

ORDINANCE NO. 873

INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTATI AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 5.04 ENTITLED “BUSINESS LICENSES” OF THE COTATI MUNICIPAL CODE TO REQUIRE CANNABIS TESTING LABS TO PAY THE GENERAL BUSINESS TAX AND TO AMEND PROVISIONS GOVERNING ENFORCEMENT, PENALTIES AND REFUNDS RELATING TO THE PAYMENT OF GENERAL BUSINESS TAXES AND UPDATING RELATED DEFINITIONS IN CHAPTER 8.24 ENTITLED “MEDICAL MARIJUANA DISPENSARIES”.

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

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

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

WHEREAS, the City Council has approved a measure for the November 7, 2017 ballot which would tax cannabis related uses operating within the City; and

WHEREAS, if voters approve the cannabis tax measure, cannabis related uses would be required to pay the cannabis tax but would be exempt from the City’s general business tax established by Chapter 5.04 of the Municipal Code; and

WHEREAS, the proposed revisions to Chapter 5.04 of the Municipal Code will exempt cannabis related uses subject to the cannabis tax from the general business tax, require cannabis testing labs to pay the general business tax and revise provisions governing enforcement, penalties and refunds relating to the payment of general business taxes.

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

Section 1: The above recitals constitute a part of the findings made by the City Council in adopting this Ordinance.

Section 2. Chapter 5.04 of the Cotati Municipal Code is hereby amended and restated in its entirety as follows:

GENERAL BUSINESS TAX

Sections:

- 5.04.010 Definitions.
- 5.04.020 Revenue measure.
- 5.04.030 Tax payment – Nonexclusive.
- 5.04.040 Effect on past actions and obligations previously accrued.
- 5.04.050 License required.
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- 5.04.150 Nontransferable – Location change amendment.
- 5.04.160 Unexpired licenses heretofore issued.
- 5.04.170 Duplicate license.
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- 5.04.190 License tax – Payment.
- 5.04.200 ~~Penalties for failure to pay tax.~~ Penalty and Interest for Delinquency.
- 5.04.205 Waiver of Penalties
- 5.04.210 Enforcement.
- 5.04.220 License tax a debt.
- 5.04.230 Remedies cumulative.
- 5.04.240 Penalty for violation.
- 5.04.250 General license schedule.
- 5.04.260 ~~Refund claims.~~ Refunds.
- 5.04.440 Annual adjustment of fees.

5.04.010 Definitions.

As used in this chapter:

A. "Business" includes professions, trades, occupations and all and every kind of calling, whether or not carried on for profit.

B. "Person" means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business or common law trusts, societies, and individuals transacting and carrying on any business in the city other than as an employee.

C. "Collector" means the city's administrative services director or designee.

D. "Fixed place of business" means the premises occupied for the particular purpose of conducting the business thereat, and regularly kept open for that purpose with a competent person in attendance for the purpose of attending to business.

E. "Gross receipts" means the total amount of the sale price of all sales, and the total amount charged or received for the performance of any act, service or employment of whatsoever nature it may be, for which a charge is made or credit allowed, whether or not such service, act or employment is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, and any amount for which credit is allowed by the seller to the purchaser, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, the cost of transportation of the property prior to its purchase, or losses or other expense whatsoever. "Gross receipts" shall also include the estimated value of cannabis products which are internally transferred between cultivation, manufacturing, distribution, or retail operations, using a valuation methodology which may be developed in the sole discretions of the collector, for the purposes of estimating gross receipts when there is no recorded sale for purposes of the cannabis business tax. Excluded from "gross receipts" shall be cash discounts allowed and taken on sales; any tax required by law to be included in or added to the purchase price, and collected from the consumer or purchaser; and such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit.

F. "Jobbing business" means every business conducted solely for the purpose of selling goods, wares or merchandise in job lots to wholesale merchants for resale at wholesale to the trade by such wholesale merchants.

G. "Manufacturer" means one engaged in making materials, raw or partly finished, into goods, wares or merchandise suitable for use.

H. "Quarter" means a period of three calendar months. The quarters begin on the first day of January, April, July and October of each year. The quarter shall include fractions thereof.

I. "Retail business" means every business conducted for the purpose of selling, or offering to sell, any goods, wares or merchandise, other than as a part of a wholesale business and jobbing business, as defined in subsections E and J of this section.

J. “Vehicle” means and includes every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

K. “Wholesale business” means every business conducted solely for the purpose of selling goods, wares or merchandise in wholesale lots to retail merchants or resale at retail to the trade by such retail merchants. For the purpose of this definition, a sale of livestock, poultry, feeds or other farm supplies directly to a farmer, dairyman, rancher or other person whose principal occupation is agricultural shall be considered wholesale business.

5.04.020 Revenue measure.

The ordinance codified in this chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation.

5.04.030 Tax payment – Nonexclusive.

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the city, and shall remain subject to the regulatory provisions of other ordinances.

5.04.040 Effect on past actions and obligations previously accrued.

Neither the adoption of the ordinance codified in this chapter nor its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to April 4, 1964, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

5.04.050 License required.

A. There are imposed upon the businesses, trades, professions, callings and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city to do so, or without complying with any and all applicable provisions of this chapter.

B. This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state.

C. Persons not required to obtain a license prior to doing business within the city because of conflict with applicable statutes of the United States or of the state shall be liable for payment of the tax imposed by this chapter.

5.04.060 Branch establishments.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on, and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

5.04.070 Exemptions.

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

B. Charitable and Educational Activities.

1. The provisions of this chapter shall not be deemed or construed to require the payment of a license to conduct, manage or carry on any business, occupation or activity, or require the payment of any license from any institution or organization which is conducted, managed or carried on wholly for charitable purposes and from which profit is not derived, either directly or indirectly, by an individual, firm or corporation.

2. The provisions of this chapter shall not be deemed or construed to require the payment of a license to carry on any activity, or require the payment of any license from any church, school or other charitable, nonprofit organizations in the Cotati area, which is carried on wholly for charitable purposes and from which the profit is either wholly or partially distributed to such organization.

3. No license shall be required for the conduct of any entertainment, concert or lecture on scientific, historic, literary, religious or moral subjects whenever the receipts of any such entertainment, concert or lecture are to be appropriated in whole or in part to any church, school or veterans' association, or to any religious or benevolent purpose within the Cotati area.

4. No license shall be required of any recognized lodge or fraternal organization.

5. No license shall be required of any person under any section hereof for engaging in business dealing solely in farm products produced by him on a lot owned by him.

C. Claim for Exemption. Any person claiming an exemption pursuant to this section shall file a verified statement with the collector stating the facts upon which exemption is claimed.

D. License. The collector, upon a proper showing contained in the verified statement, may issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this chapter.

E. Revocation. The collector, after giving notice and a reasonable opportunity for hearing to a license, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein.

F. The collector shall, at the sole his/her sole discretion, be able to waive the requirement for a business license in the following circumstances:

1. Persons delivering goods to city hall or city facilities on a one-time, non-recurring basis, if their place of business is outside the city.

2. Persons selling goods during short-term city-permitted events, such as faires, if their place of business is outside the city.

G. Persons required to pay a tax pursuant to Chapter 5.30 of this code shall also register the cannabis business pursuant to Section 5.30.060 of this code, but shall be exempt from the general business tax required under this Chapter 5.04 for any such cannabis business.

H. 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 5.30 of this code.

5.04.080 Application – Contents.

Every person required to have a license under the provisions of this chapter shall make application for the same to the collector and, upon the payment of the prescribed license tax, the collector shall issue to such person a license which shall contain:

- A. The name of the person to whom the license is issued;
- B. The business licensed;
- C. The place where such business is to be transacted and carried on;
- D. The date of the expiration of the license; and
- E. Such other information as may be necessary for the enforcement of the provisions of this chapter.

5.04.090 Affidavit – First license.

A. Upon a person making application for the first license to be issued hereunder, or for a newly established business, such person shall furnish the collector, for his guidance in ascertaining the amount of license tax to be paid by the applicant, a written statement upon a form provided by the collector, sworn to before a person authorized to administer oaths, setting forth such information as may be therein required and as may be necessary to determine the amount of the license tax to be paid by the applicant.

B. The collector shall not issue to any such person another license for the same or any other business until such person has furnished to him the written statement and paid the license tax as required in this chapter.

C. Within thirty days after the expiration of the year for which the first determination or estimate is made, the applicant shall furnish the collector with the correct information relative to gross receipts, numbers of units, or other criteria used in calculating the tax due, and pay any deficiency between the estimated tax paid at the time of the application and the actual tax

computed as due based on the year-end calculations. Any such deficiency shall be due and payable on January 31st of each year.

D. Prior to the issuance of any business license for a business operating at a fixed place, the applicant shall obtain approval or conditional approval for the operation of the business at the business location in question from the city building inspector, city planner, city police chief and the fire department, and shall demonstrate such approval on the appropriate city forms.

5.04.100 Renewal – Written statement required.

In all cases, the applicant for the renewal of a license shall submit to the collector, for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a written statement, upon a form to be provided by the collector, written under penalty of perjury, or sworn to before a person authorized to administer oaths, setting forth such information concerning the applicant's business during the preceding year as may be required by the collector to enable him to ascertain the amount of the license tax to be paid by the applicant pursuant to the provisions of this chapter.

5.04.110 Statements not conclusive.

A. No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the collector, his deputies or authorized employees of the city, who are authorized to examine, audit and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the amount of license fee due.

B. All licensees, applicants for licenses, and persons engaged in business in the city are required to permit an examination of such books and records for the purposes aforesaid.

C. The information furnished or secured pursuant to this section or sections 5.04.090 and 5.04.100 shall be confidential. Any unauthorized disclosure or use of such information by any officer or employee of the city constitutes a misdemeanor and such officer or employee shall be subject to the penalty provisions of this chapter in addition to any other penalties provided by law.

5.04.120 Failure to file statement or corrected statement.

A. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by collector he fails to file a corrected statement, the collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain.

B. If such a determination is made, the collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Cotati, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within fifteen days after the mailing or serving of the notice, make application in writing to the collector for a hearing on the amount of the license tax. If the application is made, the collector

shall cause the matter to be set for hearing within fifteen days before the city council. The collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving notices of assessment.

5.04.130 Appeal.

Any person aggrieved by any decision of the collector with respect to the issuance or refusal to issue such license may appeal to the council by filing a notice of appeal with the clerk of the council. The council shall thereupon fix a time and place for hearing the appeal. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Cotati, California, postage prepaid, addressed to such person at his last known address. The council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter.

5.04.140 Additional power of Collector.

In addition to all other power conferred upon him, the collector has the power for good cause shown to extend the time for filing and required sworn statement for a period not exceeding thirty days, and in such case to waive any penalty that would otherwise have accrued; and shall have the further power, with the consent of the council, to compromise any claim as to amount of license tax due.

5.04.150 Nontransferable – Location change amendment.

No license issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may upon application therefor and paying a fee of two dollars have the license amended to authorize the transacting and carrying on of the business under the license at some other location to which the business is or is to be moved.

5.04.160 Unexpired licenses heretofore issued.

Where a license for revenue purposes has been issued to any business by the city and the tax paid therefor under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for the business by this chapter shall not be payable until the expiration of the term of such unexpired license.

5.04.170 Duplicate license.

A duplicate license may be issued by the collector to replace any license previously issued hereunder which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of filing such statement paying to the collector a duplicate license fee of one dollar.

5.04.180 Posting and keeping.

All licenses must be kept and posted in the following manner:

A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where the business is carried on.

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business.

5.04.190 License tax – Payment.

Unless otherwise specifically provided, all annual license taxes, under the provisions of this chapter, shall be due and payable in advance on the first day of January of each year, provided that license taxes covering new operations commenced after the first day of July shall be one-half (1/2) of the annual license tax. There shall be no other proration. Other license taxes are payable as follows:

- A. Weekly flat-rate license taxes on Monday of each week, in advance;
- B. Daily flat-rate license taxes, each day in advance;
- C. Monthly flat-rate license taxes, each month in advance.

5.04.200 ~~Penalties for failure to pay tax. Penalty and interest for delinquency.~~

~~For failure to pay a license tax when due, the city clerk shall add a penalty of twenty five percent of the license tax on the last day of each month after the due date thereof, providing that the amount of the penalty to be added shall in no event exceed one hundred percent of the amount of the license tax due.~~

Any person who fails or refuses to pay any business tax, license, or fee required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

- A. Original Delinquency. A penalty equal to 25% of the amount of the tax in addition to the amount of the tax, plus interest on unpaid tax plus interest on the unpaid tax calculated from the due date of the tax at a rate of 1% per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid; and
- B. Continued Delinquency. An additional penalty equal to 25% of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax calculated at the rate of 1% per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- C. Any person that is found through audits or other means to have failed to pay any business tax shall have penalties and interest calculated from the date that the business taxes were originally due.

5.04.205 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 section shall be granted only once during any twenty-four-month period.

5.04.210 Enforcement.

~~A. It is the duty of the city clerk, and he is directed to enforce each and all of the provisions of this chapter; and the chief of police shall render such assistance in the enforcement hereof as may from time to time be required by the city clerk or the city council.~~

~~B. The city clerk, in the exercise of the duties imposed upon him hereunder, and acting through his deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with.~~

~~C. The city clerk and each and all of his assistants, and any police officer, shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed herein, and demand an exhibition of its license certificate. Any person having the license certificate theretofore issued in his possession or under his control who willfully fails to exhibit the same on demand is guilty of a misdemeanor and subject to the penalties provided for by the provisions of this chapter. It shall be the duty of the city clerk and each of his assistants to cause a complaint to be filed against any and all persons found to be violating any of said provisions.~~

It is the duty of the collector, and he or she is directed to enforce each and all of the provisions of this chapter; and the chief of police and persons responsible for code enforcement shall render such assistance in the enforcement hereof as may from time to time be required by the collector or the city manager or his or her designee.

The collector and each and all of his or her assistants, and any police officer or persons responsible for code enforcement, shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed herein, and demand an exhibition of its license certificate. Any person having the license certificate theretofore issued in his possession or under his control who willfully fails to exhibit the same on demand is guilty of a misdemeanor and subject to the penalties provided for by the provisions of Section 5.04.240.

5.04.220 License tax a debt.

The amount of any license tax and penalty imposed by the provisions of this chapter is deemed a debt 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 license tax and penalties.

5.04.230 Remedies cumulative.

All remedies prescribed hereunder shall be cumulative, and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

5.04.240 Penalty for violation.

Any person violating any of the provisions of this chapter, or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit herein provided for is guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

5.04.250 General license schedule.

A. Every person transacting or carrying on the following businesses at a fixed place of business in the city shall pay an annual business license tax as follows:

Advertising,
Apartment management,
Art gallery,
Auto rentals,
Bail bonds,
Bars,
Bartending,
Beauty salons,
Beauty schools,
Cannabis testing labs,
Car wash,
Cleaners,
Clock shop,
Collection agency,
Correspondence school,
Counseling,
Credit service,
Dance studios,
Dental laboratories,
Drafting,
Employment agency,
Estimator,
Finishing school,
Furniture refinishing,
Golf course,
Grinding services,
Hair dryers,
Hostess service,
Hydraulic service,

Insurance adjusters and brokers,
Interior decorators,
Janitorial services,
Leatherette repair,
Locksmith,
Management and planning,
Manicurists,
Manufacturing, fabricating or processing,
Masseur,
Medical laboratories,
Mobile home service,
Music instructions,
Nursery Schools,
Opticians,
Painter,
Parking lots,
Pest control,
Photography,
Piano tuner,
Pool services,
Private investigators,
Professionals (certified public accountants, architects, attorneys, appraisers, dentists, doctors, engineers, surveyors),
Real estate,
Rental service,
Restaurants,
Retailing of goods, wares or merchandise,
Rides,
Rototilling,
Sales of services at retail or wholesale,
Secretarial service,
Security service,
Sewer cleaning,
Sign painter,
Silver shop, repair,
Swim centers,
Soft water services,
Tailoring and dressmaking,
Taverns,
Telephone answering service,
Title companies,
Travel agencies,
Tree service,
Wholesaling of goods, wares or merchandise,

Seventy dollars, plus ten dollars for each of the first ten persons who, based on an average for the preceding six months, including officers, partners, owners, employees, devote more than one-half of their time to the business, plus five dollars for each such person in excess of ten.

B. Rental Units. Every person owning, leasing, subleasing or in any way exercising control over three or more rental units and/or collecting rents or income from same, including but not limited to apartment houses, hotels, motels, boardinghouses, rest homes, convalescent homes, trailer parks, mobile home parks, or uses of a similar nature, shall pay an annual license tax of ten dollars for each unit, room or square.

C. Mini-warehouses. Every person owning, leasing, subleasing or in any way exercising control over, or collecting income or rents from units or space utilized for the dead storage of personal property shall pay an annual license tax of two dollars per unit of such storage space; except, however, persons who are annually or regularly paying or are obligated to pay to the city any moneys pursuant to written contract for the right to operate such a business are exempt from paying such annual tax as long as the person's payments are timely made in accordance with the contract.

D. Coin-operated Vending Machines.

1. Any person whose sole and exclusive business is limited to renting, leasing or operating coin-operated vending machines shall pay a business license tax equal to one and one-half percent of the gross receipts generated by virtue of all such machines located within the city. Such person shall not be subjected to any other business license tax provided for in Chapter 5.04.

2. As used herein, "coin-operated vending machine" means any mechanical device the operation of which depends upon the insertion of a coin, or other thing representative of value, in the denomination of five cents or more, and which dispenses or vends a product, service or exchange of equal value, other than telephone service furnished under public utility tariffs, and includes, but is not limited to, coin-operated machines such as games of skill, video games, amusement devices, coin-operated kiddie rides, phonograph and music boxes, coin-operated billiard tables, and pinball machines.

3. Any person whose exclusive business is not the renting, leasing or operating of coin-operated vending machines, but who derives income from such machines, shall pay a license tax of fifteen dollars for each machine in the city from which such income is derived.

- 4.a. When a coin-operated vending machine is subject to the licensing provisions of this section, any person owning or in possession of the machine, or in possession of the premises upon which it is located, shall be responsible for the licensing of the machine. No person shall keep or maintain upon his premises any vending or coin-operated machine for which no license or permit has been obtained, and upon which no license or decal has been posted.

b. When the person in possession of the premises upon which an unlicensed vending or coin-operated machine is located refuses to obtain a license for the machine on the basis that it is not owned or possessed by him, the city manager or his authorized agent or deputy shall remove the machine to the city hall, and shall place it in storage until claimed by the rightful owner. The machine shall be delivered to the rightful owner upon payment of moving, storage and accrued business license charges.

c. Any license to conduct a business issued by the city in connection with which the city imposes a license fee or tax upon coin-operated vending machines within the city may be revoked for failure of the licensee to report to the city the gross receipts from such machines. The city may demand an audit of any such licensee and require him/her to submit a copy of the state sales and use tax returns filed relative to such machines, and a copy of any other tax statement filed with any government entity by him or by any other individual or firm owning, renting, leasing or operating such machines, disclosing the gross receipts received from owning, renting, leasing or operating such machines.

E. Movie Theaters and Concert Halls. Every person carrying on the business of conducting a concert hall or a theater containing a permanent stage upon which movable scenery and theatrical appliances are used, where regular theatrical or vaudeville performances are given, and to which an admission fee is charged, collected or received, or conducting a moving picture theater where moving or motion pictures are exhibited and an admission fee is charged, collected or received, shall pay a quarterly license tax equal to three dollars and fifty cents per one hundred seats, or fraction thereof.

F. Theatrical Productions. Every person engaged in the business of carrying on any theatrical or vaudeville performance in any public hall, clubroom, assembly hall or theater where movable scenery and theatrical appliances are used, whether or not an admission fee is charged, shall pay a license tax of ten dollars per day, provided that nothing contained in this section shall be deemed or construed to require the holder of a theater license to procure any additional license to conduct, maintain or carry on any theatrical or vaudeville performance when such performance is conducted by any such theater so licensed.

G. Circus.

1. Every person engaged in the business of conducting a menagerie, circus, dog and pony show, or any other show held in a tent or under canvas cover, shall pay a license tax of one hundred dollars for the first day and twelve dollars and fifty cents for each succeeding day, where the seating capacity is less than two thousand; one hundred fifty dollars for the first day and twenty-five dollars for each succeeding day where the seating capacity is more than two thousand.

2. Every person engaged in the business of conducting, managing or carrying on a sideshow or after-show to a circus, when a separate fee not exceeding ten cents is charged, shall pay a license tax of five dollars per day for each sideshow or after-

show. Every person carrying on the business of conducting, managing or carrying on a sideshow or after-show to a circus when a separate fee exceeding ten cents is charged shall pay a license tax of ten dollars per day for each such sideshow or after-show.

3. Every person carrying on the business of conducting or managing a circus procession or parade and not having a license for conducting, managing or carrying on a circus within the limits of the city shall pay a license tax of fifty dollars for each such procession or parade.

4. For the purposes of this section, "circus" means an exhibition or entertainment at which feats of horsemanship, acrobatic feats, and trained or wild animals are exhibited or displayed in the city, to which exhibition or entertainment an admission fee is charged, and which exhibition or entertainment is conducted or managed or carried on by a person having no regular established or fixed place of business in the city for the exhibition thereof.

H. Carnivals. Every person engaged in the business of conducting, managing or carrying on a carnival, whether conducted by the owner, lessee or managers thereof, or under the auspices of any lodge or society, shall pay a license tax of ten dollars per week, or portion of week for each show, exhibition space or concession. For the purpose of this section, "carnival" means a collection of shows, exhibitions, feats of strength, merchandise booths, games of skill, fortunetelling, games of chance, wheels of fortune, presented or offered upon the streets or vacant property within the city, other than circuses or sideshows, or after-shows as specified in subsection G of this section.

I. Dances. Every person whose sole business is the conducting of public dances at which an admission fee is charged, collected or received, shall pay a license tax of ten dollars for each dance, with a maximum of fifty dollars per quarter; provided, however, that should more than twelve such dances be conducted by a person during any one quarter, then he shall pay, in addition to all other license taxes required to be paid hereunder, the sum of ten dollars for each such dance held during a single quarter in excess of twelve.

J. Solicitors Not Having a Fixed Place of Business Within City.

1. Solicitors not having a fixed place of business within the city, of subscriptions to or of advertising in newspapers, radio or television shall pay a license tax of sixty (60) dollars per year for the first solicitor plus four dollars per year for each additional solicitor.

2. All other solicitors not having a fixed place of business within the city, including magazine solicitors, shall pay a tax of one hundred dollars per year for each solicitor. This chapter shall not apply to that class of persons ordinarily called traveling men who sell by sample to the trade only, but shall apply to all other persons, firms, individuals or corporations who either sell or deliver from place to place or vend upon the streets or solicit orders from houses or businessmen, who

deliver by truck or other container to the trade, where the same is done over the streets and avenues of the city, except as provided in Section 5.04.070.

3. No license fees shall be required of regular local newspaper delivery carriers who solicit from time to time, political solicitors, religious solicitors, or solicitors from nonprofit or charitable institutions.

K. Advertising.

1. For advertising by means of handbills, dodgers, stickers or advertising samples (excepting political advertisements by a candidate for office), the tax shall be twenty-four dollars per person per year, and two dollars per person per day.

2. For advertising by means of display advertisement towed by a vehicle, the tax shall be fifty dollars per year per vehicle.

3. For advertising by means of permanently constructed outdoor advertising signs, billboards or structures, the tax shall be fifty dollars per year for each. The foregoing terms shall include advertising structures as defined in Business and Professions Code Section 5202 of the state. This section shall not apply to any such signs which are less than nine square feet in size or which are expressly permitted under the provisions of the zoning ordinance of the city, as may be from time to time amended.

4. For advertising by means of temporary signs, including but not limited to real estate "for sale" signs and other similar signs upon property other than that owned by the person so placing the sign or so advertising, the rate shall be one dollar for every month the sign is posted. In the event the sign is larger than three feet by three feet, and/or contains more than nine square feet, the rate shall be two dollars per month said sign is posted.

L. Billiards, Poolroom and Game Tables.

1. Every person engaged in the business of operating, conducting or maintaining a billiard, poolroom or other game table which is not coin-operated shall pay an annual license fee of thirty dollars for the first and ten dollars for each additional billiard, poolroom or other game table operated or maintained by him; provided, however, that if such person shall conduct some other type of business in addition to the conduct, maintenance and operation of such billiard, pool or other game tables, whether or not such other business is conducted upon the same premises, s/he shall be required to obtain a license and pay the tax specified for such other business in addition to the license specified in this section.

2. Card rooms shall pay a license tax as provided in Chapter 5.08.

M. Box, Ball or Bowling Alley. For every box, ball or bowling alley, for the first alley, the rate shall be the sum of twenty-five dollars per year, and for each additional alley the sum of ten dollars per year, whether used or not, provided the same is located on the premises where the business is conducted.

N. Utilities. Utilities shall pay the business license tax as provided for in subsection A of this section.

O. Contractors. Every person who conducts the business of contractor licensed by the state under the State Contractors' License Board shall pay a business license tax as indicated below:

1. General building contractor, one hundred dollars per year; sixty dollars per one-half year;

2. Electrical, plumbing and other contractors and subcontractors, fifty dollars per year; thirty-five dollars per one-half year.

P. Brokers, Dealers, Finance Companies and Mortuaries. All persons engaged in business as a broker or dealer, as those terms are defined in the Securities Exchange Act of 1934, 15 U.S.C. § 78c(4) and (5), respectively, finance company or mortuary, shall pay the following license tax:

1. For the operation of each office and one licensed person therein, the sum of one hundred twelve dollars and fifty cents per year;

2. For each additional licensed person in each office, the sum of fifty-six dollars and twenty-five cents per year.

Q. Discotheques, Teen Centers – Without Sale of Alcoholic Beverages On Premises. Any person operating a discotheque, commercial teen center, or other such establishment in which the sale of alcoholic beverages is not offered on the premises and in which dancing or entertainment is offered, shall pay a license fee of one hundred fifty dollars.

R. Deliveries. For all delivery services, including pickup and delivery, whether wholesale or retail, of goods, liquids, materials, edibles, personal property of any nature, petroleum products, and all other kinds and types of property, where the owner of the vehicle has not fixed place of business within the city, the license fee shall be sixty dollars per year.

S. Christmas Tree Sales. For Christmas tree sales, the license fee shall be fifteen dollars quarterly.

T. Brokers and Agents Who Do Not Maintain an Office in the City. Every person transacting or carrying on the business of broker or agent who does not maintain a fixed place of business in the city shall pay an annual license tax of fifty dollars, or, in the alternate, a quarterly license tax of fifteen dollars. The erection of a sign by a real estate agent and/or broker offering a property for sale, lease or rent shall require the tax as set forth in this section.

U. Gardeners. For gardeners, the license fee shall be fifteen dollars.

V. Entertainment – Additional Tax.

1. Persons who own or operate taverns, beer halls, cocktail lounges, nightclubs, bars, and restaurants where beer and/or wine is sold to patrons, and where live entertainment is offered more than five days per year, shall pay a license tax in addition to that required under subsection A of this section. The tax shall be based upon the maximum seating, audience and dancing patron capacity of the business, as established by the city building official. The tax amount shall be twenty-five cents per audience and dancing patron.

2. Persons who own or operate taverns, beer halls, cocktail lounges, nightclubs, bars, and restaurants where beer, wine and distilled spirits are sold, and where live entertainment is offered more than five days per year, shall pay a license tax in addition to that required under subsection A of this section in an amount equal to fifty cents per audience and dancing patron. The number of such patrons will be established at the maximum seating, audience and dancing patron capacity, as determined by the city.

3. Those businesses enumerated in subdivisions 1 and 2 of this subsection V which offer live entertainment five or less times per year shall pay a license tax for each day such entertainment is offered. The daily tax shall be in addition to that required under subsection A of this section. The tax shall be based upon the maximum seating, audience and dancing patron capacity of the business, as established by the city building official. For each day entertainment is offered, a tax in an amount equal to fifteen cents per audience and dancing patron shall be paid.

W. Taverns, Beer Halls, Cocktail Lounges, Nightclubs or Restaurants With Bars – Initial License Application – Additional Fee. In addition to the license fee established for taverns, beer halls, cocktail lounges, nightclubs, or restaurant combinations in subsections A and V of this section, each such business commenced after the effective date of the ordinance codified in this section shall pay a license fee in the amount of two hundred dollars for the first business license issued to the business by the city. For the purpose of this section, each new ownership shall constitute a commencement of business.

X. Part-time Occupations. Any business, trade or profession, including home occupations, which meets both of the following qualifications:

1. There are no employees other than the owner or operator;
2. The owner or operator devotes less than thirty hours a week to the operation or conduct of the business, trade, profession or home occupation shall pay a business license tax as follows:
 - a. Gross receipts of \$0.00 to \$3,000.00 \$15.00
 - b. Gross receipts of \$3,000.00 to 30.00

\$6,000.00

- c. Gross receipts of \$6,000.00 or more 60.00

Y. Any person doing business within the city who does not make his/her principal place of business within the city shall pay the sum of ninety dollars as an annual business license tax.

Z. Business Not Otherwise Licensed. Every person not otherwise licensed by other special provisions of this chapter having a fixed place of business in the city, or not having a fixed place of business within the city who sells or keeps for sale goods, wares or merchandise, or performs any work or labor, or who conducts or carries on any line of business therein shall pay the license tax as provided in subsection A of this Section 5.04.250.

5.04.260 Refunds.

~~Claims for the refund of taxes imposed pursuant to this chapter shall be governed by the procedures contained in Section 3.28.040 of this code.~~

No refund of erroneously paid taxes, registrations, penalties, fees, or interest collected under this chapter, or Chapter 5.30 of this code, shall be allowed in whole or in part unless a claim for refund is filed with the collector within a period of three years from the last day of the calendar month following the period for which the payment was made, and all such claims for refund of the amount of the payment must be filed with the collector in the manner prescribed by him. Upon the filing of such a claim and when determination that a payment had been made, the collector may refund the amount overpaid. The filing of a claim and payment of the claim shall be governed by the procedures contained in Section 3.28.040 of this code.

5.04.440 Annual adjustment of fees.

All business license fee rates provided for in this chapter shall be adjusted annually on July 1st to reflect the increase in Consumer Price Index in the Santa Rosa Standard Metropolitan Statistical Area.

Section 3. Chapter 8.24 of the Cotati Municipal Code is hereby amended as follows (text to be inserted into the Municipal Code is indicated in underline while text to be stricken is presented in ~~strikeout~~; text in standard type currently appears in the Municipal Code and is reaffirmed and readopted by this ordinance):

8.24.020 Definitions.

“License” shall have the same meaning as registration, pursuant to Chapter 8.30 of this Code.
“Licensee” means the person (1) to whom a dispensary ~~license~~ registration is issued pursuant to Chapter 8.30 of this Code and (2) who is identified in California Health and Safety Code Section 11362.7, subdivision (c), (d), (e), or (f).

8.24.050 Business license liability.

An operator of a dispensary shall also be required to apply for and obtain registration under Chapter 8.30 of this Code. ~~a general city business license as a requirement of the issuance of the medical marijuana dispensary license. (Ord. 836 § 1(part), 2012: Ord. 787 § 1(part), 2007).~~

Section 4. CEQA. This Ordinance is categorically exempt from environmental review pursuant to the California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b) (3) in that neither the Ordinance nor its implementation could foreseeably have any significant effect on the environment.

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council of the City of Cotati hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 6. Effective and Operative Dates. This ordinance shall take effect the same date as the effective date of the cannabis industry tax measure the City Council has placed on the November 7, 2017 ballot authorizing collection of taxes on cannabis businesses.

Section 7. Certification; Publication. The City Clerk shall cause this ordinance to be published and/or posted within fifteen days after its adoption.

Approved: _____
Mayor

Attest: _____
Lauren Berges, Deputy City Clerk

Approved as to form:

Robin Donoghue, City Attorney

This document is a true and correct copy of Ordinance Number 873 and has been published or posted pursuant to law. *California Government Code § 40806*

Lauren Berges, Deputy City Clerk