

Attachment 4:

Resolution to place the Cannabis Operation Special Tax measure on the June 2018 Primary
Election Ballot
(Option 2)

RESOLUTION NO. _____

**RESOLUTION OF THE
SANTA BARBARA COUNTY BOARD OF SUPERVISORS PROPOSING TO
IMPOSE A SPECIAL TAX ON CANNABIS OPERATIONS, SUBMITTING THE
PROPOSED LANGUAGE FOR IMPOSING A TAX TO THE ELECTORATE FOR
APPROVAL, AND REQUESTING AND ORDERING CONSOLIDATION WITH
THE JUNE 5, 2018 PRIMARY ELECTION**

WHEREAS, Section 4 of Article XIII A, and Section 2 of Article XIII C of the Constitution of the State of California, California Government Code Sections 50075 *et seq.* and 53722 authorize the Board of Supervisors of the County of Santa Barbara to impose, extend or increase a special tax upon a two-thirds vote of the voters voting in an election on the issue; and

WHEREAS, Revenue and Taxation Code Section 34021.5(a)(1) authorizes the County to impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by a licensee operating under Division 10 (commencing with Section 26000) of the Business and Professions Code; and

WHEREAS, Revenue and Taxation Code Section 34021.5(a)(2) requires the Board of Supervisors to submit to the voters in the ordinance proposing the tax, the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for purposes specified in the ordinance by the Board of Supervisors; and

WHEREAS, pursuant to Revenue and Taxation Code Section 34021.5(a)(3), the Board of Supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county; and

WHEREAS, the Board of Supervisors may submit to the voters, without petition, an ordinance for the repeal, amendment, or enactment of any ordinance pursuant to Elections Code Section 9140; and

NOW, THEREFORE, BE IT RESOLVED that:

1. The Board of Supervisors of the County of Santa Barbara hereby proposes the ordinance attached hereto as Exhibit "A" to impose a gross receipts tax on cannabis operations, as follows, for special governmental purposes. The full text of the ordinance shall be included in the ballot materials provided to the voters.

2. The Board of Supervisors of the County of Santa Barbara hereby submits the ordinance and proposed tax to the electorate for approval, calls an election for June 5,

2018 for approval of the ordinance and requests and orders that this election be consolidated with the primary election to be held on that date.

3. The Board of Supervisors acknowledges that the consolidated election will be held and conducted in the manner prescribed in Cal. Elections Code Section 10418.

4. The cannabis operations tax is a special tax imposed upon every person who engages in the cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products within the unincorporated area of Santa Barbara County. If approved by two-thirds of the electorate voting on the measure, the ordinance will establish a gross receipts tax, collected by the Treasurer-Tax Collector, computed as follows:

- a) Nursery: 1% of gross receipts; and
- b) Distributor (excluding Distributor Transport Only): 1% of gross receipts; and
- c) Manufacturing: 3% of gross receipts; and
- d) Cultivation: 4% of gross receipts; and
- e) Retail: 6% of gross receipts; and
- f) Microbusiness: 6% of gross receipts;
- g) Cap: In no event, however, shall any person conducting multiple of the above operations pay more tax than 8% of gross receipts.

These taxes shall be paid on transfers between each operation listed in subsections a) through f) above, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous.

If rejected by the electorate voting on the measure, the proposed tax on cannabis operations would not be imposed. The collection of the tax would be administered by the Santa Barbara County Treasurer-Tax Collector as provided in proposed Chapter 50A of the Santa Barbara County Code.

5. The cannabis operations tax imposed by the ordinance is a special tax within the meaning of Government Code Section 53721, and Section 4 of Article XIII A and Section 2 of Article XIII C of the Constitution of the State of California. The revenue generated by this special tax would be available for special governmental purposes as identified in section 50A-4 of the proposed ordinance.

6. The ballot question shall be submitted to the voters in the following form:

Shall the measure adding Chapter 50A to the Santa Barbara County Code imposing a Cannabis Operations Tax on cannabis operators within unincorporated areas of the County upon their gross receipts with rates of 1% on nurseries and distributors, 3% on manufacturers, 4% on cultivators and 6% on retailers and microbusiness with a cap of 8% for multiple operation types estimated to raise \$5 to \$25 million for enforcement, health and other services, with no end date, be adopted?	<input type="checkbox"/> YES
	<input type="checkbox"/> NO

7. The County Clerk is hereby authorized, instructed, and directed to provide and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct an election.

8. The County Clerk is hereby further directed to take the necessary and appropriate actions to provide the necessary election officers, polling places, and voting precincts.

9. In accordance with the provisions of the Election Code, the County Counsel will prepare an impartial analysis of the measure, and the Auditor is directed to prepare a fiscal impact statement.

10. The polls for said election shall be open during the hours required by law and said election, with respect to the foregoing ballot measure, shall be held and conducted as provided by law for the holding of County elections.

11. Notice of time and place of holding said election, together with any other notices required by law, shall be given by the County Clerk.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Santa Barbara held on this ___ day of February 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CHAIR, BOARD OF SUPERVISORS

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Deputy

APPROVED AS TO FORM:
MICHAEL GHIZZONI
COUNTY COUNSEL

By:  _____

APPROVED AS TO ACCOUNTING FORM:
THEODORE A. FALLATI
AUDITOR-CONTROLLER

By:  _____

Exhibit A to Resolution
Cannabis Operations Special Tax Ordinance

ORDINANCE NO. _____

ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA ADDING CHAPTER 50A TO THE SANTA BARBARA COUNTY CODE IMPOSING A SPECIAL TAX ON CANNABIS OPERATIONS

The Board of Supervisors of the County of Santa Barbara finds that cannabis related businesses should pay a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by commercial cannabis businesses in the unincorporated area of the County, pursuant to the state “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA), specifically Division 10 (commencing with Section 26000) of the Business and Professions Code, as may be amended, or other enabling legislation.

The Board of Supervisors of the County of Santa Barbara adopts the following changes to the Santa Barbara County Code under authority of Section 4 of Article XIII A, and Section 2 of Article XIII C of the Constitution of the State of California, California Government Code Sections 50075 *et seq.* and 53722, and California Revenue and Taxation Code Section 34021.5, as may be amended.

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION ONE:

The Board of Supervisors hereby enacts and adopts a new Chapter 50A, titled “Tax on Cannabis Operations,” of the Santa Barbara County Code imposing a gross receipts tax on cannabis operations, as follows:

CHAPTER 50A - TAX ON CANNABIS OPERATIONS

Section 50A-1 – Amount of Tax.

Section 50A-2 – Definitions.

Section 50A-3 – Determining Gross Receipts Tax.

Section 50A-4 – Special Tax, Usage of Revenues, and Accountability Measures.

Section 50A-5 – Tax Due Dates and Delinquencies.

Section 50A-6 – Actions to Collect.

Section 50A-7 – Quarterly Reports.

Section 50A-8 – Recordkeeping Required, Audit and Examination of Records.

Section 50A-9 – Tax Estimates Rendered by Treasurer-Tax Collector.

Section 50A-10 – Appeal from Determination of Treasurer-Tax Collector.

Section 50A-11 – Refunds.

Section 50A-12 – Exemptions from Tax.

Section 50A-13 – Apportionment.

Section 50A-14 – Constitutionality and Legality.

Section 50A-15 – Other Licenses, Permits, Taxes, Fees, or Charges.

Section 50A-16 – Change of Ownership.

Section 50A-17 – Payment of Taxes Does Not Authorize Unlawful Business and/or Operation.

Section 50A-18 – Administration of Tax.

Section 50A-19 – Severability.

Section 50A-20 – Timeframes.

Section 50A-21 – Remedies Cumulative.

Section 50A-22 – Amendment or Repeal.

CHAPTER 50A - TAX ON CANNABIS OPERATIONS

Section 50A-1 – Amount of Tax.

- a) Every person who engages in cannabis operations, including the cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products within the unincorporated area of the County shall pay to the County Treasurer-Tax Collector a tax on the gross receipts of each of their operation’s activities involving cannabis or cannabis products, whether cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, distributing, or otherwise, computed as follows:
1. Nursery: 1% of gross receipts; and
 2. Distributor (excluding Distributor Transport Only): 1% of gross receipts; and
 3. Manufacturing: 3% of gross receipts; and
 4. Cultivation: 4% of gross receipts; and
 5. Retail: 6% of gross receipts; and
 6. Microbusiness: 6% of gross receipts;
 7. Cap: In no event, however, shall any person conducting multiple of the above operations pay more tax than 8% of gross receipts.

These taxes shall be paid on transfers between each operation listed in subsections 1 through 6 above, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous.

- b) Pursuant to California Constitution Article XIII C Section 2 and California Government Code Section 53739, as may be amended, the Board of Supervisors may later determine to adjust the tax rates and impose them at any rates that are less than or equal to the maximum rates authorized by this ordinance, and subsequently may restore the rates to any rates up to the maximum rates authorized by this ordinance.

Section 50A-2 - Definitions.

For purposes of this Chapter, the following terms are defined to mean:

- a) **Cannabis.** All parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; 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, including, but not limited to, separated resin. Cannabis also means medical and non-medical marijuana. Cannabis does not include industrial hemp, as defined in Section 11018.5 of the Health and Safety Code, as may be amended.
- b) **Cultivation.** Any activity involving the planting, growing, harvesting, processing, drying, curing, or trimming of cannabis, as well as grading of land pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code, as may be amended. Cultivation includes outdoor cultivation, indoor cultivation, and mixed light cultivation and processors.

- c) **Distributor or Distribution or Distribution Facility.** A person involved in the procurement, sale, and/or transport of cannabis and cannabis products between two or more cannabis businesses pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code, as may be amended.
- d) **Distributor Transport Only.** A person involved in Distribution as limited by 16 California Code of Regulations Section 5315, as may be amended.
- e) **Engaged or engages in cannabis operations.** The commencing, conducting, operating, managing or carrying on of a cannabis business or operation, 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 operations within 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;
 5. Such person or person's employee performs work or renders services in the unincorporated area of the County; or
 6. Such person or person's employee utilizes the streets within the unincorporated area of the County in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of “engaged or engages in operations.”

- f) **Manufacturing.** All aspects of the extraction and/or infusion process, including preparing, holding, storing, packaging, or labeling of cannabis products pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code, as may be amended. Manufacturing also includes any preparing, holding, or storing of components and ingredients. Manufacturing includes, but is not limited to, volatile and nonvolatile manufacturing.
- g) **Microbusiness.** Engaging in at least three of the four following cannabis operations: cultivation, distribution, non-volatile manufacturing, and/or retail, pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code, as may be amended, and California Business and Professions Code Section 26070(a)(3)(A) or 16 California Code of Regulations Section 5500, as may be amended.
- h) **Nursery.** The production solely of clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis pursuant to

Division 10 (commencing with Section 26000) of the California Business and Professions Code, as may be amended.

- i) **Person.** Includes, but is not limited to, an individual, partnership, corporation, cooperative, collective, organization, business, and/or entity.
- j) **Retail or Retailer.** Includes, but is not limited to, Non-Storefront Retailer and Storefront Retailer pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code, as may be amended.
 - 1. **Non-Storefront Retailer.** Delivery-only retail of commercial cannabis or cannabis products, also referred to as Non-Storefront Retail.
 - 2. **Storefront Retailer.** The retail sale and delivery of cannabis or cannabis products to customers, also referred to as a Storefront Retail. A retailer's premise may be open or closed to the public. A storefront retailer may also conduct some sales by delivery.
- k) **Treasurer-Tax Collector.** The Treasurer-Tax Collector of the County of Santa Barbara, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter.

Section 50A-3 - Determining Gross Receipts Tax.

For the purpose of determining the gross receipts tax, the following provisions shall apply:

- a) "Gross Receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales and transfers; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; and discounts, gifts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, 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, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:
 - 1. Cash discounts where allowed and taken on sales;
 - 2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
 - 3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
 - 4. 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;
 - 5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock

or securities solely for an individual's personal account, not derived in the ordinary course of a business;

6. 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;
 7. 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;
 8. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;
 9. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.
- b) "Gross receipts" subject to the cannabis operations tax shall be that portion of the gross receipts relating to business conducted within the unincorporated area of the County.

Section 50A-4 - Special Tax, Usage of Revenues, and Accountability Measures.

The cannabis operations tax in this Chapter is enacted pursuant to California Revenue and Taxation Code Section 34021.5, as may be amended, and upon approval by the electorate will be a special tax as authorized by California Constitution Article XIII A and California Government Code Section 50075 *et seq.*, as may be amended. As a special tax, the revenue generated by this ordinance shall only be used for the following specific purposes:

- a) The Board of Supervisors will allocate, up to the first \$1,750,000 collected each fiscal year, to County departments for enforcement, investigation and civil or criminal prosecution activities related to unpermitted and unlicensed cannabis operations in the unincorporated area of the County. Effective beginning July 2019, this amount will be adjusted annually utilizing the Los Angeles-Riverside-Orange County, CA Consumer Price Index, All Items for All Urban Consumers.
- b) The remainder of the funds collected each year shall be allocated among the following County departments in accordance with the County's Cannabis Revenue Allocation Policy: Sheriff's Department, District Attorney, Public Defender, Behavioral Wellness, Public Health, Planning & Development and Agriculture Commissioner's Office. The Cannabis Revenue Allocation Policy will be reviewed and approved annually by the Board of Supervisors at a duly noticed public meeting.
- c) Prior to the allocations above, County departments may be funded first from the tax revenues for their actual administrative, legal, and tax administration costs, not to exceed 20% of the total tax revenue per year.

The proceeds of the tax shall be applied only to the specific purposes identified above.

The foregoing revenues will be allocated annually by the Board of Supervisors through the annual budget process to support appropriations for the above purposes. Such appropriations may be revised pursuant to the County Budget Act, so long as the revisions are consistent with the purposes described in this Chapter. The Board of Supervisors finds that the foregoing uses are of public benefit to the County and its residents.

The Treasurer-Tax Collector shall create a segregated interest-bearing account into which the proceeds of the special tax shall be deposited. The County Auditor-Controller shall annually provide the Board of Supervisors with a copy of a report containing the amount of funds collected and expended, and the status of any project required or authorized to be funded, which report shall comply with California Government Code Section 50075.3, as may be amended.

Section 50A-5 - Tax Due Dates and Delinquencies.

The cannabis operations gross receipts tax shall be due and payable and, if not paid shall become delinquent, as follows:

- a) Due Dates. The amount of the gross receipts tax shall be due and payable by first day of January, April, July and October, and shall become delinquent if not remitted to the Treasurer-Tax Collector on or before 5:00 p.m. on the last day of each of those months.
- b) Original Delinquency. For any delinquent payment, the person subject to the tax shall pay ten (10) percent of the amount of the tax in addition to the amount of the tax.
- c) Continued Delinquency. Any person who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency amount of ten (10) percent of the amount of the tax in addition to the amount of the tax and the ten (10) percent amount first imposed upon the original delinquency.
- d) Cancellation of delinquency amounts. The Treasurer-Tax Collector may cancel the Original Delinquency and/or Continued Delinquency amounts imposed on any person if 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.
- e) Fraud. If the Treasurer-Tax Collector determines that the nonpayment of any remittance due under this Chapter is due to fraud, an amount of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the delinquency amounts stated in Subsections b and c of this Section.
- f) Interest. In addition to the delinquency and/or fraud amounts imposed, any person who fails to timely remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax.
- g) Delinquency, Fraud, and Interest Amounts Merged with Tax. Every delinquency and fraud amount imposed and such interest as accrues under the provisions of this Section shall become part of the tax herein required to be paid.

- h) Criminal Penalty. Any person or persons who make any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this Chapter shall be guilty of a misdemeanor.

Section 50A-6 - Actions to Collect.

Any tax required to be paid by any person under the provisions of this Chapter shall be deemed a debt owed by the person to the County. Any person owing money to the County under the provisions of this Chapter shall be liable to an action by the County for the recovery of such amount. The County shall be entitled to recover all attorneys' fees, personnel costs and other expenses incurred due to the failure of timely remittance of tax proceeds to the County. Said delinquencies shall be collected in the same manner, and subject to the same priority of lien, as any unsecured tax collection procedure as provided by the California Revenue and Taxation Code, including, but not limited to, liens, seizures, and sale. 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, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

Section 50A-7 - Quarterly Reports.

- a) Every person required to pay the cannabis operations tax under this Chapter shall file with the Treasurer-Tax Collector a report, upon a form provided by the Treasurer-Tax Collector, which report must be received in the office of the Treasurer-Tax Collector on or before 5:00 p.m. on the last day of January, April, July and October, setting forth such information as the Treasurer-Tax Collector shall require, including, but not limited to, the following:
 - 1. The name, state and local license numbers and premise address or other identification of all cannabis operations located in the unincorporated area of the County and operated during the previous three months; and
 - 2. The number of units of cannabis or cannabis products sold or transferred; and
 - 3. The total gross receipts of the cannabis operation; and
 - 4. The computation of the amount of the gross receipts tax for each such operation due the County.
- b) At the time of filing the report such person shall also pay to the Treasurer-Tax Collector any gross receipts tax which may be shown to be due. The report must be signed by the person required to pay the gross receipts tax or by a managing officer or agent, with the legal authority to bind the cannabis operation, thereof and shall include a declaration substantially as follows:

“I declare under penalty of perjury that I am authorized to make and file the foregoing statement, and that to the best of my knowledge and belief it is a true, correct, and complete statement made in good faith for the period stated.”
- c) The report required by this Section shall not be conclusive against the County as to the information set forth therein, nor shall the filing of a report preclude the County from collecting by appropriate action any additional tax that is later determined to be due and payable.
- d) Tax statements and payments for all outstanding taxes owed the County are immediately due to the Treasurer-Tax Collector upon cessation of business for any reason.

- e) The Treasurer-Tax Collector may, at his or her discretion, establish shorter or longer report and payment periods for any taxpayer as the Treasurer-Tax Collector deems necessary to ensure collection of the tax.
- f) The Treasurer-Tax Collector may, as part of administering the tax and in his or her discretion, modify the form of payment and take other administrative actions as needed to facilitate collection of the tax.

Section 50A-8 - Recordkeeping Required, Audit and Examination of Records.

Every person required to pay a gross receipts tax under this Chapter shall keep full, true, and accurate records as to the amount of cannabis or cannabis products sold and/or transferred by him or her from operations located within the unincorporated area of the County, for a period of at least seven (7) years, and shall, upon the demand of the Treasurer-Tax Collector, make the records, together with any track and trace reports, shipping documents or sales invoices pertaining to such cannabis or cannabis products, available for the inspection of the Treasurer-Tax Collector at all reasonable times.

The Treasurer-Tax Collector shall have the power to audit and examine all books and records of persons engaged in cannabis operations, including both state and federal income tax returns, California sales tax returns, bank statements, or other evidence documenting the gross receipts of persons engaged in cannabis operations, and, where necessary, all equipment, of any person engaged in cannabis operations in the County, for the purpose of ascertaining the amount of cannabis operations tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter. If such person, after written demand by the Treasurer-Tax Collector, 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 his or her knowledge concerning the cannabis operations of the person so refusing, make an assessment in the manner provided in Section 50A-9 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.

Section 50A-9 - Tax estimates rendered by Treasurer-Tax Collector.

In the event that any person required to pay the gross receipts tax on cannabis operations under this Chapter fails to file a report of the quarterly sales and gross receipts of cannabis or cannabis products as provided in Section 50A-7, or that the information filed in such report is insufficient to enable the Treasurer-Tax Collector to compute the gross receipts tax liability of such person, the Treasurer-Tax Collector shall, by such method as he or she may deem appropriate, estimate the amount of the tax due from the person, along with any additional amounts due pursuant to Section 50A-5. Notice thereof may be sent by the Treasurer-Tax Collector to such person at his or her latest address as shown on the County's records.

Such person may within ten days after the serving or mailing of such notice make application in writing to the Treasurer-Tax Collector for a hearing on the amount assessed. If application by such person for a hearing is not made within the time prescribed, the tax, interest, and additional amounts, if any, determined by the Treasurer-Tax Collector shall become final and conclusive and

immediately due and payable. If such application is made, the Treasurer-Tax Collector shall give not less than five days written notice to such person to show cause at a time and place fixed in said notice why such amount specified therein should not be fixed for such tax, interest, and additional amounts. At such hearing, such person may appear and offer evidence why such specified tax, interest, and additional amounts should not be so fixed. After such hearing the Treasurer-Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the person of such determination and the amount of such tax, interest and additional amounts, if any. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 50A-10.

Section 50A-10 - Appeal from Determination of Treasurer-Tax Collector.

Any person subject to the tax aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of such tax, interest, and additional amounts, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within fifteen days of the serving or mailing of the determination of tax due. The Board of Supervisors shall fix a time and place for hearing such appeal, and the Clerk of the Board of Supervisors shall give notice in writing to such person at his or her last known place of address. The findings of the Board of Supervisors shall be final and conclusive and shall be sent to the appellant. Any amount found to be due shall be immediately due and payable upon the serving or mailing of notice.

Section 50A-11 – Refunds.

- a) Whenever the amount of any cannabis business tax, delinquency amount 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 is filed with the Treasurer-Tax Collector within one (1) year of the date the tax was originally due and payable.
- b) The Treasurer-Tax Collector shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of the claimant's books and business records after request by the Treasurer-Tax Collector to do so. 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 refund.
- c) In the event that the cannabis operations tax was erroneously paid and the error is attributable to the County, the County shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.
- d) No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business or operation.

Section 50A-12 – Exemptions from the Tax.

- a) The provisions of this Chapter shall not apply to personal cannabis cultivation as defined by California Health and Safety Code Section 11362.2, as may be amended.

- b) The provisions of 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 in California Health and Safety Code Section 11362.1, as may be amended, or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

Section 50A-13 – Apportionment.

If a person subject to the tax is operating both within and outside the unincorporated County, it is the intent of the County to apply the cannabis operations tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the unincorporated County. For purposes of apportionment as may be required by law, the Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with California state law.

Section 50A-14 – Constitutionality and Legality.

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and California 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 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 California state law.

Section 50A-15 - Other Licenses, Permits, Taxes, Fees, or Charges.

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 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.

Section 50A-16 - Change of Ownership.

- a) In the event that there is a change of ownership of any cannabis business, the new owner is required to notify the Treasurer-Tax Collector on any form required by the Treasurer-Tax Collector.
- b) Unless otherwise provided by law, upon the sale of any cannabis business:
 - 1. It is the joint and several liability of both the seller and buyer to remit any tax due. This includes all taxes accrued and payable up until the date of sale; and
 - 2. Any Certificate of Delinquent Cannabis Operations Tax Lien may be filed against both the seller and/or buyer in an amount determined by the Treasurer-Tax Collector.

- c) Following any change of ownership, the cannabis business or operation may be subject to an audit by the Treasurer-Tax Collector or his or her designee.

Section 50A-17 - Payment of Tax Does Not Authorize Unlawful Business and/or Operations.

- a) The payment of a cannabis operations tax required by this Chapter, and its acceptance by the County, shall not entitle any person to carry on any cannabis business or operations or be construed as a permit or license. The tax must be paid whether or not a person obtains a County business license.
- 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.

Section 50A-18 – Administration of the Tax.

- a) The Treasurer-Tax Collector is authorized to collect the taxes, interest, delinquency amounts, penalties, and fees, and to perform the duties required by this Chapter.
- b) For purposes of administration and enforcement of this Chapter 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 Chapter as he or she deems 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 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 delinquency amounts and interest to taxpayers pursuant to this Chapter; and
 - 6. Determine amounts owed and enforce collection pursuant to this Chapter.

Section 50A-19 – Severability.

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 50A-20 – Timeframes.

The tax shall take effect beginning July 1, 2018, with the first payments due October 1, 2018.

Section 50A-21 - Remedies Cumulative.

All remedies and penalties prescribed by this Chapter or which are available under 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.

Section 50A-22 - Amendment or Repeal.

This Chapter 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 rate of any tax levied pursuant to this Chapter above the maximum rates established by this Chapter. The people of the County of Santa Barbara affirm that the following actions shall not constitute an increase of a tax:

- a) The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, 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 the interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language 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; or
- d) The establishment of a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or
- e) The Board of Supervisors' adoption of an ordinance or resolution, as authorized by this Section, to raise the tax rate or rates provided that they are not raised to a rate or rates higher than the maximums established herein.

SECTION TWO:

Pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15378(b)(4), adoption of this gross receipts tax ordinance as 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 is not a project subject to the requirements of CEQA. Prior to commencement of any project that may result from the expenditure of revenues from this tax, any necessary environmental review required by CEQA shall be completed.

SECTION THREE:

Except as amended by this Ordinance the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION FOUR:

This Ordinance shall take effect immediately upon its approval by a two-thirds (2/3) vote of the voters voting upon the Ordinance at the June 5, 2018 election. This Ordinance, or a summary

thereof, shall be published in accordance with Government Code section 25124, with the names of the members of the Board of Supervisors voting for and against the same, in a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ the day of _____, 2018 by the following vote, subject to approval by the electorate at the election of June 5, 2018:

AYES:

NOES:

ABSTAINED:

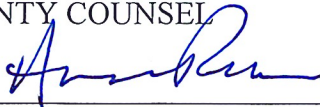
ABSENT:

Das Williams
Chair, Board of Supervisors

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: 
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

By: 