

ARTICLE V. CANNABIS BUSINESS ACTIVITIES TAX

§ 5.03.170 TITLE.

This article shall be known as the "Cannabis Business Activities Tax Ordinance." This article shall be applicable in the unincorporated area of the county.

(Measure C Initiative, adopted 2018)

§ 5.03.171 AUTHORITY AND PURPOSE.

(A) This article is adopted pursuant to MAUCRSA, specifically Cal. Revenue and Taxation Code § 34021.5, Cal. Gov't Code § 53724, Cal. Elections Code § 9140, and upon approval by the electorate in accordance with Section 2 of Article XIII C of the Constitution of the State of California and Cal. Gov't Code § 53723.

(B) This article is adopted to achieve the following purposes, among others, and directs that the provisions herein be interpreted in order to accomplish those purposes:

(1) To impose a tax upon cannabis businesses for the privilege of engaging in cannabis business activities, whether medicinal or non-medicinal, in the unincorporated area of the county;

(2) To specify the type of tax, the rate of tax to be levied, and the method of collection; and

(3) To comply with all requirements of imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in the election on the issue.

(Measure C Initiative, adopted 2018)

§ 5.03.172 INTENT.

(A) This article is enacted solely for the purpose of raising revenue for general county purposes, and is not intended to be regulatory.

(B) Nothing in this article is intended, nor shall be construed, to exempt cannabis businesses from compliance with all applicable provisions of this code and all other applicable state and federal laws.

(C) The intent of this article is to levy a tax on all cannabis businesses that operate in the unincorporated area of the county, regardless of whether such business would have been legal at the time this article was enacted. Nothing in this article shall be interpreted to

authorize or permit any cannabis business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

(D) The cannabis business activities tax is levied based upon gross receipts and/or square footage of cannabis plant canopy, depending on the type of cannabis business activity in which a cannabis business is engaged.

(E) The cannabis business activities tax is an excise tax, specifically it is not a sales and use tax, a transaction and use tax, a tax upon income, a tax upon real property, or any other type of tax.

(Measure C Initiative, adopted 2018)

§ 5.03.173 GENERAL TAX.

The cannabis business activities tax is a general tax enacted solely for general governmental purposes of the county and not for specific purposes. All of the proceeds from the tax imposed by this article shall be placed in the county's general fund and used for unrestricted general revenue purposes.

(Measure C Initiative, adopted 2018)

§ 5.03.174 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANNABIS. All parts of the plant *Cannabis Sativa* Linnaeus, *Cannabis Indica*, or *Cannabis Ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. CANNABIS also means the separated resin, whether crude or purified, obtained from CANNABIS. CANNABIS does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, CANNABIS does not mean "industrial hemp" as defined by Cal. Health and Safety Code § 11018.5.

CANNABIS BUSINESS. Any PERSON engaged in any CANNABIS BUSINESS ACTIVITY, as those terms are defined in this article.

CANNABIS BUSINESS ACTIVITIES TAX. The tax due under this article for engaging in CANNABIS BUSINESS ACTIVITIES in the unincorporated area of the COUNTY.

CANNABIS BUSINESS ACTIVITY or CANNABIS BUSINESS OPERATION. Shall have the meaning set forth in Cal. Business and Professions Code § 26001(k). CANNABIS BUSINESS ACTIVITY does not include personal CULTIVATION as defined in Chapter 11.15 of this code.

CANNABIS COORDINATOR. The COUNTY official responsible for the issuance, renewal, or reinstatement of CANNABIS permits, and the COUNTY official authorized to initiate and/or take disciplinary action against a CANNABIS permittee. In the event that a CANNABIS COORDINATOR has not been appointed by the Board of Supervisors, or in the event of the unavailability of the CANNABIS COORDINATOR, the CANNABIS COORDINATOR shall mean the Director of the Resource Management Agency, or his/her designee.

CANNABIS PRODUCTS. Shall have the same meaning set forth in Cal. Revenue and Taxation Code § 34010(g).

CANOPY, CANOPY AREA, PLANT CANOPY, PLANTS CANOPY AREA, or CULTIVATION AREA. The cumulative total square footage of all areas occupied by any portion of a CANNABIS plant, inclusive of all vertical planes, whether contiguous or non-contiguous, including the space between plants within the CANOPY AREA, on any one site as calculated by the CANNABIS COORDINATOR, or their designee, but does not include aisles or other open areas outside the CANOPY AREA. The CANOPY includes, but is not limited to, the area occupied by CANNABIS plant seeds, seedlings, immature plants, mature plants, or any CANNABIS plant, or part thereof, in any stage of processing, including harvesting, drying, curing, trimming, and the like.

COUNTY OF SAN BENITO or COUNTY. The COUNTY OF SAN BENITO, as a political subdivision of the State of California or entity, and/or as related to the land or jurisdiction to which this chapter applies, means the unincorporated area of SAN BENITO COUNTY.

CULTIVATION. Any activity involving the PROPAGATION, planting, growing, harvesting, or PROCESSING, as defined in this article, of one or more CANNABIS plants, or any part thereof, in any location, indoor or outdoor, including from within a fully enclosed and secure building or structure.

CULTIVATOR. A PERSON engaged in the CULTIVATION of CANNABIS.

DELIVERY. Shall have the same meaning set forth in Cal. Business and Professions Code § 26001(p).

DISTRIBUTION. The procurement, sale, and TRANSPORT of CANNABIS and CANNABIS PRODUCTS.

DISTRIBUTOR. A PERSON engaged in the DISTRIBUTION of CANNABIS and/or CANNABIS PRODUCTS between CANNABIS BUSINESSES.

ENGAGED IN CANNABIS BUSINESS ACTIVITIES.

(1) The commencing, conducting, operating, managing, or carrying on of a CANNABIS BUSINESS and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the unincorporated area of the COUNTY or coming into the unincorporated

area of the COUNTY from an outside location to engage in such activities. A PERSON shall be deemed ENGAGED IN CANNABIS BUSINESS ACTIVITIES within the COUNTY if:

(a) Such PERSON or PERSON'S employee maintains a fixed place of business within unincorporated area of the COUNTY for the benefit or partial benefit of such PERSON;

(b) Such PERSON or PERSON'S employee owns or leases real property within the unincorporated area of COUNTY for business purposes;

(c) Such PERSON or PERSON'S employee regularly maintains a stock of tangible personal property in the unincorporated area of COUNTY for sale in the ordinary course of business;

(d) Such PERSON or PERSON'S employee regularly conducts solicitation of business within the unincorporated area of COUNTY;

(e) Such PERSON or PERSON'S employee performs work or renders services in the unincorporated area of COUNTY; or

(f) Such PERSON or PERSON'S employee utilizes the streets within the unincorporated area of COUNTY in connection with the operation of motor vehicles for business purposes.

(2) The foregoing specified activities shall not be a limitation on the meaning of ENGAGED IN CANNABIS BUSINESS ACTIVITIES.

GROSS RECEIPTS. Shall have the same meaning as set forth in Cal. Revenue and Taxation Code § 6012.

MANUFACTURE. The production, preparation, PROPAGATION, or compounding of CANNABIS or CANNABIS PRODUCTS, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

MANUFACTURER. A PERSON engaged in the MANUFACTURE of CANNABIS and/or CANNABIS PRODUCTS.

MAUCRSA. The Medicinal and Adult-Use Cannabis Regulation and Safety Act, Cal. Business and Professions Code Section 26000 et seq.

MICROBUSINESS. Shall have the meaning set forth in the Cal. Business and Professions Code § 26070(a)(3)(A).

NON-MEDICINAL CANNABIS. CANNABIS used for adult-use, recreational, or non-medical purposes.

NURSERY. A CANNABIS BUSINESS that engages only in the production of CANNABIS clones, immature plants, seeds, and other agricultural products used specifically for the planting, PROPAGATION, and CULTIVATION of CANNABIS.

PERSON. An individual, firm, partnership, joint venture, association, corporation, cooperative, company, collective, organization, business, and/or entity.

PROCESS or PROCESSING. All CANNABIS BUSINESS ACTIVITIES associated with drying, curing, grading, trimming, storing, packaging, and labeling of raw CANNABIS, or any part thereof, for TRANSPORT.

PROPAGATE or PROPAGATION. To cultivate immature plants from CANNABIS plant cuttings or seeds.

RETAIL SALE, SELL, and TO SELL. Includes 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, but does not include the return of CANNABIS or CANNABIS PRODUCTS by a CANNABIS permittee to the CANNABIS permittee from whom the CANNABIS or CANNABIS PRODUCT was purchased.

RETAILER. A PERSON engaged in the RETAIL of CANNABIS and/or CANNABIS PRODUCTS.

TESTING LABORATORY or LABORATORY. A LABORATORY, facility, or entity in the state that offers or performs tests of CANNABIS or CANNABIS PRODUCTS, and that is accredited by an accrediting body that is independent from all other PERSONS involved in commercial CANNABIS activity in the state.

TRANSPORT or TRANSPORTATION. The transfer of CANNABIS from the licensed CANNABIS BUSINESS site of one MAUCRSA licensee to the licensed CANNABIS BUSINESS site of another MAUCRSA licensee for the purposes of conducting CANNABIS BUSINESS ACTIVITIES as authorized pursuant to Cal. Business and Professions Code § 26000 et seq. CANNABIS may only be transported inside of a commercial vehicle or trailer and may not be visible or identifiable from outside of the commercial vehicle or trailer. TRANSPORTATION by means of aircraft, watercraft, drones, rail, human powered vehicles, and unmanned vehicles is prohibited. The COUNTY shall not prevent the carriage of CANNABIS or CANNABIS PRODUCTS on public roads by a MAUCRSA licensee acting in compliance with state law to TRANSPORT CANNABIS or CANNABIS PRODUCTS from the licensed CANNABIS BUSINESS site of one MAUCRSA licensee to the licensed CANNABIS BUSINESS site of another MAUCRSA licensee.

TRANSPORTER. A PERSON engaged in the TRANSPORTATION of CANNABIS and/or CANNABIS PRODUCTS between CANNABIS BUSINESSES.

TREASURER-TAX COLLECTOR. The TREASURER-TAX COLLECTOR of the COUNTY, his or her deputies, unless another COUNTY officer or employee is assigned by resolution of the Board of Supervisors, to perform all or a portion of the duties as listed herein, in which case, the TREASURER-TAX COLLECTOR shall be interpreted as the PERSON defined in the resolution.

(Measure C Initiative, adopted 2018)

§ 5.03.175 TAX IMPOSED.

(A) There is established and imposed a cannabis business activities tax at the rates set forth in this article.

(B) Each person engaged in any cannabis business activity in the unincorporated area of the county, regardless if the cannabis business has been issued a permit to operate lawfully in the county or is operating unlawfully, shall pay an annual cannabis business activities tax. Said tax shall be imposed upon any and all cannabis business activities, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous.

(C) Tax on cultivation type cannabis business activities.

(1) Every person who is engaged in cultivation type cannabis business activities in the unincorporated area of the county shall pay an annual cannabis business activities tax, which shall be determined on a square footage basis, specifically, the "canopy" as that term is defined herein.

(2) The minimum and maximum rates of the cannabis business activities tax for cultivation type cannabis business activities shall be as follows:

Cannabis Business Activity Type: Cultivation	Minimum	Maximum
Nursery	\$3	\$17
Outdoor (specialty cottage)	\$3	\$17
Outdoor (specialty)	\$3	\$17
Outdoor (small)	\$3	\$17
Outdoor (medium)	\$3	\$17
Outdoor (large)	\$3	\$17
Indoor (specialty cottage)	\$3	\$17
Indoor (specialty)	\$3	\$17
Indoor (small)	\$3	\$17
Indoor (medium)	\$3	\$17
Indoor (large)	\$3	\$17
Mixed-light (specialty cottage)	\$3	\$17
Mixed-light (specialty)	\$3	\$17
Mixed-light (small)	\$3	\$17
Mixed-light (medium)	\$3	\$17
Mixed-light (large)	\$3	\$17

(3) Beginning on July 1, 2019, and on July 1 of each succeeding fiscal year thereafter, the cannabis business activities tax imposed by this article shall increase by the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San- Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this article shall be made.

(4) The Board of Supervisors may, in its discretion, at any time by resolution or ordinance, set the initial rate and/or adjust the tax rate for all persons engaged in any cannabis business activity in the unincorporated area of the county, or establish differing tax rates for different categories of cannabis businesses, including medicinal or non-medicinal cannabis businesses, subject to the minimum and maximum rates established in divisions (C)(2) and (C)(3) above.

(D) Tax on distribution type cannabis business activities.

(1) Every person who is engaged in distribution type cannabis business activities in the unincorporated area of the county shall pay an annual cannabis business activities tax, which shall be determined on a gross receipts per fiscal year basis.

(2) The minimum and maximum rates of the cannabis business activities tax for distribution type cannabis business activities shall be as follows:

Cannabis Business Activity Type: Distribution	Minimum	Maximum
Distributor	2%	4%
Distributor (transportation only)	0.5%	4%

(3) The Board of Supervisors may, in its discretion, at any time by resolution or ordinance, set the initial rate and/or adjust the tax rate for all persons engaged in any cannabis business activity in the unincorporated area of the county, or establish differing tax rates for different categories of cannabis businesses, including medicinal or non-medicinal cannabis businesses, subject to the minimum and maximum rates established in division (D)(2) above.

(E) Tax on manufacturing type cannabis business activities.

(1) Every person who is engaged in manufacturing type cannabis business activities in the unincorporated area of the county shall pay an annual cannabis business activities tax, which shall be determined on a gross receipts per fiscal year basis.

(2) The minimum and maximum rates of the cannabis business activities tax for manufacturing type cannabis business activities shall be as follows:

Cannabis Business Activity Type: Manufacturing	Minimum	Maximum
Manufacturing (Level 1)	2.5%	4%
Manufacturing (Level 2)	2.5%	4%

(3) The Board of Supervisors may, in its discretion, at any time by resolution or ordinance, set the initial rate and/or adjust the tax rate for all persons engaged in any cannabis business activity in the unincorporated area of the county, or establish differing tax rates for different categories of cannabis businesses, including medicinal or non-medicinal cannabis businesses, subject to the minimum and maximum rates established in division (E)(2) above.

(F) Tax on microbusiness type cannabis business activities.

(1) Every person who is engaged in microbusiness type cannabis business activities in the unincorporated area of the county shall pay an annual cannabis business activities tax, which shall be determined on a gross receipts per fiscal year basis.

(2) The minimum and maximum rates of the cannabis business activities tax for microbusiness type cannabis business activities shall be as follows:

Cannabis Business Activity Type: Microbusiness	Minimum	Maximum
Microbusiness (retailer)	4%	5%
Microbusiness (non- retailer)	2.5%	3.5%

(3) The Board of Supervisors may, in its discretion, at any time by resolution or ordinance, set the initial rate and/or adjust the tax rate for all persons engaged in any cannabis business activity in the unincorporated area of the county, or establish differing tax rates for different categories of cannabis businesses, including medicinal or non-medicinal cannabis businesses, subject to the minimum and maximum rates established in division (F)(2) above.

(G) Tax on retailer type cannabis business activities.

(1) Every person who is engaged in retailer type cannabis business activities in the unincorporated area of the county shall pay an annual cannabis business activities tax, which shall be determined on a gross receipts per fiscal year basis.

(2) The minimum and maximum rates of the cannabis business activities tax for retailer type cannabis business activities shall be as follows:

Cannabis Business Activity Type: Retailer	Minimum	Maximum
Retailer (delivery only)	0.5%	3%
Retailer	4%	8%

(3) The Board of Supervisors may, in its discretion, at any time by resolution or ordinance, set the initial rate and/or adjust the tax rate for all persons engaged in any cannabis business activity in the unincorporated area of the county, or establish differing tax rates for different categories of cannabis businesses, including medicinal or non-medicinal cannabis businesses, subject to the minimum and maximum rates established in division (G)(2) above.

(H) Tax on testing laboratory type cannabis business activities.

(1) Every person who is engaged in testing laboratory type cannabis business activities in the unincorporated area of the county shall pay an annual cannabis business activities tax, which shall be determined on a gross receipts per fiscal year basis.

(2) The minimum and maximum rates of the cannabis business activities tax for testing laboratory type cannabis business activities shall be as follows:

Cannabis Business Activity Type: Testing Laboratory	Minimum	Maximum
Testing laboratory	0.5%	4%

(3) The Board of Supervisors may, in its discretion, at any time by resolution or ordinance, set the initial rate and/or adjust the tax rate for all persons engaged in any cannabis business activity in the unincorporated area of the county, or establish differing tax rates for different categories of cannabis businesses, including medicinal or non-medicinal cannabis businesses, subject to the minimum and maximum rates established in division (H)(2) above.

(I) Notwithstanding the foregoing, the Board of Supervisors may, in its discretion, at any time by ordinance, exempt or except certain categories of cannabis business activities from the cannabis business activities tax.

(Measure C Initiative, adopted 2018)

§ 5.03.176 EXEMPTIONS.

(A) The provisions of this article shall not apply to personal cannabis cultivation, as defined by Cal. Health and Safety Code § 11362.2, as may be amended, and as set forth in Chapter 11.15 of this code.

(B) The provisions of this article shall not apply to personal use of cannabis that is expressly exempted from state licensing requirements, and for which the individual receives no compensation whatsoever related to that personal use, including, personal non-medicinal use, as defined by Cal. Health and Safety Code § 11362.1, as may be amended, or personal medicinal use, as defined by Cal. Health and Safety Code § 11362.7 et seq., as maybe amended.

(C) The Board of Supervisors temporarily exempts the cannabis excise tax for Cannabis Business Cultivation through December 31, 2026. The cannabis cultivation business will be subject to fees associated with the actual cost of providing related products or services and enforcing applicable regulations as established.

(Measure C Initiative, adopted 2018)

§ 5.03.177 TAX, PENALTIES, INTEREST, AND FEES AS A DEBT.

(A) The amount of any tax imposed by this article shall be deemed a debt owed to the county.

(B) Any penalties, interest, and/or fees required to be paid under the provisions of this article shall also be deemed a debt owed to the county.

(C) Any person owing any tax, penalties, interest, and/or fees shall be liable in an action brought in the name of the county for the recovery of such debt. The provisions of this section shall not be deemed a limitation upon the right of the county to bring any other action including criminal, civil, and equitable actions, based upon the failure to pay the tax imposed by this article or the failure to comply with any of the provisions hereof.

(Measure C Initiative, adopted 2018)

§ 5.03.178 ADMINISTRATION.

(A) It shall be the duty of the Treasurer-Tax Collector to collect the taxes, penalties, fees, and perform the duties required by this article.

(B) For purposes of administration and enforcement of this article generally, the Treasurer-Tax Collector may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this article as they deem necessary to implement or clarify such provisions or aid in enforcement.

(C) The Treasurer-Tax Collector may take such administrative actions as needed to administer the tax, including, but not limited to:

(1) Provide to all cannabis business activities taxpayers forms for the reporting of the tax;

(2) Provide information to any taxpayer concerning the provisions of this article;

- (3) Receive and record all taxes remitted to the county as provided in this article;
- (4) Maintain records of taxpayer reports and taxes collected pursuant to this article;
- (5) Assess penalties and interest to taxpayers pursuant to this article; or waive such penalties and interest when there is demonstrated evidence of extenuating circumstances that were clearly beyond the control of the taxpayer; and
- (6) Determine amounts owed and enforce collection pursuant to this article.

(Measure C Initiative, adopted 2018)

§ 5.03.179 REGISTRATION; CHANGE OF OWNERSHIP.

(A) In order that the county will have an accurate record of persons liable for paying the cannabis business activities tax hereunder, prior to commencing cannabis business activities, each person engaged in any cannabis business activity shall register such cannabis business with the Treasurer-Tax Collector, submitting any information deemed necessary by the Treasurer-Tax Collector, including, but not limited to, the type(s) of cannabis business activities in which said person is engaged.

(B) 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 Treasurer-Tax Collector;

(2) The new owner is subject to an audit by the Treasurer-Tax Collector or his or her designee; and

(3) Unless otherwise provided by law, it is the joint and several liability of both the seller and buyer to remit any tax due up until the date of sale; otherwise, a certificate of delinquent cannabis business activities tax lien may be filed against both the seller and/or buyer in an amount determined by the Treasurer-Tax Collector.

(Measure C Initiative, adopted 2018)

§ 5.03.180 REPORTING AND REMITTANCE OF TAX.

(A) The cannabis business activities tax imposed by this article shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows.

(1) If the cannabis business activities tax is owed on cultivation type cannabis business activities, the tax due shall be based on the square footage of the cannabis business' canopy as determined by the Cannabis Coordinator and the quarterly rate shall be 25% of the applicable annual rate. If the cultivation begins in the middle of a fiscal year, the Treasurer-Tax Collector shall prorate, in monthly increments, the amount due for the fiscal year. The tax statement may include a request for adjustment of the tax due to square footage

authorized by the Cannabis Coordinator but not utilized for cultivation, and/or crop loss, along with evidence substantiating the square footage utilized and/or crop loss. The decision to prorate or adjust the tax will be made at the sole discretion of the county. A fee may be adopted by the Board of Supervisors and collected by the Treasurer Tax-Collector to pay for the cost of investigating, verifying, and opining on such request for adjustment of the tax.

(2) If the cannabis business activities tax is owed on cannabis business activities other than cultivation type cannabis business activities, the tax due shall be based on the gross receipts for the quarter.

(B) The tax for each fiscal quarter shall be due and payable on that same date as the statement for the fiscal quarter is due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time pay the entire amount due for the given fiscal year.

(C) Each person owing a cannabis business activities tax shall, on or before the last day of the month following the close of each fiscal year quarter:

(1) File with the Treasurer-Tax Collector a statement of the tax owed for that fiscal quarter and the basis for calculating that tax. The Treasurer-Tax Collector may require that the statement be submitted on a form prescribed by the Treasurer-Tax Collector; and

(2) Remit to the Treasurer-Tax Collector the tax due.

(D) The Treasurer-Tax Collector may, in his/her discretion, establish shorter report and payment periods for any taxpayer as the Treasurer-Tax Collector deems necessary to ensure collection of the cannabis business activities tax.

(E) The Treasurer-Tax Collector may, in his/her discretion as part of administering the cannabis business activities tax, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

(F) Upon cessation of a cannabis business for any reason, tax statements and payments for all outstanding taxes owed to the county shall be immediately due to the county. Tax statements and remittances will be deemed timely made if actually received by the Treasurer-Tax Collector within 30 calendar days following cessation of the cannabis business activity; otherwise the taxes shall be deemed delinquent and subject to penalties hereunder.

(G) Any person required to remit taxes in excess of \$100,000 in any given fiscal year shall be required to make remittances on a monthly basis in the succeeding fiscal year. Said remittances shall be due on or before the last day of the month following the last day of the preceding month.

(H) The correctness of any tax return filed pursuant to this article shall be subject to audit and verification by the Treasurer-Tax Collector, or designee, who is authorized and empowered to inspect and audit the books and records of any cannabis business. No cannabis business shall refuse or fail to allow the Treasurer-Tax Collector, or designee, to

inspect and audit such books and records, or shall refuse or fail to provide such additional information as requested by the Treasurer-Tax Collector, or designee.

(I) For the purposes of this section, "on or before" shall be interpreted as:

(1) Hand delivery; or

(2) Postal delivery of a properly stamped and addressed envelope containing the return and full amount of the tax to the United States Postal Service. Delivery to the Postal Service must be verified by cancellation by the Postal Service showing a postmark date no later than midnight on the date the tax is due. If the due date of the tax falls on a United States Post Office closure date, the tax due date shall be the next business day (excluding federal holidays). Private postal meter strips and dates shall not be considered evidence of delivery to the United States Postal Service.

(J) Whenever any payment, statement, report, request, or other communication is due, it must be received by the Treasurer-Tax Collector on or before the final due date. In accordance with division (I) of this section, a postmark may be accepted as timely remittance. If the due date falls on Saturday, Sunday, or a holiday, the due date shall be the next regular business day on which the county is open to the public.

(Measure C Initiative, adopted 2018) (Ord. 1040, § 1, 2022)

§ 5.03.181 DEFICIENCY.

(A) If the Treasurer-Tax Collector is not satisfied that any return filed as required under the provisions of this article is correct, or that the amount of tax is correctly computed, he/she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his/her possession or that may come into his/her possession within three calendar years of the date the tax was originally due and payable.

(B) One or more deficiency determinations of the amount of tax due for a period or periods may be made.

(C) When a person discontinues engaging in a business, a deficiency determination may be made at any time within three calendar years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is/was issued prior to the date the tax would otherwise be due, or issued after the discontinuation of the business.

(D) Whenever a deficiency determination is made, a notice shall be given to the person concerned in accordance with § 5.03.195.

(Measure C Initiative, adopted 2018)

§ 5.03.182 DELINQUENCY; NOTICE NOT REQUIRED BY COUNTY.

(A) Unless otherwise specifically provided under other provisions of this article, the taxes required to be paid pursuant to this article shall be deemed delinquent if not received by the Treasurer-Tax Collector on or before the due date as specified in § 5.03.180.

(B) The Treasurer-Tax Collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this article. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this article.

(Measure C Initiative, adopted 2018)

§ 5.03.183 PENALTIES, FEES, AND INTEREST.

(A) The cannabis business activities tax shall be that amount due and payable from the first day in which the person was engaged in cannabis business activities in the unincorporated area of the county, together with all applicable penalties, fees, and interest calculated in accordance with this section.

(B) Any person who fails or refuses to pay any cannabis business activities tax required to be paid pursuant to this article on or before the due date shall pay penalties, fees, and interest as follows.

(1) Initial delinquency. A penalty equal to 12.5% of the amount of the tax, in addition to the amount of the tax.

(2) Continuing delinquency. If the tax remains unpaid for a period exceeding 30 calendar days beyond the date on which the remittance first became delinquent, an additional penalty equal to 12.5% of the amount of the tax, shall be imposed.

(3) Bank fees. Whenever a check or electronic payment is submitted in payment of a cannabis business activities tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any bank fees, penalties, and interest as provided for in this section, and any other amount allowed under state law.

(4) Interest. In addition to the penalties and/or fees amounts imposed, interest shall be applied at the rate of 1.5% per month on the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

(C) In addition to the foregoing amounts, if the county determines that any remittance of the cannabis business activities tax due under this article is due to fraud or fraudulent, a penalty of 25% of the amount of the tax that should have been paid shall be added thereto in addition to penalties and interest otherwise stated in this article, and any other penalties allowed by law.

(Measure C Initiative, adopted 2018)

§ 5.03.184 WAIVER OF PENALTIES.

(A) The Treasurer-Tax Collector may waive the penalties imposed upon any person under § 5.03.183, if:

(1) The person engaged in cannabis business activities requests a waiver of penalties by submitting a request for waiver to the Treasurer-Tax Collector within ten calendar days after issuance of a notice of assessment;

(2) The person provides evidence satisfactory to the Treasurer-Tax 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 business activities tax and accrued interest owed the prior to applying to the Treasurer-Tax Collector for a waiver;

(3) Upon receipt of satisfactory evidence, the Treasurer-Tax Collector may waive penalties in an amount not to exceed \$5,000; and

(4) If the request for waiver exceeds \$5,000, such request shall be approved only by the Board of Supervisors.

(B) The amount determined to be owed to the county shall be due immediately. Remittances will be deemed timely made if actually received by the Treasurer-Tax Collector within ten calendar days; otherwise the taxes shall be deemed delinquent and subject to penalties under § 5.03.183.

(C) The waiver provisions specified in this section shall not apply to any interest accrued on the delinquent tax.

(D) A waiver under this section may only be granted once during any 24 month period.

(Measure C Initiative, adopted 2018)

§ 5.03.185 REFUNDS; CREDITS.

(A) No refund shall be made of any tax collected pursuant to this article, except as provided in section.

(B) No refund of any tax collected pursuant to this article shall be made because of cessation of the cannabis business activity, discontinuation, dissolution, or other termination of the cannabis business.

(C) Whenever the amount of any tax or penalty under this article has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the county under this article, it may be refunded to the claimant who paid the tax; provided a written claim, stating under penalty of perjury under the laws of the State of California the specific grounds upon which the claim is founded, is filed with the Treasurer-Tax Collector within one calendar year of the date of payment. The claim shall be on forms furnished by the Treasurer-Tax Collector.

(D) Any person entitled to a refund of cannabis business activities taxes paid hereunder may elect, in writing, to have such refund applied as a credit against such person's taxes which will become due for the next fiscal year quarter.

(E) In the event that the cannabis business activities tax was erroneously paid and the error is attributable to the county, the county shall refund the amount of tax paid up to one calendar year from when the error was identified, provided, in no case shall a claim for payment be made more than three years from the date of the actual payment of the tax.

(F) The Treasurer-Tax Collector, his or her designee, or any other county officer charged with the administration of this article, shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Treasurer-Tax Collector, his or her designee, or any other county officer charged with the administration of this article, to do so.

(G) The Treasurer-Tax Collector may collect a fee adopted by the Board of Supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the Treasurer-Tax Collector to make a determination on the claim for the refund.

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

(Measure C Initiative, adopted 2018)

§ 5.03.186 NOTICE OF ASSESSMENT.

(A) Under any of the following circumstances, the Treasurer-Tax Collector may issue a notice of assessment of the amount of tax owed by a person under this article at any time:

(1) If the person has not filed a complete statement required under the provisions of this article;

(2) If the person has not paid the tax due under the provisions of this article; or

(3) If the person has not, after demand by the Treasurer-Tax Collector, filed a corrected statement, or furnished to the Treasurer-Tax Collector adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this article.

(B) The notice of assessment shall be served in accordance with § 5.03.195.

(C) The notice of assessment shall separately set forth the amount of any tax due. The amount due shall include the amount of any penalties or interest accrued on each amount through the date of the notice of assessment.

(D) If the amount of tax due is unknown, the Treasurer-Tax Collector may estimate the amount of tax due based on consideration of all information within their knowledge concerning the business and activities of the person assessed. For purposes of estimating the amount of tax due, there shall be a rebuttable presumption that the minimum amount of tax due is the same as the maximum amount of tax due during any quarter during the previous fiscal year.

(Measure C Initiative, adopted 2018)

§ 5.03.187 ASSESSMENT HEARING.

(A) Within ten calendar days after the date of service of the notice of assessment, the person may apply in writing to the Treasurer-Tax Collector for a hearing on the assessment.

(B) If application for a hearing is not made within the time herein prescribed, the tax, penalties, fees, and/or interest determined by the Treasurer-Tax Collector shall become final and conclusive, and shall be immediately due and payable.

(C) If such application is made, the Treasurer-Tax Collector shall, upon receipt of such application, cause the matter to be set for hearing. The hearing shall be held not fewer than ten calendar days, and not more than 45 calendar days from receipt of the written request for hearing, unless a later date is agreed to by the Treasurer-Tax Collector and the person requesting the hearing.

(D) Notice of the hearing shall be given by the Treasurer-Tax Collector to the person requesting such hearing not fewer than five business days prior to such hearing. The notice shall set the date, time, and place for hearing and shall order the person requesting the hearing to show cause why such amount specified in the notice of assessment should not be confirmed.

(E) The person requesting the hearing may appear and offer evidence at the hearing why the assessment as determined by the Treasurer-Tax Collector should not be confirmed and fixed as the tax, penalties, fees, and/or interest due.

(F) After such hearing the Treasurer-Tax Collector shall determine the proper tax to be charged and shall issue, in accordance with § 5.03.195, a notice of determination of tax due to the person requesting the hearing stating the Treasurer-Tax Collector's determination and the amount of tax, penalties, fees, and interest.

(G) The amount determined to be due shall be payable after 15 calendar days of written notice unless it is appealed to the Board of Supervisors.

(Measure C Initiative, adopted 2018)

§ 5.03.188 APPEAL FROM ASSESSMENT HEARING.

Any person aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of tax, interest, penalties, and fees, if any, due under this article may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board within 15 days of service of the notice of determination of tax due. The Clerk of the Board, or his or her designee, shall fix a time and place for hearing such appeal, and the Clerk of the Board, or his or her designee, shall give notice in writing to such person at the last known address. The decision of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in accordance with § 5.03.195. Any amount found to be owed to the county shall be immediately due and payable upon the service of the decision.

(Measure C Initiative, adopted 2018)

§ 5.03.189 ENFORCEMENT.

(A) In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the county under this article is not paid when due, the Treasurer-Tax Collector may, within three calendar years after the amount is due, record a certificate of lien specifying the amount of taxes, fees, interest, and penalties due, and the name and address of the individual or business as it appears on the records of Treasurer-Tax Collector. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this article in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties, fees, and interest thereon, constitutes a lien upon all real property in the county owned by the individual or business, or subsequently acquired by the individual or business before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten calendar years from filing of the certificate unless sooner released or otherwise discharged.

(B) At any time within three calendar years after any individual or business is delinquent in the payment of any amount required to be paid under this article or within three calendar years after the last recording of a certificate of lien under division (B) of this section, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the county under this article. The warrant shall be directed to the Sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Treasurer-Tax Collector may pay or advance to the Sheriff, the same fees, commissions, and expenses for service provided by law for similar services pursuant to a writ of execution.

(C) At any time within three calendar years after recording a lien against any individual or business, if the lien is not discharged and released in full, the Treasurer-Tax Collector may forthwith seize any asset or property, real or personal (including bank account), of the operator and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the business subject

to seizure and sale subject to this article shall not include any assets or property which are exempt from execution under the provisions of the Code of Civil Procedure.

(D) Suspension or revocation of a cannabis permit. Revocation shall be subject to the procedures set forth in Chapter 7.02 of this code, as may be enacted in the future. The following shall constitute grounds for suspending or revoking a cannabis permit, in addition to any additional grounds identified under Chapter 7.02:

(1) Failure to pay any cannabis business tax due under this article within 30 calendar days of the due date;

(2) Failure to cooperate with the Treasurer-Tax Collector, or designee, as determined by the Treasurer-Tax Collector, or designee, during an audit pursuant to this article;

(3) Underpaying any business tax due under this article in any period by 50% or more;
or

(4) If the county determines that the nonpayment of any cannabis business activities tax due under this article is due to fraud.

(Measure C Initiative, adopted 2018)

§ 5.03.190 APPORTIONMENT.

If a person subject to the cannabis business activities tax is operating both within and outside the unincorporated county, it is the intent of the county to apply the cannabis business activities tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the unincorporated area of the county. To the extent federal or state law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on their tax return. The Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with state law.

(Measure C Initiative, adopted 2018)

§ 5.03.191 CONSTITUTIONALITY AND LEGALITY.

This 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 article shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and 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.

(Measure C Initiative, adopted 2018)

§ 5.03.192 RECORDKEEPING; AUDIT.

(A) It shall be the duty of every person liable for the collection and payment to the county of any tax imposed by this article to keep and preserve, for a period of at least seven calendar years, all records as may be necessary to determine the amount of such tax as they may have been liable for the collection of and payment to the county, which records the Treasurer-Tax Collector or their designee shall have the right to inspect at all reasonable times, including, but not limited to, records containing information related to the amount of cannabis and/or cannabis products sold and/or transferred. Said records shall be full, true, and accurate.

(B) The Treasurer-Tax Collector shall have the power to audit and examine all books and records of persons engaged in cannabis business activities, including both state and federal income tax returns, state sales tax returns, or other evidence documenting the square footage of canopy and/or gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person engaged in cannabis business activities in the county, for the purpose of ascertaining the amount of cannabis business activities tax, if any, required to be paid by the provisions of this article, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this article.

(C) Upon demand by the Treasurer-Tax Collector, each person liable for the collection and payment to the county of any tax imposed by this article shall make the records, together with any track and trace reports, shipping documents, or sales invoices pertaining to such cannabis and/or cannabis products available for inspection by the Treasurer-Tax Collector at all reasonable times.

(D) If any person refuses to make available for audit, examination, or verification such books, records, or equipment as the Treasurer-Tax Collector requests, the Treasurer-Tax Collector may, after full consideration of all information within their knowledge concerning the cannabis business activities of the person so refusing, make an assessment in the manner provided in § 5.03.185 of any taxes estimated to be due. The Treasurer-Tax Collector may collect a fee adopted by the Board of Supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the Treasurer-Tax Collector to make a determination of tax due.

(Measure C Initiative, adopted 2018)

§ 5.03.193 OTHER LICENSES, PERMITS, TAXES, FEES, OR CHARGES.

(A) The tax imposed hereunder does not limit or prohibit the levy or collection of any other license, permit, or service fee, tax, fee, or charge upon, or related to, any cannabis business activity.

(B) Nothing contained in this article shall be deemed to repeal, amend, be in lieu of, replace, or in any way affect any requirements for any permit or license required by, under, or by virtue of any provision of any other title or chapter of this code, or any other ordinance or resolution of the county, nor be deemed to repeal, amend, be in lieu of,

replace, or in any way affect any tax, fee, or other charge imposed, assessed, or required by, under, or by virtue of any other title or chapter of this code, or any other ordinance or resolution of the county. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees, or charges, or schedule of license fees, provided for in other titles or chapters of this code.

(Measure C Initiative, adopted 2018)

§ 5.03.194 PAYMENT OF TAX DOES NOT AUTHORIZE UNLAWFUL ACTIVITIES.

(A) The payment of a cannabis business activities tax required by this article, and which is accepted by the county, shall not entitle any person to carry on any cannabis business activity unless that person has complied with all of the requirements of this code and all other applicable state laws.

(B) No tax paid under the provisions of this article shall 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.

(Measure C Initiative, adopted 2018)

§ 5.03.195 MANNER OF GIVING NOTICE.

(A) Any notice required to be given hereunder by the county to any person shall be sufficiently given or served if it is served upon the person either by personal delivery or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as they shall register with the Treasurer-Tax Collector for the purpose of receiving notices provided under this article; or, should the person have no address registered with the Treasurer-Tax Collector for such purpose, then to such person's last known address. For the purposes of this article, a service by mail is complete at the time of deposit in the United States mail.

(B) Failure of any person to receive any notice required by this article to be given shall not affect the validity of any proceedings taken thereto.

(Measure C Initiative, adopted 2018)

§ 5.03.196 UNLAWFUL ACTIVITIES DESIGNATED; MISDEMEANOR.

Any person violating any of the provision of this article shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$500, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

(Measure C Initiative, adopted 2018)

§ 5.03.197 VIOLATION; TAXES NOT WAIVED.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

(Measure C Initiative, adopted 2018)

§ 5.03.198 SEVERABILITY.

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

(Measure C Initiative, adopted 2018)

§ 5.03.199 REMEDIES CUMULATIVE.

All remedies and penalties prescribed by this article or which are available under any other provision of this code and any other provision of law or equity are cumulative. The use of one or more remedies by the article shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article.

(Measure C Initiative, adopted 2018)

§ 5.03.200 AMENDMENT OR REPEAL.

This article may be repealed or amended by the Board of Supervisors without a vote of the people to the extent allowed by law. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the maximum rate of any tax levied pursuant to this article, that would increase the maximum rate specified for each category of cannabis business activity, or that otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution. The following actions shall not constitute an increase of the rate of a tax:

(A) The setting of the rate of any tax authorized hereunder to a rate that is no higher than the maximum rate set by this article, including the authorized cost of living adjustment, or the restoration of the rate of the tax to a rate that is no higher than the

maximum rate set by this article, including the cost of living adjustment, if the Board of Supervisors has acted to reduce the rate of the tax; or

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

(C) The collection of the tax imposed by this article, even if the article had, for some period of time, failed to collect the tax; or

(D) The establishment or discontinuation of a class of persons that is exempted or excepted from the tax hereunder.

(Measure C Initiative, adopted 2018)