subject to tax under this Chapter, a separate registration and fee payment shall be required under this section for each branch or location of the business and for each separate type of cannabis business at each branch or location.

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

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

A. Each person subject to tax under this chapter, except a cannabis cultivation tax based on a square footage, shall, on or before the last day of the month following the close of each calendar quarter, prepare and submit a tax return and remit to the Collector the tax due for that quarter. At the time the return is filed, the full amount of the tax due for the prior quarter shall be remitted to the Collector. At any time, a business may apply in writing to the Collector to have these tax returns and payments made less frequently or on a different schedule. Any determination resulting from this application will be at the sole discretion of the Collector and shall be provided in writing.

B. Each person subject to a cannabis cultivation tax based on a square footage shall, on or before the last day of the month following the close of each calendar quarter, prepare and submit a tax return and remit to the Collector the tax due for that quarter. The tax shall be calculated in accordance with rules and regulations established by the Collector pursuant to Section 6-10.160. The tax return may include a request for adjustment of the tax due to crop loss or periods without cultivation, along with evidence substantiating the crop loss or fallow periods. If the cultivation begins significantly after January 1 or terminates significantly before December 31 of the calendar year, a request to prorate the tax may be submitted with evidence supporting the timing of the cultivation. The decision to prorate or adjust the tax will be made at the sole discretion of the Collector. At the time the return is filed, the full amount of the tax due for the prior quarter shall be remitted to the Collector. At any time, a business may apply in writing to the Collector to have these tax returns and payments made less frequently or on a different schedule. Any determination resulting from this application will be at the sole discretion of the Collector and shall be provided in writing.

C. All tax returns shall be completed on forms prescribed by the Collector.

D. Tax returns and payments for all outstanding taxes owed the City under this Chapter are immediately due and payable to the City of Santa Rosa upon cessation of business for any reason.

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

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6-10.090 Payment – When Taxes Deemed Delinquent. Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not received by the City of Santa Rosa on or before the due date as specified in Section 6-10.070.

6-10.100 Notice Not Required By City. The City of Santa Rosa is not required to send a delinquency or other notice or bill to any person subject to this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty or interest due under this Chapter.

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

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

A. The person provides evidence satisfactory to the Collector that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent cannabis industry tax and accrued interest owed the City before applying to the Collector for a waiver.

B. The waiver provisions specified in this subsection shall be granted only once during any twenty-four-month period.

6-10.130 Refunds. Refunds may be paid pursuant to Section 6-04.210 of this Code.

6-10.140 Exemptions from the Tax.

A. Nothing in this Chapter shall be deemed or construed to apply to any person transacting and carrying on any business that is exempt from the payment of such taxes as are herein prescribed by virtue of the Constitution or applicable statutes of the United States or of the State.

B. Any person claiming an exemption pursuant to this Section shall file a sworn statement with the Collector stating the facts upon which exemption is claimed. Unless and until the Collector determines in writing that such person is exempt from tax under this Chapter, such person shall be liable for the payment of the tax imposed by this Chapter.

C. This Chapter shall not be deemed or construed to require the payment of any general business tax under Chapter 6-04 of the Santa Rosa City Code for any cannabis business that is subject to payment of a cannabis industry tax under this Chapter.

6-10.150 Enforcement. It shall be the duty of the Collector to enforce each and all of the provisions of this Chapter, in accordance with the procedures of Section 6-04.270 of this Code.

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

6-10.170 Apportionment. If a cannabis business subject to a cannabis industry tax is operating both within and outside the City, it is the intent of the City to apply the cannabis industry tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the City. The Collector may adopt administrative procedures for apportionment pursuant to section 6-10.160 of this Chapter.

6-10.180 Construction.

A. This tax is intended to be applied in a manner consistent with the United States and California Constitutions, state and local law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution, state or local law.

B. This Chapter shall be construed and implemented consistent with the provisions of Chapter 6-04 of this Code except as this Chapter or other law otherwise requires or the Collector otherwise determines in writing as authorized under this Code.

6-10.190 Audit and Examination of Records and Equipment.

A. The Collector shall have the power to audit and examine all books and records of any person engaged in cannabis business in the City, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person engaged in cannabis business in the City, for the purpose of ascertaining the amount of cannabis industry tax, if any, required to be paid under this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter. If such person, after written demand by the Collector, refuses to make available for audit, examination or verification such books, records or equipment as the Collector requests, the Collector may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an assessment against the cannabis business of the taxes estimated to be due under this Chapter, following the procedures set forth in Section 3-28.120 of the Santa Rosa City Code.

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

6-10.200 Other Licenses, Permits, Taxes, Fees, or Charges. Except as expressly provided in this Chapter, nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other title or Chapter of this Code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or Chapter of this Code or any other ordinance or resolution of the City. Any references made or contained in any other title or Chapter of this Code to any permits, licenses, taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the permits, licenses, taxes, fees or charges, or schedule of license fees, provided for in other titles or Chapters of the Santa Rosa City Code unless otherwise expressly provided.

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

A. If any person, while liable for any amount under this Chapter, sells, assigns or otherwise transfers the cannabis business, whether voluntarily or involuntarily, the person's successor, assignee or other transferee, or other person or entity obtaining ownership or control of the business ("Transferee"), shall satisfy any tax liability owed to the City associated

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with the business when due hereunder. Failure to do so for the benefit of the City will result in being personally liable to the City for the full amount of the unpaid tax liability, interest and penalties. The Transferee shall notify the Collector of the date of transfer at least 30 days before the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business was made less than 30 days before the date of transfer, notice shall be provided immediately upon the existence of the agreement.

B. The Transferee shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if the Transferee complies with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price, for the benefit of the City, an amount sufficient to cover the tax liability, or by otherwise paying the tax liability and obtaining from the Collector a "Tax Clearance Certificate" showing that all outstanding tax liability has been paid and stating that no amount is due through the date of transfer.

C. The Collector, within 90 days of receiving a written request from a Transferee, may issue a "Tax Clearance Certificate" stating either the amount of tax liability due and owing for the business, or stating that there is no tax liability due and owing for the business through a stated date. The Collector may also request financial records from the current or former owner or operator to audit the tax that may be due and owing. The Collector shall issue a Tax Clearance Certificate within 30 days of completing the audit, stating the amount of the tax liability owed, if any, unless the Collector determines that the records provided in connection with the audit are insufficient to determine whether taxes are due and owed or in what amount. If the Collector determines that the records are insufficient, the Collector may rely on the facts and information available to estimate any tax liability. The Collector may issue a Tax Clearance Certificate stating the amount of the tax liability, if any, based on such facts and information available. Unless an appeal is filed in accordance with Section 6-10.260, the Tax Clearance Certificate shall serve as conclusive evidence of the tax liability associated with the property through the date stated on the certificate.

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

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

B. No tax paid under this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any state or local laws.

6-10.230 Deficiency Determinations. If the Collector is not satisfied that any tax return or other statement filed as required under this Chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the facts contained in the tax return or statement or any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable, or such later date as allowable by law. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter, or such later date as allowable by law, as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 6-10.250.

6-10.240 Failure to Report – Nonpayment.

A. Under any of the following circumstances and at any time, the Collector may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:

1. If the person has not filed a complete return or statement required under this Chapter;

2. If the person has not timely paid any tax, fee, interest and/or penalties due under of this Chapter; or

3. If the person has not, after demand by the Collector, filed a corrected return or statement, or furnished to the Collector adequate substantiation of the information contained in a return or statement filed previously.

B. The notice of assessment shall separately set forth the amount of any tax, fee, interest and/or penalties known by the Collector to be due or estimated by the Collector, after consideration of all information within the Collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter.

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

6-10.260 Appeal Procedure. Any taxpayer aggrieved by any decision of the Collector with respect to the amount of tax, fee, interest and penalties, if any, due under this Chapter may appeal to the City Manager by filing a written appeal with the Clerk of the Santa Rosa City Council within fifteen (15) calendar days of the mailing of the decision or determination. The Clerk shall schedule the appeal and give fifteen (15) days' written notice to the appellant of the time and place of hearing by serving the notice personally or by depositing in the United States Post Office in the City, postage prepaid, addressed as shown on the appeal papers or, if none, such other address as is known to the City or, absent any address, by publication in a newspaper of general circulation in the City. The City Manager shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this Chapter.

6-10.270 Conviction for Chapter Violation – Taxes not Waived. The conviction and punishment of any person for failure to pay a required tax, fee, penalty and/or interest under this Chapter shall not excuse or exempt such person from any civil action for the amounts due under this Chapter. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

6-10.280 Violation Deemed Misdemeanor. Any person who violates any provision of this Chapter or who other than by a sworn statement, knowingly or intentionally misrepresents to any officer or employee of the City any material fact herein required to be provided is guilty of a misdemeanor punishable as provided in section 1-28.010 of this Code. A person who on a sworn statement states as true a material fact that he or she knows to be false is guilty of perjury.

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6-10.290 Actions to Collect. The amount of any tax, fee, penalty and/or interest imposed pursuant to this Chapter shall be deemed a debt owed to the City. An action may be commenced in the name of the City in any court of competent jurisdiction, for the amount of any delinquent tax, fees, penalties and interest thereon.

6-10.300 Severability. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

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

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

Section 2. Chapter 6-04 of the Santa Rosa City Code is hereby amended as follows:

A. The title of Chapter 6-04 is amended to read as follows: **"General Business Tax."**

B. Section 6-04.010 is amended to add "(I) Cannabis Industry Tax. As used in this Chapter, "cannabis industry tax" means any tax due pursuant to Chapter 6-10 of this Code."

C. Section 6-04.030 (A) is amended to read as follows: "(A) Except as provided in Subsection (D), persons required to pay a tax for transacting and carrying on any business under this Chapter shall not be relieved from the payment of any license tax, permit, charge, assessment, or fee for the privilege of doing such business required under other laws or regulations of the City, and shall remain subject to the provisions of such other laws and regulations."

D. Section 6-04.030 is amended to add "(D) Persons required to pay a tax pursuant to Chapter 6-10 of this Code shall also register the cannabis business pursuant to Section 6-10.060 of this Code, but shall be exempt from the general business tax required under this Chapter for any such cannabis business."

E. Section 6-04.080 is amended to add "(F) The provisions of this Chapter shall not be deemed or construed to require the payment of any general business tax by any person required to pay a tax under Chapter 6-10 of this Code."

F. Section 6-04.270 is amended to read as follows: "It shall be the duty of the Collector to enforce each and all of the provisions of this chapter, and the Santa Rosa Police and Santa Rosa City Code Enforcement Officers shall render such assistance in the enforcement hereof as may be required by the Collector or the City Manager or his or her designee.

At the direction of the Collector, the Collector's assistants and any City Police or Code Enforcement Officer shall have the power and authority to enter free of charge, at any reasonable time, any place of business within the City to request to see its business tax certificate. Any person having such certificate in his or her possession or under his or her control who fails to exhibit the same upon such a request, shall be guilty of a misdemeanor punishable pursuant to section 1-28.010 of this Code."

G. Section 6-04.340 is added to read: "**6-04.340 Amendment or Repeal.** This Chapter may be amended or repealed by the City Council without a vote of the People except that, as required by Article XIIIC of the California Constitution, any amendment that increases the amount or rate of tax beyond the levels authorized under Sections 6-04.220 and 6-04.230 under this Chapter may not take effect unless approved by a vote of the People."

Section 3. CEQA. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The cannabis industry tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action nor does it authorize any private activity, but merely taxes such activity as otherwise occurs. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax are used for a purpose that would have either such effect, the City will undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required at this time.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The People of the City of Santa Rosa hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 5. Effective and Operative Dates. This ordinance shall take effect 10 days after the election result is certified as provided by Elections Code but the taxes imposed by this ordinance shall take effect only when and to the extent implemented by resolution of the City Council.

Section 6. Certification; Publication. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

This ordinance was introduced by the Council of the City of Santa Rosa on ___________, 2017.

IN COUNCIL DULY PASSED AND ADOPTED this ______ day of ___________, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: ____________________ City Clerk

APPROVED: ______________________ Mayor

APPROVED AS TO FORM:

____

Interim City Attorney