

Attachment D

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50A, TAX ON CANNABIS OPERATIONS, OF THE SANTA BARBARA COUNTY CODE

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 2 of Article XIII C of the Constitution of the State of California, California Government Code Section 53723, 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 1. Chapter 50A of the Santa Barbara County Code, titled “Tax on Cannabis Operations,” Section 50A-1, Amount of tax, is hereby amended and shall read as follows:

- (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: One percent of gross receipts; and
 2. Distributor (excluding distributor transport only): One percent of gross receipts; and
 3. Manufacturing: Three percent of gross receipts; and
 4. Cultivation: Four percent of gross receipts **or based on square footage for licenses having taxable transfer activity in the reporting period, whichever is greater**
 - i. **The rate for non-outdoor cultivation shall be a maximum of two dollars and fifty cents (\$2.50) per quarter, per square foot, with an initial rate set at fifty cents (\$0.50) per quarter, per square foot;**
 - ii. **The rate for outdoor cultivation shall be a maximum of seventy-five cents (\$0.75) per quarter, per square foot, with an initial rate set at ten cents (\$0.10) per quarter, per square foot; and**
 5. Retail: Six percent of gross receipts; and
 6. Microbusiness: Six percent of gross receipts.

These taxes shall be paid on transfers **from a County license or activity to any other license or activity** ~~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 chapter. **The tax rates listed in subsection (a)(4) above, may only be adjusted by the board of supervisors once every two (2) years following implementation and by a four-fifths (4/5) vote of the board of supervisors. This four-fifths (4/5) vote requirement may be amended or repealed by a majority vote of the board of supervisors.**
- (c) **If the manner in which state license square footage is computed deviates from the present approach, the Treasurer-Tax Collector has discretion to exclusively utilize gross receipts to compute the taxes.**

SECTION 2. Chapter 50A of the Santa Barbara County Code, titled “Tax on Cannabis Operations,” Section 50A-2, Definitions, subsections (f) through (s), is hereby amended and shall read as follows:

...

(f) Greenhouse. A structure, including a hothouse, used for the indoor propagation of plants that has permanent structural elements (e.g. footings, foundations) that is typically constructed with a translucent roof or walls, and may have utility facilities (e.g., electrical, natural gas, plumbing).

(g) 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.

(h) 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.

(i) Non-Outdoor Cultivation. Cultivation which utilizes a building(s), greenhouse(s), and/or artificial lighting.

(j) 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.

(k) Outdoor Cultivation. Cultivation which does not utilize a building(s), greenhouse(s), and/or artificial lighting.

(l) Person. Includes, but is not limited to, an individual, partnership, corporation, cooperative, collective, organization, business, and/or entity.

(m) Reporting Periods. Reporting periods will be July – September, October – December, January – March, and April – June.

(n) 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.

(o) Square Footage. The total maximum square footage licensed by the state not deducting for unutilized square footage. If state license square footage is unavailable or becomes unavailable, total square footage will be determined using the approved cultivation plan submitted during county licensing, not deducting for unutilized square footage.

(p) State license. means a state license issued pursuant to California Business & Professions Code Sections 26000, et seq. or other applicable state law.

(q) Taxable Transfer Activity. Transfers from state licenses issued to the County licensed operation to any other license or activity, excluding transfers to testing laboratories, rejected or returned transfers and/or transfers deemed non-taxable by the Treasurer-Tax Collector.

(r) Transfer Value. Fair market value assigned to transfers for the activity performed in the unincorporated area that do not have a sale or invoice at time of transfer.

(sk) 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 3. Chapter 50A of the Santa Barbara County Code, titled “Tax on Cannabis Operations,” Section 50A-3, Determining gross receipts tax, subsections (a) through (c), is hereby amended and shall read as follows:

Sec. 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, **transfer values**, 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; and
 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) For any transfer of cannabis or cannabis products in a non-arm's length transaction, the gross receipts for such transactions shall be based on the product's fair market value if it were sold in an arm's length transaction. For purposes of this section, an "arm's length transaction" means a sale entered into in good faith and for valuable consideration 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)c "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 4. Chapter 50A of the Santa Barbara County Code, titled "Tax on Cannabis Operations," Section 50A-5, Tax due dates and delinquencies, is hereby amended and shall read as follows:

Sec. 50A-5. Tax due dates and delinquencies.

The cannabis operations gross receipts **and/or square footage** 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 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 days following the date on which the remittance first became delinquent shall pay a second delinquency amount of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent amount first imposed upon the original delinquency.
- (d) Cancellation of Delinquency Amounts **and Interest**. The treasurer-tax collector may cancel the original delinquency and/or continued delinquency amounts **and interest** 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 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 5. Except as amended by this Ordinance the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION 6. 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 Board of Supervisors hereby declares that it 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 7:

Pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15378(b)(4), adoption of this 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 8:

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

SECTION 9:

The tax on cannabis operations imposed by this ordinance is a general tax within the meaning of Government Code Section 53721 and Article XIII C, Section 1 (a) of the California Constitution. The revenue generated by this general tax is available for general government use and purposes. The tax will remain in effect unless and until repealed.

SECTION 10:

This Ordinance shall take effect immediately upon approval of a majority of the votes cast by voters voting upon the Ordinance at the November 5, 2024 election. The Ordinance shall become operative on July 1, 2025. 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 _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By _____
Deputy Clerk

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
BETSY SCHAFFER
AUDITOR-CONTROLLER

By _____
Deputy County Counsel
