

NOTICE OF ELECTION

NOTICE OF BALLOT MEASURES TO BE DECIDED UPON. NOTICE OF TIME WITHIN WHICH ARGUMENTS AND REBUTTAL ARGUMENTS FOR OR AGAINST MEASURES MAY BE FILED WITH THE REGISTRAR OF VOTERS. NOTICE OF CENTRAL COUNTING LOCATION.

NOTICE IS HEREBY GIVEN BY COURTNEY BAILEY-KANELOS REGISTRAR OF VOTERS FOR SACRAMENTO COUNTY IN ACCORDANCE WITH THE PROVISIONS OF THE ELECTIONS LAWS OF THE STATE OF CALIFORNIA THAT ON TUESDAY, NOVEMBER 8, 2022, THERE WILL BE A GENERAL ELECTION.

NOTICE IS FURTHER GIVEN THAT AT THE GENERAL ELECTION THE FOLLOWING MEASURE SHALL BE PUT TO A VOTE FOR THE QUALIFIED VOTERS IN THE COUNTY OF SACRAMENTO.

MEASURE B:

Shall the measure to fund enhanced County homeless services, including those benefiting the American River Parkway, by establishing a special tax on the gross receipts from cannabis and hemp businesses in unincorporated Sacramento County, not exceeding 6% for retail, 4% for manufacturing, 3% for distribution, 2% for testing and .3% for cultivation or \$10 per canopy square foot inflation adjustable, generating an estimated \$5,100,000 to \$7,700,000 annually, and levied until repealed by the voters, be adopted?

SCC NO. 1698

AN ORDINANCE OF THE SACRAMENTO COUNTY CODE ADDING CHAPTER 3.50 RELATING TO THE ESTABLISHMENT OF A BUSINESS TAX ON CANNABIS AND HEMP BUSINESS ACTIVITIES WITHIN THE UNINCORPORATED AREA OF THE COUNTY

The Board of Supervisors of the County of Sacramento, State of California, ordains as follows:

SECTION 1. Chapter 3.50, Title 3, of the Sacramento County Code is added to read as follows:

CHAPTER 3.50 CANNABIS BUSINESS TAX 3.50.01 Title.

This ordinance shall be known as the Cannabis Business Tax Ordinance. This ordinance shall be applicable in the unincorporated area of Sacramento County, which shall be referred to herein as "County."

3.50.02 Authority and Purpose.

The purpose of this Ordinance is to adopt a tax, for revenue purposes, pursuant to Sections 7284, 7284.4, and 34021.5 of the Revenue and Taxation Code, upon cannabis and hemp businesses that engage in business in the unincorporated area of the County. The Cannabis Business Tax is levied based upon business gross receipts except for commercial cannabis cultivation or commercial industrial hemp cultivation which shall be taxed on square footage or gross receipts. It is not a sales and use tax, a tax upon income, or a tax upon real property and shall not be calculated or assessed as such. The Cannabis Business Tax shall not be separately identified or otherwise specifically assessed or charged to any member, customer, patient, or caretaker.

The Cannabis Business Tax is a special tax enacted solely to be expended for County services addressing homelessness, including on the American River Parkway. All of the proceeds from the tax imposed by this chapter shall be placed in a County Special fund and be available for the specific purposes and services, and for no other purpose whatsoever.

3.50.03 Intent.

The intent of this Ordinance is to levy a tax on all cannabis or industrial hemp businesses that operate in the unincorporated area of the County, regardless of whether such business would have been legal at the time this chapter was adopted. Nothing in this chapter shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

3.50.04 Definitions.

The following words and phrases shall have the meanings set forth below when used in this chapter:

A. An "arm's length transaction" is a sale entered into in good faith and for valuable consideration at a sales price that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

B. "Business" shall include all activities engaged in or caused to be engaged in within the unincorporated area of the County, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

C. "Calendar year" means January 1 through December 31, of the same year.

D. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" shall not include "industrial hemp," unless otherwise specified.

E. "Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means cannabis products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medicinal cannabis products.

F. "Canopy" means all areas occupied by any portion of a cannabis or industrial hemp plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area.

G. "Cannabis business" means any business activity involving cannabis or industrial hemp, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing, and wholesaling of cannabis, cannabis products, industrial hemp, industrial hemp products or of ancillary products and accessories, whether or not carried on for gain or profit.

H. "Cannabis business tax" means the tax due pursuant to this chapter for engaging in a cannabis business in the unincorporated area of the County.

I. "Commercial cannabis cultivation" means cultivation of cannabis or industrial hemp undertaken in the course of conducting a cannabis business.

J. "Commercial cannabis permit" means a permit, license, certificate, or other approval issued by the County to a person to authorize that person to operate a cannabis business or engage in business as a cannabis business within the unincorporated area of the County.

K. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis or industrial hemp and includes, but is not limited to, the operation of a nursery.

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

M. "Engaged in business as a cannabis business" means the commencing, conducting, operating, managing, or carrying on of a cannabis business, 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 business within the unincorporated area of the County if:

1. Such person or person's employee maintains a fixed place of

business within the unincorporated area of the County for the benefit or partial benefit of such person;

2. Such person or person's employee owns or leases real property within the unincorporated area of the County for business purposes;

3. Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of the County for sale in the ordinary course of business;

4. Such person or person's employee regularly conducts solicitation of business within the unincorporated area of the County; or

5. Such person or person's employee performs work or renders services in the unincorporated area of the County.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

N. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards, or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of the County.

O. "Gross Receipts," except as otherwise specifically provided, means, whether designated as a sales price, royalty, rent, membership fee, ATM service fee, delivery fee, slotting fee, any other fee, vaping room service charge, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. In the event the business is involved in a "non-arm's length transaction" the gross receipts will be subject to the fair market value using a methodology approved by the Tax Collector. However, the following shall be excluded from Gross Receipts:

1. Cash discounts were allowed and taken on sales;

2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

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

5. Cash value of sales, trades or transactions between departments or units of the same business located in the unincorporated area of the County of Sacramento and if authorized by the Tax Collector in writing in accordance with Section 3.50.014 (B);

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

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

8. Retail sales of non-cannabis products, such as t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, cannabis accessories such as pipes, pipe screens, vape pen batteries (without cannabis or industrial hemp) or other personal tangible property which the Tax Collector has excluded in writing by issuing an administrative ruling per Section 3.50.014 shall not be subject to the cannabis business tax under this chapter.

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

10. Any business which sells industrial hemp and/or hemp products or offers services or activities related to industrial hemp or hemp products and/or which is not required to obtain a cannabis or industrial hemp permit or license from the County or the State for the purpose of cultivating, growing, drying, curing, manufacturing, processing, packaging, transporting, distributing, testing or selling of industrial hemp either wholesale or retail shall be exempt from the cannabis tax provided that such business does not generate more than 50% of their total gross receipts in the reporting period from the business from industrial hemp activities. However, the exemption may be amended by the Board of Supervisors by resolution or ordinance pursuant to Section

3.50.05 (B) to increase or decrease the percentage of the business's hemp and/or hemp products gross receipts reporting from zero to one hundred percent. To the extent the gross receipts from the hemp activities do not meet the relevant percentage to be included, this exclusion shall reduce the gross receipts to zero for the sole purpose of calculating the cannabis tax.

P. "Industrial hemp" means a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. However, should the federal or state legislative body increase or decrease the percentage of THC then this new limit shall be applicable.

Q. "Industrial hemp products" means any raw hemp that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Hemp product" also means hemp products as defined by Section 11018.5 of the California Health and Safety Code.

R. "Lighting" means a source of light that is primarily used for promoting the biological process of plant growth. Lighting does not include sources of light that primarily exist for the safety or convenience of staff or visitors to the facility, such as emergency lighting, walkway lighting, or light admitted via small skylights, windows, or ventilation openings.

S. "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, intended to be sold or sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, for a medicinal cannabis patient in California who possesses a physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71.

T. "Nursery" means a facility or part of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis or industrial hemp.

U. A "non-arm's length transaction" is a transaction that does not meet the definition of an "arm's length transaction." In other words, the transaction is not a sale that is entered into in good faith and that reflects fair market value in the open market. One example of a non-arm's length transaction would be when a cultivator sells cannabis or hemp goods to a cannabis distributor at a sales price that is lower than what the same cultivator would to other cannabis or hemp distributors, or which does not reflect the fair market value in the open market.

V. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, other legal entity, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

W. "Processing" means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis, or hemp and/or non-

manufactured cannabis or hemp products.

X. "Retailer" means a person as defined in Section 3.50.004 (V) who sells cannabis, cannabis products, hemp and/or hemp products at their place of business or by delivery to an end user or customer for use or consumption rather than to another person or business for resale.

Y. "Sale" "Sell" and "to sell" means and includes any sale, exchange, or barter (either as a retailer or wholesaler by a person as defined by Section 3.50.004 (V)). It shall also mean any transaction whereby, for any consideration, title to cannabis, cannabis products, industrial hemp and/or industrial hemp products are transferred from one person to another and includes the delivery of cannabis, cannabis products, industrial hemp and/or hemp products pursuant to an order placed for the purchase of the same, but does not include the return of cannabis, cannabis products, industrial hemp and/or hemp products to the licensee from whom the cannabis, cannabis product, hemp, and/or hemp products were purchased.

Z. "State" means the State of California.

AA. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Section 26050, and all other applicable state laws, required for operating a cannabis business.

AB. "Tax Collector" means the Finance Director of the County of Sacramento, his or her deputies or any other County officer charged with the administration of the provisions of this chapter.

AC. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of cannabis, cannabis products, hemp and/or hemp products (ii) offers no service other than such tests, (iii) sells no products, excepting only testing supplies and materials, (iv) is accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state and (v) is registered with the Department of Cannabis Control or other state agency.

3.50.05 Tax Imposed.

A. Beginning January 1, 2023, there is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax. Such tax is payable regardless of whether the person has been issued a commercial cannabis permit and business licenses to operate lawfully in the unincorporated area of the County or is operating unlawfully. The County's acceptance of a cannabis business tax payment from a cannabis business operating illegally shall not constitute the County's approval or consent to such illegal operations.

B. The County Board of Supervisors may, by resolution or ordinance increase or decrease the rate of the cannabis business tax, including the initial rate of cannabis business tax. In addition, the County Board of Supervisors may, by resolution or ordinance, increase or decrease the rate of the cannabis business tax on hemp or hemp products, including the initial rate of the tax on hemp or hemp products independent of other cannabis activities. Furthermore, the County Board of Supervisors may set varied rates using classifications, sub-classifications, a tiered rate structure, graduated rates, or any other means not prohibited by law. Notwithstanding the foregoing, in no event shall the County Board of Supervisors repeal this tax and/or set the tax at zero except for those cannabis activities that qualify under Section 3.50.004 (O)(10) or set any adjusted rate that exceeds the maximum rates calculated pursuant to this chapter.

C. The proceeds of the tax imposed by this Chapter shall be placed in a special fund and shall be dedicated and used only for County services addressing homelessness, including on the American River Parkway.

D. The maximum rate of the cannabis business tax shall be calculated as follows:

1. For every person engaged in commercial cannabis cultivation, including cultivation of industrial hemp, in the unincorporated area of the County shall pay an annual commercial cannabis business tax at the rates specified below in Section 3.50.005(C)(1)(a) or shall be subject to the annual maximum tax rate not to exceed three percent (3%) of gross receipts.

a. Through January 1, 2024, the annual maximum rate shall be:

i. Ten dollars (\$10.00) per square foot of canopy space in a facility that uses exclusively artificial lighting.

ii. Seven dollars (\$7.00) per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting as defined in Section

3.50.004 (Q) of this chapter.

iii. Four dollars (\$4.00) per square foot of canopy space in a facility that uses no artificial lighting.

iv. Two dollars (\$2.00) per square foot of canopy space for any nursery regardless of if it is indoors, mixed light or outdoors.

b. On January 1, 2024 and on each January 1, thereafter, when the rate of the tax is determined on a square footage basis, on January 1 of each calendar year succeeding the year of the imposition of a square footage based tax on commercial cannabis and/or commercial industrial hemp cultivation the amount of the tax shall be increased by the most recent change in the annual average of the Consumer Price Index ("CPI") for all consumers in the San Francisco-Oakland-Hayward Region (or the closest comparable area if that area is discontinued) 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 subsection shall be made. The tax under this subsection shall not be imposed unless and until the Board of Supervisors, by ordinance or resolution takes action to: (1) specify whether the tax on commercial cannabis and/or commercial industrial hemp cultivation will be imposed on a square footage or gross receipts basis, and (2) set a tax rate not to exceed the maximum rates established herein.

2. For every person engaged in the operation of a testing laboratory for cannabis, cannabis products, hemp and/or hemp products the person shall be subject to the maximum tax rate not to exceed two percent (2%) of gross receipts.

3. For every person engaged in retail sales of cannabis, cannabis products, hemp, and/or hemp products, including as a retailer (dispensary) or non-storefront retailer (retail delivery business), a microbusiness, the person shall be subject to the maximum tax rate not to exceed six percent (6%) of gross receipts.

4. For every person engaged in distribution of cannabis, cannabis products, hemp, and/or hemp products the person shall be subject to the maximum tax rate not to exceed three percent (3%) of gross receipts.

5. For every person engaged in manufacturing or processing of cannabis, cannabis products, hemp, and/or hemp products or any other type of cannabis business not described in Section 3.50.005 (C) (1), (2), (3), or (4) the person shall be subject to the maximum tax rate not to exceed four percent (4%) of gross receipts.

E. Persons subject to the cannabis business tax shall register with the County and if applicable pay the registration fee adopted by resolution or ordinance by the County Board of Supervisors pursuant to Section 3.50.006.

3.50.06 Registration, Reporting and Remittance of Tax.

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

1. All persons engaging in business as a cannabis business, whether an existing, newly established or acquired business shall register with the Tax Collector within thirty (30) calendar days of commencing operation and shall annually renew such registration within thirty (30) calendar days of the business registration anniversary date of each year thereafter. In registering, such persons shall furnish to the Tax Collector a sworn statement, upon a form prescribed by the Tax Collector, setting forth the following information:

i. The name of the business

ii. The names and addresses of each owner

iii. The exact nature or kind of business

iv. The place where such business is to be carried on; and

v. Any additional information which the Tax Collector may require.

B. An annual registration fee in accordance with the current and approved County fee schedule shall be presented with the sworn statement submitted under this chapter. This fee shall not be considered a tax and may be adjusted annually by resolution or ordinance of the County Board of Supervisors.

C. The cannabis business tax imposed by this chapter shall be

paid, in arrears, on a quarterly basis. Each person owing a cannabis business tax shall on or before the last day of the quarter following the close of each calendar quarter file with the Tax Collector a statement ("tax statement") of the tax owed for that calendar quarter and the basis for calculating that tax. The Tax Collector may require that the tax statement be submitted on a form prescribed by the Tax Collector. The tax for each calendar quarter shall be due and payable on the same date that the tax statement is due.

D. Upon cessation of a cannabis business, tax statements and payments shall be immediately due for all calendar quarters up through the calendar quarter during which cessation occurred.

E. In the event that there is a change in ownership of any cannabis business:

1. The new owner is required to submit an updated registration form to the Tax Collector.

2. The new owner is subject to an audit by the Tax Collector; and

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

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

3.50.07 Payments and Communications – Timely Remittance.

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

3.50.08 Payment – When Taxes Deemed Delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not received by the Tax Collector on or before the due date as specified in Sections 3.50.006 and 3.50.007.

3.50.09 Notice Not Required by the County.

The County may as a courtesy send a tax notice to the cannabis business which owes the County a cannabis business tax. However, the Tax Collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

3.50.10 Penalties and Interest.

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

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one and half percent (1.5%) per month.

2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one and half percent (1.5%) per month on the unpaid tax and on the unpaid penalties.

3. Interest shall be applied at the rate of one and half percent (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.

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

C. The Tax Collector may waive the penalties imposed upon any person under this Section 3.50.010 if:

1. The person requests a waiver of penalties by submitting a written request for waiver to the Tax Collector no later than December 31 of the second calendar year following the calendar year in which the tax became delinquent; and

2. The person provides evidence satisfactory to the Tax Collector that the failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect; and

3. The person paid the delinquent taxes, penalties, accrued interest, and fees owed prior to applying to the Tax Collector for a waiver.

D. The waiver provisions specified in Section 3.50.010 (C) shall not apply to interest accrued on the delinquent taxes and a waiver shall be granted only once during any twenty-four month period. The Tax Collector's decision on a request for a waiver of penalties is final and conclusive and not subject to appeal under Section 3.50.025.

3.50.11 Refunds and Credits.

A. No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 3.50.012.

B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

3.50.12 Refunds and Procedures.

A. Whenever the amount of any cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the County under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund signed under penalty of perjury is filed with the Tax Collector within one (1) year of the date the tax was originally due or paid, whichever came first. The claim shall be filed on a form available from the Tax Collector. A person may only file a claim for refund if the person paid the tax. No person shall be entitled to a refund unless the person can support the claim by written records sufficient to show entitlement thereto. The Tax Collector's decision on a claim for refund is final and conclusive and not subject to appeal under Section 3.50.025.

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

C. In the event that the cannabis business tax was erroneously paid in an amount in excess of the tax due, and the error is attributable to the County, the County shall refund the amount of tax erroneously paid; provided that (i) a claim for refund has been timely filed with the Tax Collector; and (ii) the refund cannot exceed, under any circumstance, the amount of tax overpaid during the twelve months preceding the last month for which the claim states the tax was overpaid.

3.50.13 Personal Cultivation Not Taxed.

The provisions of this chapter shall not apply to personal cannabis cultivation or personal use of cannabis, to the extent those activities are authorized in the "Medicinal and Adult Use Cannabis Regulation and Safety Act," as may be amended. This chapter shall not apply to personal use of cannabis that is specifically exempted

from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

3.50.14

Administration of the Tax.

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

B. For purposes of administration and enforcement of this chapter generally, the Tax Collector may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Tax Collector may take such administrative actions as needed to administer the cannabis business tax, including but not limited to:

1. Provide to all cannabis business taxpayers forms for the reporting of the tax;

2. Provide information to any taxpayer concerning the provisions of this chapter;

3. Receive and record all taxes remitted to the County as provided in this chapter;

4. Maintain records of taxpayer reports and taxes collected pursuant to this chapter;

5. Assess penalties and interest to taxpayers pursuant to this chapter;

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

3.50.15 Enforcement.

A. Any taxes, interest, penalties, and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the County. Any person owing money to the County under the provisions of this chapter shall be liable in an action brought in the name of the County for the recovery of such debt. The provisions of this chapter 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, interest, penalties, and/or fees imposed by this chapter or the failure to comply with any of the provisions of this chapter.

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

C. At any time within ten (10) years after the Tax Collector has recorded a certificate of lien under this Section 3.50.015, or a summary judgment obtained in accordance with the provisions of Revenue and Taxation Code section 3101, et seq., the 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 chapter. The warrant shall be directed to any sheriff or marshal 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 and sale pursuant to a writ of execution. The Tax Collector may pay or advance to the sheriff or marshal, the same fees, commissions and expenses for services provided by law for similar services pursuant to a writ of execution.

D. At any time within three (3) years after any amount required to be paid to the County under this chapter is not paid when due or a certificate of lien was recorded under this Section 3.50.015, the Tax Collector may collect the amount due by seizing any asset or property, real or personal (including a bank account), of the person and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties, interest, and fees imposed for the delinquency and any cost incurred on account of the seizure and sale. Any seizure and sale proceedings under this Section shall be in accordance with the provisions of Revenue and Taxation Code section 2951, et seq., and shall be only of property of the person owing the cannabis business tax not exempt from execution under the provisions of the Code of Civil Procedure.

3.50.16 Apportionment.

If a person subject to the tax is operating both within the unincorporated area of the County and outside the unincorporated area of the County, it is the intent of the County to apply the cannabis business 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 his or her tax return. The Tax Collector may promulgate administrative procedures for apportionment as he or she finds useful or necessary.

3.50.17 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 chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law. If a person believes that the tax, as applied to him or her, is impermissible under applicable law, he or she may request that the Tax Collector release him or her from the obligation to pay the impermissible portion of the tax.

3.50.18 Audit and Examination of Premises and Records.

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

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

3.50.19 Other Licenses, Permits, Taxes, Fees or Charges.

A. Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any commercial cannabis permit, County license, permit, or other certificate required by, under or by virtue of any provision of any other 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 under any other Chapter of this code or any other ordinance or resolution of the County. Any references made or contained in any other Chapter of this code to any licenses, permits, or certificates, or license, permit, or certificate taxes, fees, or charges, or to any schedule of license, permit, or certificate fees, shall be deemed to refer to the licenses, permits or certificates, and their respective taxes, fees or charges, or schedule of fees, provided for in other Chapters of this code.

B. A commercial cannabis permit and/or business license(s) issued under the Sacramento County Code may be revoked, suspended or not renewed in the event that the person holding that permit has failed to (i) register or renew such registration pursuant to Section 3.50.006, (ii) make a deposit required by the Tax Collector pursuant

to Section 3.50.006, or (iii) timely pay all taxes, interest, penalties, and fees owed chapter.

3.50.20 Payment of Tax Does Not Authorize Unlawful Business.

A. The payment of a cannabis business tax required by this chapter, and its acceptance by the County, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable County and state laws.

B. No tax paid under the provisions of this chapter 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.

3.50.21 Deficiency Determinations.

If the Tax Collector is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a cannabis business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such cannabis business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 3.50.022 and 3.50.023.

3.50.22 Failure to Report – Nonpayment, Fraud.

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

1. If the person has not filed a complete statement required under the provisions of this chapter;

2. If the person has not paid the tax due under the provisions of this chapter;

3. If the person has not, after demand by the Tax Collector, filed a corrected statement, or furnished to the 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 chapter; or

4. If the Tax Collector determines that the nonpayment of any cannabis business tax due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise payable under this chapter and any other penalties allowed by law.

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

3.50.23 Tax Assessment – Notice Requirements.

The notice of assessment shall be served upon the person either by personal delivery, by overnight delivery by a nationally-recognized courier service, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Collector for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the Tax Collector for such purpose, then to such person's last known address. For the purpose of Section 3.50.023, a service by overnight delivery shall be deemed to have occurred one (1) calendar day following deposit with a courier and service by mail shall be deemed to have occurred three (3) days following deposit in the United States mail.

3.50.24 Tax Assessment – Hearing, Application, and Determination.

Within thirty (30) calendar days after the date of service of the notice of assessment the person may apply in writing to the Tax Collector for an informal hearing on the assessment. If application for an informal hearing is not made within the time herein prescribed, the tax assessed by the Tax Collector shall become final and conclusive. Within thirty (30) calendar days of the receipt of any such application for an informal hearing, the Tax Collector shall cause the matter to be set for an informal hearing before him or her, or his/her designee, no later than thirty (30) calendar days after the receipt of the application, unless a later date is agreed to by the Tax Collector and the person requesting the informal hearing. Notice of such an informal hearing shall be given by the Tax Collector to the person requesting such informal hearing no later than ten (10) calendar days prior to such informal hearing. A hearing under this section shall be informal and need not follow any formal rules of evidence. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Collector should not be confirmed and fixed as the tax due. After such hearing the Tax Collector shall determine and reassess (if necessary) the proper amount of tax, interest, penalties, and fees to be charged and shall give written notice of the decision to the person within fifteen (15) days in the manner prescribed in Section 3.50.023 for giving notice of assessment. No appeal of a notice of assessment may be made under Section

3.50.25 unless an informal hearing is timely requested and the person attends the hearing. If the person fails to appear at the informal hearing, the amount due determined by the Tax Collector in the notice of assessment is final and conclusive. 3.50.25 Appeal.

A taxpayer aggrieved by a decision of the Tax Collector with respect to the amount of tax, interest, penalties, and fees, if any, due under this chapter may appeal only if a hearing was requested and attended pursuant to Section 3.50.024. An appeal may be made by filing a notice of appeal with the Clerk of the County Board of Supervisors within thirty (30) calendar days of the serving or mailing of the Tax Collector's decision of the amount due. Upon receipt of a timely notice of appeal, the Clerk of the Board, or his or her designee, shall fix a time and place for hearing such appeal with a County hearing officer appointed pursuant to County Code and shall assign the matter by selecting a hearing officer. The Clerk of the Board, or his or her designee, shall give at least ten (10) calendar days' notice of the appeal hearing in writing to such taxpayer at the last known place of address. The hearing officer shall render a written decision that shall be served on the taxpayer at the last known place of address. The decision of the hearing officer shall be final and conclusive, and shall be effective as of the date the written decision is signed by the hearing officer. There shall be no right of appeal to the Board of Supervisors, but the responsible person(s) may file an appeal in the Superior Court, County of Sacramento in accordance with the timelines and provisions set forth in California Government Code Section 53069.4. Any amount found to be due by the hearing officer shall be immediately due and payable upon the service of the decision. If no notice of appeal is filed within the time prescribed in this Section, the Tax Collector's decision with respect to the amount of tax, interest, penalties, and fees due is final and conclusive.

1.1.26 Relief from Taxes – Disaster Relief or Crop Failure.

A. If a person is unable to comply with any tax requirement imposed under this chapter due to a disaster impacting its cannabis business, the person may notify the Tax Collector of its inability to comply and request relief from the tax requirement. For purposes of this chapter, “disaster” means fire, flood, storm, tidal wave, earthquake, or similar public calamity resulting in physical damage to real property, whether or not resulting from natural causes.

B. The person shall provide any information required by the Tax Collector including, without limitation, why relief is requested, the time period for which the relief is requested, and the reason relief is needed for the specific amount of time. The person agrees to grant the Tax Collector or his/her designee access to the location where the cannabis business has been impacted due to a disaster.

C. If a person is unable to comply with any tax requirement imposed under this Chapter due to crop failure which impacts the cannabis business, the person must notify the Tax Collector of its inability to comply and request relief from the tax requirement within five (5) calendar days from when the crop failure occurred in order to be considered eligible for such tax relief. The person must also agree to grant the Tax Collector or his/her designee access to the premise area, cultivation logs, and video surveillance camera footage for the time period where the cannabis business has been impacted and shall not destroy any evidence which may be deemed essential to verify that such person qualifies for the tax relief.

For the purposes of Section 3.50.026 (C), “crop failure” means a greatly diminished crop yield relative to expectation, caused by the plants being damaged, killed, or destroyed, or affected in some way that they fail to form clones, mother plants, vegetative and/or flowering plants which must be destroyed as a result of pests, climatic events, or other unforeseen reasons which results in physical damage to cannabis and/or hemp plants, cannabis products and/or hemp products.

D. The Tax Collector, in his/her sole discretion, may provide relief from the cannabis business tax requirement for businesses whose operations have been impacted by a disaster or crop failure if such tax relief does not exceed twenty-five thousand (\$25,000) dollars. Such temporary relief may be granted for a reasonable amount of time, in the Tax Collector’s sole discretion, and the amount and duration of relief should be based upon how long it would reasonably take for the cannabis business to recover from the disaster or crop failure. The Tax Collector may require that the cannabis business follow certain conditions to receive temporary relief from the cannabis business tax requirement. The Tax Collector’s decision on a request for relief and the conditions that may be imposed for relief under this section are final and conclusive and not subject to appeal under Section 3.50.025. Should the business wish to request tax relief which exceeds twenty-five thousand (\$25,000) dollars resulting from a “disaster” or “crop failure” it shall only be granted upon approval of a majority of the County Board of Supervisors.

3.50.27 Conviction for 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.

3.50.28 Violation Deemed Misdemeanor.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

3.50.29 Severability.

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

3.50.30 Remedies Cumulative.

All remedies and penalties prescribed by this chapter, 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 County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

3.50.31 Amendment or Modification.

This chapter may be amended or modified but not repealed by the County Board of Supervisors without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would expand, extend, or increase the rate of any tax levied pursuant to this chapter beyond the maximums set forth in this chapter. The people of the County of Sacramento affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration or adjustment of the rate of the tax to a rate that is no higher than that allowed by this chapter, in those circumstances where, among others, the County Board of Supervisors has previously acted to reduce the rate of the tax or is incrementally implementing an increase authorized by this chapter;

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

C. The collection of the tax imposed by this chapter even if the County had, for some period of time, failed to collect the tax.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The people of the County of Sacramento hereby declare that they would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. ENVIRONMENTAL COMPLIANCE. The County Board of Supervisors hereby finds and determines that this ordinance is exempt from the California Environmental Quality Act, Public Resources Code sections 21000 et seq. (“CEQA”) and California Code Regulations, title 14, sections 15000 et seq. (“CEQA Guidelines”). The calling and noticing of an election for the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines 15378. As such, under CEQA Guidelines section 15378 (b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. It can be seen with certainty that there is no possibility that the tax activity authorized by the ordinance may have a significant effect on the environment. If revenue generated by the tax were used for a purpose that would have such an effect, the County of Sacramento would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

SECTION 4. EFFECTIVE DATE. This ordinance shall be voted upon by the electorate at the November 8, 2022 statewide election. Pursuant to the California

Constitution, article XIII C, section 2(b) and California Elections Code section 9122, if 2/3 of the voters voting in the election on this measure vote in favor of the adoption of this measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the County Board of Supervisors and shall go into effect ten (10) days after that date.

SECTION 5. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on July 26, 2022, and on August 1, 2022, further reading was waived by the unanimous vote of the Supervisors present.

On a motion by Supervisor Serna, seconded by Supervisor Kennedy, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 1st day of August 2022, by the following vote:

AYES: Supervisors Desmond, Kennedy, Serna

NOES: Supervisors Frost, Nottoli

ABSENT: None

ABSTAIN: None

RECUSAL: None

(PER POLITICAL REFORM ACT (§ 18702.5))

Tuesday, August 16, 2022 at 5:00 p.m. is hereby fixed as the final date and time for the filing of arguments. Arguments for or against the measures listed are not to exceed 300 words in length. The 10-calendar day required public viewing period will be from Wednesday, August 17, through Friday, August 26, 2022.

Thursday, August 18, 2022 at 5:00 p.m. is hereby fixed as the final date and time for the filing of rebuttal arguments. Rebuttal arguments are not to exceed 250 words in length. The 10-calendar day required public viewing period will be from Friday, August 19, through Sunday, August 28, 2022.

NOTICE IS FURTHER GIVEN that California Elections Code Section 9600 governs the form of said arguments and/or rebuttals. Arguments and/or rebuttals submitted to the Sacramento County Elections Office must follow E.C. 9600. Authors of said arguments/rebuttals may call the Elections Office at (916) 875-6276 for more information on submitting an argument for or against a measure. To be eligible for printing and distribution as provided by law, such arguments and rebuttals must be received and filed at Voter Registration and Elections, 7000 65th Street, Suite A, Sacramento, CA 95823, no later than said date and time. All arguments and rebuttals must be submitted in block format. Limited use of bolding, underlining, capitalizing, italics or bullets (small solid circle only) is permitted. Arguments and rebuttals that are not in compliance will be reformatted and set in uniform type.

NOTICE IS FURTHER GIVEN that Vote by Mail processing may begin on the 29th day before the election, which is Monday, October 10, 2022. All ballots cast in the November 8, 2022 General Election shall be tallied at the central counting place, the Voter Registration and Elections Office at 7000 65th Street, Suite A, Sacramento, California. Initial results will be available at 8:00 p.m. on election night and continue until the count is completed. Persons interested in viewing these procedures should contact Karen Startup of Voter Registration and Elections at (916) 875-6276 for further information. (EC §§ 12109, 15101, 15104)

Karen Startup
Campaign Services Manager
Sacramento County Elections