

Amendments to the Tax on Cannabis Operations Ordinance

Board of Supervisors
June 18, 2024



County Executive Office

Purpose of Today

Board approval of necessary actions to propose a change in the tax on cannabis cultivation in the unincorporated area for the November 2024 Ballot:

- 1) Determine a proposed option for the ordinance reading
 - 1) Option 1: Square footage rates of two and a half cents (outdoor) and twenty-five cents (non-outdoor) ; or
 - 2) Option 2: Square footage rates of ten cents (outdoor) and fifty cents (non-outdoor)
- 2) Introduce (First Reading) of an ordinance amending relevant sections of County Code (Chapter 50A of the Santa Barbara County Code)
- 3) Designate and authorize member(s) of the Board of Supervisors to author, sign and submit on behalf of the Board an argument in favor of the cannabis cultivation tax ballot measure; and
- 4) Set a hearing of July 9, 2024 to finalize actions:
 - 1)adopt (Second Reading) the ordinance;
 - 2)adopt a Resolution with ballot language that submits the ordinance to the voters; and
 - 3)make CEQA findings

Outline

- Board direction and assumptions
- Options for hybrid model square footage tax rate:
 - Option 1: two and half cents (outdoor) and twenty-five cents (non-outdoor) applied *quarterly*
 - Option 2: ten cents (outdoor) and fifty cents (non-outdoor) applied *quarterly*
- Factors considered in adopting rates; new ordinance
 - Activity = taxable transfers
 - Staffing
 - Maximum rates
 - Method for adjustments
- Tax payment reporting and auditing
- Fiscal Analysis
- Schedule to continue process of placing tax on cannabis operations ordinance on the ballot

Board Direction

On May 14th Board directed staff to return with proposed ordinance language to amend Chapter 50A, Tax on Cannabis Operations to include the following:

- hybrid structure of gross receipts tax rate with a minimum activity tax rate based on State licensed square footage;
- apply activity rate to licensed square footage where activity occurs, defined as transfers;
- set initial activity rate at 10 cents outdoor and \$1.00 non-outdoor;
- set a maximum activity rate at 75 cents outdoor and \$2.50 non-outdoor; and
- limit Board action to change rates to once every 2 years following implementation by 4/5 vote

Assumptions

- Board directed rates of 10¢ (outdoor) and \$1 (non-outdoor); assumed annual rates
- Current gross receipts model reported and assessed quarterly
- Hybrid model uses comparison between applied square footage rate and four percent of gross receipts, owing the greater of the two amounts
- Square footage rate needs to apply quarterly as well
- Implementing an annual process would be challenging and difficult to administer

Options for Hybrid Model

Two options being presented for the Board's consideration:

- **Option 1** proposes square footage rates of two and half cents (outdoor) and twenty-five cents (non-outdoor) applied ***quarterly***, equating to ten cents (outdoor) and one dollar (non-outdoor), per Board direction
- **Option 2** proposes alternative square footage rates of ten cents (outdoor) and fifty cents (non-outdoor) applied ***quarterly***

Option 2, staff's recommendation:

- analysis using local average pricing data and taxable transfer activity in the fiscal year 2023-24
- better addresses underreporting and parity between operations and cultivation types

Factors for Adopting Rates; New Ordinance

- **Activity = taxable transfer**
 - Square footage rates apply to licenses with activity; considered to occur when a taxable transfer has been made
 - A taxable transfer is a transfer from County licenses (or activities) to any other licenses (or activities)
- **Staffing**
 - Current – one senior level manager and one senior finance office professional
 - Hybrid model implementation – one additional analyst position (Cost ~\$175k)
- **Maximum rates**
 - Board direction, 75¢ (outdoor) and \$2.50 (non-outdoor)
- **Method for adjustments**
 - Limited to once every 2 years and with a 4/5 vote

Tax Payment Reporting and Auditing

- Treasurer-Tax Collector (TTC) staff work with operators to produce accurate reporting, including pricing, and tax payment
- First round of comprehensive audits, performed by consultant, are nearing completion
- Goal to identify reporting variances, discrepancies and outliers to produce most accurate measure of gross receipts
- Future scope expansion using HdL, other qualified service providers, or additional TTC office staff

Fiscal Analysis

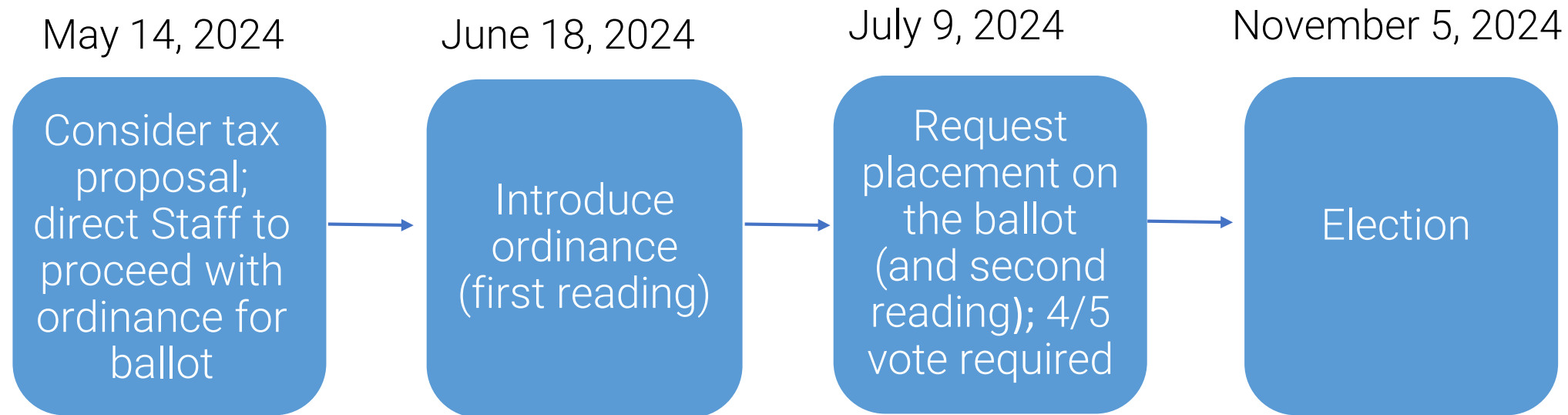
	2023 - 2024 Current Tax Actuals (Q1-Q3)	Option 1 Estimated Total Hybrid Tax (\$0.025 and \$0.25)*	Option 1 Estimated Additional Revenue	Option 2 Estimated Total Hybrid Tax (\$0.10 and \$0.50)*	Option 2 Estimated Additional Revenue
Non-Outdoor	\$ 2,882,933	\$ 3,168,573	\$ 285,640	\$ 3,528,796	\$ 645,863
Outdoor	\$ 1,125,156	\$ 1,242,855	\$ 117,699	\$ 2,223,369	\$ 1,098,213
Total	\$ 4,008,089	\$ 4,411,427	\$ 403,339	\$ 5,752,165	\$ 1,744,076

This is the estimated additional amount of tax revenue that would be generated from square footage applying the hybrid model for each option

* Analysis using current fiscal year data from the first three quarters. Future taxable transfers depend on state licenses and structure, may not reflect historical data.

Potential November 2024 Ballot Measure

- Changing tax structure requires a ballot measure
- Four-fifths (4/5) vote required by Board of Supervisors to place new ordinance on the ballot
- General tax needs a simple majority of Santa Barbara County voters to approve for passage



Recommended **Actions**

- a) Consider the introduction (First Reading) of an ordinance of the Board of Supervisors of the County of Santa Barbara amending Chapter 50A, “Tax on Cannabis Operations” of Santa Barbara County Code to change the tax on cannabis cultivation in the unincorporated area of the County:
 1. Option 1: Square footage rates of two and a half cents (outdoor) and twenty five cents (non-outdoor) ; or
 2. Option 2: Square footage rates of ten cents (outdoor) and fifty cents (non-outdoor); and
 - b) Read the title, “An Ordinance Amending Chapter 50A, Tax on Cannabis Operations, of the Santa Barbara County Code,” include title and waive further reading of the Ordinance in full;
 - c) Appoint and authorize member(s) of the Board to author, sign, and submit on behalf of the Board an argument in favor of the ordinance amending Chapter 50A ballot measure and any rebuttal;
 - d) Provide other direction as appropriate; and
 - e) Set a hearing on the Agenda of July 9, 2024.
-