

Timothy McCloud
121 Prospect Ave.
Sausalito, CA 94965

RECEIVED

JUN 20 2023

City of Sausalito

Walter Solorzano
City Clerk, City of Sausalito
420 Litho St.
Sausalito, CA 94965

Re: Authorization re: Filing, and Otherwise Serving as my Agent and Authorized Representative in Connection with The Sausalito Cannabis Delivery and Retail Business Tax Initiative

Dear Mr. Solorzano:

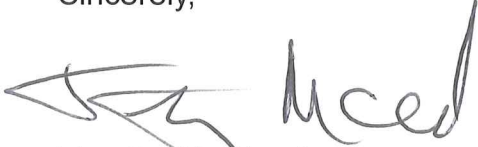
In my capacity as the proponent of the NAME (the "initiative") in Sausalito, this letter appoints agent Leo Buc, to serve as my agent and authorized representative ("my agent") for any and all purposes in connection with the Initiative.

For example, I authorize my agent to, in connection with the Initiative:

1. File the Initiative with your office on my behalf, as permitted by California Elections Code section 9113;
2. Interact with your office, the Sausalito City Attorney's office, the Sausalito City Council, and/or any other governmental and/or private party;
3. Receive and provide information on my behalf regarding the number of signatures on the Initiative petition, the number of petition sections being filed with your office, and/or similar types of information about the Initiative;
4. Receive and provide information on my behalf regarding any report permitted by California Elections Code section 9111;
5. Withdraw the Initiative from the ballot as permitted by California Elections Code.
6. Determine which signatures on the Initiative petition were disqualified and the reasons for such disqualification;

7. Interact with your office and/or any other governmental and/or private party on our behalf;

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy McCloud'. The signature is stylized and cursive, with the first name 'Timothy' written in a more compact, blocky style and the last name 'McCloud' in a more flowing, cursive script.

Timothy McCloud

RECEIVED

Notice of Intention to Circulate Petition

JUN 20 2023

City of Sausalito

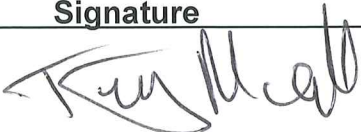
Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Sausalito for the purpose of placing a measure before the City of Sausalito voters that will establish a tax for all cannabis retail activities within the City of Sausalito. A statement for the reasons for the proposed action as contemplated in the petition is as follows:

While delivery of cannabis products is well established and popular in Sausalito, the city government, and our collective community derive no benefit from these transactions - with all of the connected tax revenue being captured by other jurisdictions.

By establishing a tax of 4% of gross receipts on all current and future sales of recreational cannabis products, this initiative will ensure that any businesses that conduct retail sales of cannabis products in Sausalito, including those deliveries currently originating from outside of city limits, contribute meaningful and consistent revenue to the city's general fund.

We respectfully request that the City of Sausalito prepare a ballot title and summary of our measure submitted with this Notice of Intention to Circulate Petition. Thank you.

Submitted by:

Name	Signature	Address
Timothy McCloud		121 Prospect Ave/ Sausalito, CA 94965

RECEIVED

JUN 20 2023

City of Sausalito

INITIATIVE MEASURE

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The people of the City of Sausalito do ordain as follows:

SECTION 1. CODE AMENDMENT. Chapter 3.14 is added to Title 3 of the Sausalito Municipal Code to read as follows:

CHAPTER 3.14 THE SAUSALITO CANNABIS DELIVERY & RETAIL BUSINESS TAX

3.14.1. TITLE.

This Ordinance shall be known as “The Sausalito Cannabis Delivery & Retail Business Tax” (the “*Initiative*”).

3.14.2. FINDINGS AND PURPOSE.

A. **Findings.** The People of the City of Sausalito find and declare the following:

1. In 1996, the voters of the State of California approved Proposition 215, The Compassionate Use Act, allowing persons in need of cannabis for specified medical purposes to obtain and use cannabis.
2. On August 29, 2013, in response to the number of states seeking to legalize cannabis, the United States Department of Justice issued a memorandum known as the Cole Memo, outlining federal cannabis enforcement priorities and specifying that the federal government would continue to rely on states and local law enforcement agencies to address cannabis activity through enforcement of their own narcotics laws.
3. The federal law enforcement priorities articulated in the Cole Memo include: preventing the distribution of cannabis to minors; preventing cannabis sales revenue from going to criminal enterprises, gangs, and cartels; preventing the diversion of cannabis from states where it is legal to other states; preventing state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illicit drugs or activity; preventing violence and use of firearms in the cultivation and distribution of cannabis; preventing drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use; preventing the cultivation of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and preventing cannabis possession or use on federal property.

4. On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (“*MMRSA*”), effective January 1, 2016, which established a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, dispensing, and delivery of medicinal cannabis, and which recognized the authority of local jurisdictions to prohibit or impose additional restrictions on commercial activities relating to medicinal cannabis. On June 27, 2016, Governor Brown signed Senate Bill 837, which amended *MMRSA* and renamed it the Medical Cannabis Regulation and Safety Act (“*MCRSA*”).
5. On November 8, 2016, the voters of the State of California approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“*AUMA*”), which legalized the non-medicinal use of cannabis for adults 21 years of age and older, created a state regulatory, licensing, and taxation system for non-medicinal cannabis businesses, and reduced penalties for cannabis-related crimes.
6. On June 27, 2017, Governor Brown signed into law the Medical and Adult-Use Cannabis Regulation and Safety Act (“*MAUCRSA*”), reconciling *MCRSA* and Proposition 64, unifying the adult-use and medicinal cannabis markets within the same regulatory regime, and making explicit the protection of the public to be the highest priority for all state licensing authorities in exercising their licensing, regulatory, and disciplinary functions under *MAUCRSA*. Under *MAUCRSA*, local jurisdictions may adopt and enforce ordinances to further regulate cannabis businesses, including zoning and permitting requirements and prohibitions on certain types of businesses.
7. In November 2017, the City Council adopted an interim ordinance that, among other things, banned commercial Cannabis Retail Businesses from domiciling themselves in the City of Sausalito.
8. On October 22, 2019, the City Council unanimously approved an ordinance regulating cannabis in the City of Sausalito (the “*Ordinance*”). The Ordinance went into effect thirty (30) days after its approval. The Ordinance made permanent the interim ordinance that the City first adopted in November 2017. The Ordinance was permanently incorporated into the Sausalito Municipal Code and, among other things, continues the City’s ban on Cannabis Retail Businesses.

B. Authority and Purpose. The purpose of this Initiative is to submit to the voters of the City of Sausalito the question of whether a general tax on licensed Cannabis Retail Businesses operating within the City shall be imposed as provided herein pursuant to Sections 7284, 7284.4, and 34021.5 of the Revenue and Taxation Code. This Cannabis Retail Business Tax shall be based on gross receipts of the licensed Cannabis Retail Businesses and is not a sales and use tax, a tax upon income, or a tax upon real property, and it shall not be calculated or assessed as such. The Cannabis Retail Business Tax shall not be separately identified or otherwise specifically assessed or charged to any member, customer, patient,

or caretaker. The Cannabis Retail Business Tax is a general tax enacted solely for general governmental purposes of the City of Sausalito and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and be available for any lawful City purpose.

- C. **Intent.** This Initiative intends to levy a tax on all Cannabis Retail Businesses, as defined herein, that operate in the City of Sausalito. Nothing in this chapter shall be interpreted to authorize cannabis sales or permit any business activity that would not otherwise be legal or permissible under the law applicable to the activity at the time the activity is undertaken.

3.14.3. DEFINITIONS.

- A. An "arm's length transaction" is a sale entered into in good faith and for valuable consideration at a sales price that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.
- B. "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to her, his, or their employer.
- C. "Calendar year" means January 1 through December 31 of the same year.
- D. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin obtained from the plant, whether crude or purified. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which are incapable of germination. For the purpose of this division, "Cannabis" does not mean "Industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- E. "Cannabis Retail Business Tax" means the tax due pursuant to this Chapter for a Cannabis Retail Business operating in the City of Sausalito.
- F. "Cannabis Business" means any Business requiring a commercial cannabis license from the State and local authorization from the City, including but not limited to, businesses involved in cultivating, processing, transporting, distributing, manufacturing, testing, delivering, or the retail sales of Cannabis.

- G. “Cannabis Retail Business” means any business activity involving the licensed retail sales of Cannabis or Cannabis products to customers, whether through delivery or a storefront, pursuant to the California Business and Professions Code.
- H. “Cannabis Product” means Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated Cannabis, or an edible or topical product containing Cannabis or concentrated Cannabis and other ingredients.
- I. “CEQA” means the California Environmental Quality Act.
- J. “Chapter” means a Chapter of this Title.
- K. “City” means the City of Sausalito, California.
- L. “City Code” means the City of Sausalito Municipal Code.
- M. “City Council” means the City of Sausalito City Council.
- N. “Days” means calendar days, which is all days, including Saturdays, Sundays, and City Holidays, unless otherwise specified here.
- O. “Gross Receipts,” except as otherwise specifically provided, means, whether designated as a sales price, royalty, rent, membership fee, ATM service fee, delivery fee, slotting fee, any other fee, consumption room service charge, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares, or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. In the event the business is involved in a “non-arm’s length transaction,” the gross receipts will be subject to the fair market value using a methodology approved by the City Tax Administrator. However, the following shall be excluded from Gross Receipts:
1. Cash discounts, where allowed and taken on sales;
 2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
 3. Such part of the sales price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in Gross Receipts;

4. Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;

5. Cash value of sales, trades, or transactions between departments or units of the same business located in the City of Sausalito and if authorized by the City's Tax Administrator in writing;

6. Whenever there are included within the Gross Receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the Gross Receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of Gross Receipts for the period when they are recovered;

7. Receipts of refundable deposits, except that such deposits, when forfeited and taken into as income of the business, shall not be excluded;

8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the City tax administrator with the names and addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees;

9. Retail sales of non-Cannabis products or other personal, tangible property which the City tax administrator has determined to be excluded from the Cannabis Retail Business Tax under this chapter; and

10. Payments made by the tax-reporting Cannabis Business (Seller) to a Cannabis Business (Buyer) for the difference in the original acquisition price and subsequent renegotiated or finalized selling price of the products or services sold to a specific end customer. This type of transaction is referred to as a "Billback." The tax-reporting Cannabis Retail Business must provide supporting documentation to substantiate the transaction in order to be eligible for an exemption.

P. A "non-arm's length transaction" is a transaction that does not meet the definition of an "arm's length transaction." In other words, the transaction is not a sale that is entered into in good faith and that reflects fair market value in the open market.

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

R. "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to Cannabis or Cannabis Products is transferred from one Person to another and includes the

delivery of Cannabis or Cannabis Products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same.

- S. “State” means the State of California.
- T. “State license,” or “license,” means a state license issued pursuant to California Business and Professions Code Section 26050 and all other applicable state laws required to operate a cannabis business.
- U. “Tax Administrator” means the City of Sausalito Department of Finance Department Head or her/his/their designee.

3.14.4. TAX IMPOSED.

The Cannabis Retail Business Tax shall be imposed on each Cannabis Retail Business operating within the City, commencing on January 1, 2024. This tax shall be imposed upon each Cannabis Retail Business operating in the City including, but not limited to, Cannabis Retail Businesses which only deliver to customers located within the City, but which businesses are not domiciled within the City, in addition to delivery and storefront retailers that are domiciled within the City. The Cannabis Retail Business Tax rate shall be 4% of the annual Gross Receipts of the Cannabis Retail Business as defined herein.

3.14.5. NO EFFECT ON OTHER TAXES, FEES, CHARGES, OR OTHER PERMITS OR LICENSES.

- A. The Cannabis Retail Business Tax is added to all other taxes. This Chapter shall not 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, any other ordinance or resolution of the City, or as required by law.
- B. Nothing contained in this Chapter will be deemed to repeal, amend, be in lieu of, replace or, in any way affect any requirements for any commercial cannabis permit, State license, or any other permit or license required by, under, or by virtue of any provision of any other Title or Chapter of this Code, any other ordinance or resolution by the City, or as required by law.
- C. A commercial cannabis permit or license issued by the City may be revoked, suspended, or not renewed in the event that the Person holding that permit or license has failed to:
 - 1. Register or renew any required tax registration with the City; or
 - 2. Timely pay all taxes, interest, penalties, and fees owed under this Chapter.

3.14.6. PAYMENT OF TAX DOES NOT AUTHORIZE UNLAWFUL BUSINESS.

- A. The payment of the Cannabis Retail Business Tax required by this Chapter, and its acceptance by the City, does not entitle any Person to carry on any Cannabis Business unless that Person has complied with all of the requirements of this Code and all other applicable State and local laws.
- B. No tax paid under the provisions of this Chapter will be construed as authorizing the conduct or continuance of any illegal or unlawful Business or any Business in violation of any local or State law.

3.14.7. TAX REGISTRATION.

- A. Any Person who engages in a Cannabis Retail Business, whether an existing, newly established, or acquired Business, must register with the City Tax Administrator within thirty (30) Days of commencing operation or within thirty (30) Days after the City authorizes Cannabis Retail Businesses to operate within the City, and must annually renew such tax registration within thirty (30) Days of the Cannabis Retail Business Tax registration anniversary date of each year thereafter. Registration requires each Person to furnish to the City Tax Administrator affirmation under penalty of perjury on a form or electronic submission determined by the Tax Administrator that may set forth the following information contained within (B) and (C) below:
- B. General Information.
 - 1. The name of the Business, the street address where such Business is to be carried on, and a telephone number and email address for the Business;
 - 2. The registrant's name, address, telephone number, and email address;
 - 3. A description of the exact nature or kind of Business;
 - 4. If a Business is conducted at a specific location, information for the property owner or lessor of record, including but not limited to the name, address, telephone number, and email address of the property owner or lessor of record; and
 - 5. Any additional information that the Tax Administrator may require.
- C. Business Entity Information.
 - 1. The name address, telephone number, and email address of each owner of the Business. If applicable, the registrant must also provide the following information:
 - a. Proof of the Business' active status and the entity number assigned by the Secretary of State for the state of the entity's incorporation.

b. An email address, telephone number, address of corporate headquarters, and website address for the Business;

c. For a partnership, the name, address, telephone number, website address, and email address of each partner of the Business. If one or more of the partners is a corporation, the provisions of this Chapter as to a corporate registrant apply;

d. For a corporation, the name that appears in the articles of incorporation as filed with the Secretary of State, the name, address, telephone number, website address, and email address of each officer, the name, address, telephone number, and email address of each shareholder owning shares equal to or greater than twenty percent (20%) of the total shares issued by the corporation; and the name and address of an officer duly authorized to accept legal service of process.

e. For a limited liability company, the name, address, telephone number, and email address of each member and every Person having any right, title, or interest in the Business. If applicable, the name of each managing member or the name, address, telephone number, website address, and email address of the manager if the limited liability company is not managed by any of its members;

f. For an estate, trust, or business trust, the name, address, telephone number, website address, and email address of the trustee(s); or

g. For any Business organizational structure not referenced in Subsections c through f above, the Tax Administrator may require additional ownership information as needed.

2. If the Business is advertised to the public and known by a name or designation other than the name on the tax registration, the registrant must provide the other name(s) or designations(s) for the Business, also referred to as "Fictitious Business Name Statement."

D. In the event there is a change in ownership of any Cannabis Business:

1. The new owner is required to submit an updated Cannabis Retail Business Tax registration to the Tax Administrator within thirty (30) Days; and

2. Unless otherwise provided by law, it is the joint and several liability of both seller and buyer to remit any taxes, interest, penalties, and fees due up until the date of sale; otherwise, a certificate of lien may be recorded against both the seller and/or buyer in an amount determined by the Tax Administrator.

3.14.8. TAX REMITTANCE.

A. The Cannabis Retail Business Tax imposed by this Chapter shall be paid, in arrears, on a quarterly basis. Each Person owing a Cannabis Retail Business Tax shall, on or before the last day of each month following the close of each calendar quarter, file with the Tax Administrator a statement ("*tax statement*") of the tax owed for that calendar quarter and the basis for calculating

that tax. The Tax Administrator may require that the tax statement be submitted on a form prescribed by the Tax Administrator. The tax for each calendar quarter shall be due and payable on the same date that the tax statement is due.

B. Upon cessation of a Cannabis Retail Business, tax statements, and payments shall be immediately due for all calendar quarters up through the calendar quarter during which cessation occurred, unless, upon a showing of competent evidence to the Tax Administrator, by the individual owners of the Business listed pursuant to Section 3.14.7(C), the individual Business owners registered to pay the Cannabis Retail Business Tax demonstrate that the Cannabis Retail Business is insolvent, that the owner has not hidden or misappropriated Business funds, and that the owner would face a significant individual hardship by having to pay the Cannabis Retail Business Tax from personal funds, all attested to under penalty of perjury, in which case, the outstanding Cannabis Retail Business Tax shall be forgiven against the individual Business owner(s) who make the above showing.

C. In the event that there is a change in ownership of any Cannabis Business:

1. The new owner is required to submit an updated registration form to the Tax Administrator;
2. The new owner is subject to an audit by the Tax Administrator;
3. Unless otherwise provided by law, it is the joint and several liability of both the seller and buyer to remit any taxes, interest, penalties, and fees due up until the date of sale; otherwise, a certificate of lien may be recorded against both the seller and/or buyer in an amount to be determined by the Tax Administrator.

D. The Tax Administrator may, at his, her, or their discretion, establish alternative reporting and payment periods for any taxpayer as the Tax Administrator deems necessary to ensure effective collection of the Cannabis Retail Business Tax. The Tax Administrator may also require that a deposit, to be applied against the taxes for a calendar quarter, be made by a taxpayer at the beginning of that calendar quarter. In no event shall the deposit required by the Tax Administrator exceed the tax amount that the Tax Administrator projects will be owed by the taxpayer for the calendar quarter. The Tax Administrator may require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.

3.14.9. PAYMENTS AND COMMUNICATIONS- TIMELY REMITTANCE.

Whenever any payment, statement, report, request, or other communication is due, it must be received by the Tax Administrator on or before the due date. A postmark will not be accepted as a timely remittance. If the due date falls on a Saturday, Sunday, or a holiday observed by the City, the due date shall be the next regular business Day on which the City is open to the public.

3.14.10. PAYMENT- WHEN TAXES ARE DEEMED DELINQUENT.

Unless otherwise specifically provided under the provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified herein.

3.14.11. PENALTIES AND INTEREST.

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

1. A penalty equal to ten percent (10%) of the amount of the Cannabis Retail Business Tax, in addition to the amount of the tax, plus interest on the unpaid Cannabis Retail Business Tax calculated from the due date of the tax at the rate of one percent (1%) per month.

2. If the Cannabis Retail Business Tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1%) per month on the unpaid Cannabis Retail Business Tax and the unpaid penalties.

3. Interest shall be applied at the rate of one percent (1%) per month on the first Day of the month for the full month and will continue to accrue monthly on the Cannabis Retail Business Tax and penalty until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a Cannabis Retail Business Tax, and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the Cannabis Retail Business Tax amount due plus any fees, penalties, and interest as provided for in this Chapter, and any other amount allowed under State law.

C. The Tax Administrator may waive the penalties imposed upon any Person under this section if:

1. The Person requests a waiver of penalties by submitting a written request for a waiver to the Tax Administrator no later than December 31 of the second calendar year following the calendar year in which the Cannabis Retail Business Tax became delinquent; and

2. The Person provides evidence satisfactory to the Tax Administrator that the failure to pay timely was due to circumstances beyond the Person's control, notwithstanding the exercise of ordinary care and in the absence of willful neglect.

3.14.12. REFUNDS AND CREDITS.

A. No refund shall be made of any Cannabis Retail Business Tax collected pursuant to this Chapter except as provided in Section 3.14.13.

B. No refund of any Cannabis Retail Business Tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a Business.

3.14.13. REFUNDS AND PROCEDURES.

A. Whenever the amount of any Cannabis Retail Business Tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously collected or received by the City under this Chapter, it may be refunded to the claimant who paid the Cannabis Retail Business Tax, provided that a written claim for refund signed under penalty of perjury is filed with the Tax Administrator within one (1) year of the date the tax was originally due or paid, whichever came last.

B. The Tax Administrator, his, her, or their designee, which may include a third party or any other City officer charged with the administration of this Chapter, shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of the claimant's books and business records after requested by the Tax Administrator to do so. The Tax Administrator may collect a fee adopted by the City to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the Tax Administrator to make a determination on the refund claim.

C. In the event that the Cannabis Retail Business Tax was erroneously paid in an amount in excess of the tax due, the City shall refund the amount of Cannabis Retail Business Tax erroneously paid, plus applicable interest, provided that a claim for refund has been timely filed with the Tax Administrator.

3.14.14. ADMINISTRATION OF THE TAX.

A. It shall be the duty of the Tax Administrator to collect the taxes, interest, penalties, fees, and perform the duties required by this Chapter.

B. The Tax Administrator may take such administrative actions as needed to administer the Cannabis Retail Business Tax, including, but not limited to:

1. Provide all Cannabis Retail Business taxpayers forms for the reporting of tax;
2. Provide information to any taxpayer concerning the provisions of this Chapter;
3. Receive and record all taxes remitted to the City as provided in this Chapter;
4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
5. Assess penalties and interest to taxpayers pursuant to this Chapter; and

6. Determine amounts owed under and enforce collection pursuant to this Chapter.

3.14.15 ENFORCEMENT.

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

B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the City under this Chapter is not paid when due, the Tax Administrator may, within three (3) years after the amount is due, record with any county recorder in the State of California a certificate of lien specifying the amount of taxes, interest, penalties, and fees due, and the name and address of the Person as it appears on the records of the Tax Administrator. The lien shall also specify that the Tax Administrator has complied with all provisions of this Chapter in determining the amount required to be paid. Such lien certificate shall be recorded in accordance with applicable law in the jurisdiction where the certificate is recorded. From the time of the filing for the record, the amount required to be paid, together with penalties and interest thereon, constitutes a lien upon all real property in the county where the certificate is recorded owed by the Person or subsequently acquired by the Person before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the certificate's recording unless sooner released or otherwise discharged. A fee may be adopted by the City Council and collected by the Tax Administrator to pay for the cost of recording and administering the lien.

3.14.16. CONSTITUTIONALITY AND LEGALITY.

This Cannabis Retail Business Tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this chapter shall be applied in a manner that causes an undue burden on interstate commerce, a violation of 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 or state law. If a Person believes that the Cannabis Retail Business Tax, as applied to her, him, or them, is impermissible under applicable law, he, she, or they may request that the Tax Administrator release him, her, or them, from the obligation to pay the impermissible portion of the Cannabis Retail Business Tax.

3.14.17. AUDIT AND EXAMINATION OF PREMISES AND RECORDS.

A. For the purpose of ascertaining the amount of Cannabis Retail Business Tax owed or verifying any representations made by any taxpayer to the City in support of her/his/their Cannabis Retail Business Tax calculation, the Tax Administrator or her/his/their designees, which may include a third party, shall have the power to inspect any location where commercial Cannabis activity occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, access to Metrc data, and/or point-of-sale data, state and/or federal income tax returns, excise tax returns, or other records relating to the Gross Receipts of the Cannabis Retail Business) of Persons engaged in Cannabis Retail Businesses. In conducting such investigation, the Tax Administrator, or her/his/their designees, which may include a third party, shall have the power to inspect any space utilized for Cannabis-related activities, as well as any equipment or software, such as computers, software systems, platforms, and databases (including Metrc), and/or point of sale systems, to include any keys or access codes for access to and use of the equipment and/or software, that may contain such records.

B. It shall be the duty of every Person liable for the collection and payment to the City of any Cannabis Retail Business 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/she/they may have been liable for the collection of and payment to the City, which records the Tax Administrator or her/his/their designees, which may include a third party, shall have the right to inspect at all reasonable times during normal business hours.

3.14.18. DEFICIENCY DETERMINATIONS.

If the Tax Administrator is not satisfied that any statement filed as required under the provisions of this Chapter is correct or that the amount of Cannabis Retail Business Tax is correctly computed, the Tax Administrator may compute and determine the amount to be paid and make a deficiency determination upon the basis of facts contained in the statement or upon the basis of any information that could be used as admissible evidence, in her/his/their possession, within three (3) years of the date the Cannabis Retail Business Tax was originally due and payable regardless of whether the Cannabis Retail Business is still in existence. A notice shall be provided to the Person(s) involved whenever a deficiency determination is made.

3.14.19. FAILURE TO REPORT.

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

1. If the Person has not filed a complete statement required under the provisions of the Chapter;
2. If the Person has not paid the Cannabis Retail Business Tax due under the provisions of this Chapter; or

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

B. If the Tax Administrator determines that the nonpayment of any Cannabis Retail Business Tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the Cannabis Retail Business Tax shall be added thereto in addition to penalties and interest otherwise payable under this Chapter and any other penalties allowed by law.

C. The notice of assessment shall separately set forth the amount of any Cannabis Retail Business Tax known by the Tax Administrator to be due or estimated by the Tax Administrator after consideration of all information within the Tax Administrator's knowledge concerning the business and activities. For the Person assessed, the amount to be due under each applicable provision of this Chapter and shall include the amount of any penalties or interest accrued on such amount to the date of the notice of assessment. The notice shall state that the Person has thirty (30) calendar Days from the date of the notice to make a written request for an informal hearing before the Tax Administrator. The notice shall also state that if the Person fails to timely request an informal hearing within the time allowed, the amount determined by the Tax Administrator is final and conclusive and is immediately due and payable.

3.14.20. TAX ASSESSMENT- HEARING, APPLICATION, AND DETERMINATION.

Within thirty (30) calendar Days after the date of service of the notice of assessment, the Person may apply in writing to the Tax Administrator for an informal hearing on the assessment. If the application for an informal hearing is not made within the time prescribed herein, the tax assessed by the Tax Administrator shall become final and conclusive. Within thirty (30) calendar Days after the receipt of any such application for an informal hearing, the Tax Administrator shall cause the matter to be set for an informal hearing before her, him, them, or their designee, unless a later date is agreed to by the Tax Administrator and the Person requesting the informal hearing. Notice of such informal hearing shall be given by the Tax Administrator to the Person requesting such informal hearing no later than five (5) calendar Days prior to such informal hearing. A hearing under this section shall be informal and need not follow any formal rules of evidence. At such hearing, said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing, the Tax Administrator shall determine and reassess (if necessary) the proper amount of tax, interest, penalties, and fees to be charged and shall serve written notice of the decision to the Person in the manner prescribed herein for giving notice of assessment. No appeal of a notice of assessment may be made as provided for herein unless an informal hearing is timely requested and the Person attends the hearing. If the Person fails to appear at the informal hearing, the amount due determined by the Tax Administrator in the notice of assessment is final and conclusive.

3.14.21. APPEAL.

A taxpayer aggrieved by a decision of the Tax Administrator with respect to the amount of tax, interest, penalties, and fees, if any, due under this Chapter may appeal the decision of the Tax Administrator. An appeal may be made by filing a notice of appeal with the Clerk of the City Council within thirty (30) Days of the serving or mailing of the Tax Administrator's decision of the amount due. Upon receipt of a timely notice of appeal, the Clerk of the City Council, or her/his/their designee, shall give at least ten (10) Days' notice of the appeal hearing in writing to such taxpayer at the last known place of address. The hearing shall be before the City Council, which shall make a determination of the matter by majority vote and issue a written decision of such determination. Any amount found to be due by the City Council shall be immediately due and payable but shall be stayed pending appeal to a California court of competent jurisdiction if the taxpayer timely makes such an appeal.

3.14.22. RELIEF FROM TAXES DUE TO DISASTER.

The Tax Administrator shall provide relief from any Cannabis Retail Business Tax owed pursuant to this Chapter upon a showing by a taxpayer that the Cannabis Retail Business is unable to pay the Cannabis Retail Business Tax because of fire, flood, storm, tidal wave, earthquake, pandemic, or other similar public calamities.

3.14.22. AMENDMENT OR MODIFICATION

A. This Chapter may be amended or modified, but not repealed, by the City Council without a vote of the people. However, as required by Article XII C of the California Constitution, voter approval is required for any amendment that would expand, extend, or increase the rate of any tax levied pursuant to this Chapter beyond the maximums set forth in this Chapter. Once established, Cannabis Retail Business Tax rates shall be set for a minimum of two (2) years until the City Council can modify those rates. The people of the City of Sausalito affirm that the following actions shall not constitute an increase in the rate of a tax:

1. The restoration or adjustment of the rate of the tax to a rate that is not higher than that allowed by this Chapter in those circumstances where, among others, the City Council has previously acted to reduce the rate of the tax or is incrementally implementing an increase authorized by this Chapter;

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

3. The collection of the tax imposed by this Chapter, even if the City had, for some time, failed to collect the tax.

3.14.23. OPERATIVE DATE.

“Operative date” means the first Day of the first calendar quarter commencing more than one hundred ten (110) Days after the Effective Date of this Chapter.

3.14.24. SAVINGS CLAUSE.

This Chapter shall not be interpreted in any manner that conflicts with the laws or constitutions of the United States or the State of California.

SECTION 2. SEVERABILITY.

A. This Initiative must be interpreted to be consistent with all applicable California State laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such division shall not affect the validity of the remaining portions of this Initiative and the deemed invalid or unconstitutional portions of this Initiative shall be deemed revised to uphold the intent hereunder to the maximum extent possible to be compliant with such final judgment. The voters declare that this Initiative, and each section, sub-section, clause, phrase, part or portion thereof, would have been adopted or passed irrespective of the fact that any one (1) or more sections, sub-sections, clauses, phrases, parts or portions is or are found to be invalid. If any provision of this Initiative is held invalid as applied to any Person or circumstance, such invalidity does not affect any application of this Initiative that can be given effect without the invalid application.

B. If any portion of this Initiative is (a) held by a court of competent jurisdiction to be invalid, the People of the City of Sausalito indicate our strong desire for the City Council to use its best efforts to sustain and re-enact that portion, and that the City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with this Initiative, or (b) deemed not compliant with California State law, the People of the City of Sausalito indicate our strong desire for the City Council to use its best efforts to sustain and re-enact that non-compliant portion, and that the City Council implement this Initiative by taking all steps possible to cure any inconsistencies with California State law in a manner consistent with the express and implied intent of this Initiative, including adopting or reenacting any such non-compliant portion in a manner consistent with California State law and this Initiative.

C. This Initiative must be broadly construed in order to achieve the purpose stated herein. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City and others in a manner that facilitates the purpose(s) set forth in this Initiative.

SECTION 3. ENVIRONMENTAL COMPLIANCE.

The City Council hereby finds and determines that this Initiative is exempt from the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. (“CEQA”) and 14 Cal. Code re. Sections 15000 et. seq. (“CEQA Guidelines”). The calling and noticing of an election of the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines 15378. The Cannabis Retail Business Tax submitted to the voters is a general tax that can be used for any governmental purpose; it is not a commitment to any particular action or actions.

As such, under CEQA Guidelines Section 15378(b)(4), the Cannabis Retail Business 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 generated by the Cannabis Retail Business Tax were used for a purpose that would have such an effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to the CEQA Guideline Section 15060, CEQA analysis is not required.

SECTION 4. CONSISTENCY WITH OTHER BALLOT MEASURES/INITIATIVES.

This Initiative is inconsistent with and intended as an alternative to any other initiatives or measures placed on the same ballot by any means that address the same subject matter as this Initiative (each a “*Conflicting Initiative*”). In the event that this Initiative and one (1) or more Conflicting Initiative(s) are adopted by the voters at the same election, then it is the voter’s intent that only the measure that receives the greatest number of affirmative votes shall control in its entirety and said other initiative(s) or measure(s) shall be rendered void and without any legal effect. Without limiting the foregoing, and for the avoidance of doubt, in no event shall this Initiative be interpreted in a manner that would permit its operation in conjunction with any non-conflicting provisions of any Conflicting Initiative.

SECTION 5. DEFENSE OF INITIATIVE.

Notwithstanding any other provision of law, if the City or any of its officials fail to defend the constitutionality of this Initiative, following its approval by the voters, the proponent of this Initiative shall have the authority to intervene in any court action challenging the constitutionality of this Initiative for the purpose of defending its constitutionality, whether such action is in state or federal trial court, on appeal, or on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States.

SECTION 6. EXECUTION AND CERTIFICATION.

The Mayor of the City of Sausalito will sign this Initiative, and the City Clerk will attest and certify to the passage and adoption of this ordinance if a majority of the voters voting in the general election on November 5, 2024, approve the Initiative.

SECTION 7. EFFECTIVE DATE.

Except as otherwise provided in this Initiative, this Initiative shall take effect (10) Days after the City Council declares the vote, in accordance with Elections Code section 9217.

****DOCUMENT END****