

ORDINANCE NO. 2018-22

(Cannabis Business Tax)

The people of the County of Contra Costa ordain as follows:

SECTION I. Chapter 64-16 is added to the Contra Costa County Ordinance Code, to read:

**Chapter 64-16
CANNABIS BUSINESS TAX**

Article 64-16.2

General

64-16.202 Title. This chapter is known as the Contra Costa County Cannabis Business Tax Ordinance. (Ord. 2018-22, § 1.)

64-16.204 General Tax. The tax imposed by this chapter is a general tax under Article XIII C of the California Constitution. The tax imposed by this chapter is enacted solely for general governmental purposes and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the County's general fund and used for general governmental purposes. (Ord. 2018-22, § 1.)

64-16.206 Purpose and Applicability.

- (a) The purpose of this chapter is to impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products in the unincorporated area of the County, in accordance with the authority granted by Revenue and Taxation Code section 34021.5.
- (b) The tax imposed by this chapter is levied based upon gross receipts of commercial cannabis activities and upon square footage of cannabis plant canopy. It is not a sales and use tax, a tax upon income, or a tax upon real property.
- (c) The tax imposed by this chapter applies to all persons engaged in commercial cannabis activities in the unincorporated area of the County.
- (d) This chapter does not authorize the conduct of any activity in the County but provides for the taxation of the activities specified in this chapter as they occur. (Ord. 2018-22, § 1.)

64-16.208 Definitions.

- (a) Except as otherwise provided in subsection (b), the definitions set forth in Division 10 of the Business and Professions Code apply to this chapter.
- (b) For purposes of this chapter, the following words and phrases have the following meanings:
 - (1) "Commercial cannabis activity" means any activity, commercial or industrial enterprise, trade profession, occupation, vocation, calling, or livelihood, involving cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, of cannabis products or of ancillary products and accessories, whether or not carried on for gain or profit. The term "commercial cannabis activity" does not include the services rendered by an employee to his or her employer.
 - (2) "Canopy" has the meaning set forth in Title 3, California Code of Regulations, section 8000.
 - (3) "Cannabis business tax" means the tax due pursuant to this chapter for engaging in a commercial cannabis activity in the unincorporated area of the County.
 - (4) "Consumer Price Index" means the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Area (1982-84=100) as published by the United States Bureau of Labor Statistics.
 - (5) "Delivery retailer" means a retailer that conducts retail sales of cannabis or cannabis products exclusively through deliveries.
 - (6) "Employee" means each and every person engaged in the operation or conduct of a 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 the business for a wage, salary, commission, barter or any other form of compensation.
 - (7) "Engaged in a commercial cannabis activity" means the commencing, conducting, operating, managing or carrying on of a commercial cannabis activity, 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 these activities.
 - (8) "Fiscal year" means July 1 through June 30 of the following calendar year.
 - (9) "Gross receipts," except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, commission, dividend, or other designation,

the total amount (including all receipts, cash, credits 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 the 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. The following are excluded from gross receipts:

- (A) Cash discounts where allowed and taken on sales;
 - (B) Any tax required by law to be included in or added to the purchase price and collected from the purchaser;
 - (C) That 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;
 - (D) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used in the regular course of business;
 - (E) Cash value of sales, trades or transactions between departments or units of the same business;
 - (F) Whenever there are included within the gross receipts amounts that reflect sales for which credit is extended and those amounts proved uncollectible in a subsequent fiscal year, those amounts may be excluded from the gross receipts in the fiscal year they prove to be uncollectible; provided, however, if the whole or portion of those amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the fiscal year when they are recovered;
 - (G) Receipts of refundable deposits, except forfeited deposits in excess of one dollar that are taken into income of the business;
 - (H) 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.
- (10) "Mixed-light cultivation" has the meaning set forth in Title 3, California Code of Regulations, section 8000.

- (11) "Retailer" means a person engaged in the retail sale or delivery of cannabis or cannabis products to customers. A retailer may be a delivery retailer or a storefront retailer.
- (12) "Storefront retailer" means a retailer that conducts retail sales of cannabis or cannabis products in whole or in part at a facility that is open to the public.
- (13) "Vertically-integrated business" means a business that includes two or more of the following commercial cannabis activities: the retail sale of cannabis and cannabis products; commercial cannabis cultivation; manufacturing of cannabis products; and the distribution of cannabis or cannabis products. (Ord. 2018-22, § 1.)

Article 64-16.4

Cannabis Business Tax

64-16.402 Tax Imposed. A cannabis business tax is established and imposed at the rates set forth in this chapter. The cannabis business tax is levied on all persons engaged in a commercial cannabis activity. (Ord. 2018-22, § 1.)

64-16.404 Tax on commercial cannabis cultivation.

- (a) Beginning January 1, 2019, the tax rates on commercial cannabis cultivation are as follows:
 - (1) Seven dollars (\$7.00) per square foot of canopy space in a structure where indoor cultivation occurs.
 - (2) Four dollars (\$4.00) per square foot of canopy space in a structure where mixed-light cultivation occurs.
 - (3) Two dollars (\$2.00) per square foot of canopy space where outdoor cultivation occurs.
 - (4) One dollar (\$1.00) per square foot of canopy space in a facility that operates exclusively as a nursery.
- (b) For purposes of determining the tax imposed under this section, the square footage of canopy space is the maximum square footage of canopy space allowed by the County zoning permit authorizing the commercial cannabis cultivation activity. If a person engaged in commercial cannabis cultivation does not have a zoning permit issued by the County, then the square footage of canopy space is the greater of: (1) the maximum square footage of canopy space for commercial cannabis cultivation allowed by the state license type for the activity involved; or (2) the square footage of canopy space determined by the Treasurer-Tax Collector.

- (c) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on commercial cannabis cultivation to a rate equal to or above the minimum rate and up to the maximum rate, as adjusted by the Consumer Price Index pursuant to subsection (d) of this section. For commercial cannabis cultivation, the minimum rates and maximum rates are as follows:
- (1) A minimum of seven dollars (\$7.00) per square foot of canopy space and a maximum of ten dollars (\$10.00) per square foot of canopy space in a structure where indoor cultivation occurs.
 - (2) A minimum of four dollars (\$4.00) per square foot of canopy space and a maximum of seven dollars (\$7.00) per square foot of canopy space in a structure where mixed-light cultivation occurs.
 - (3) A minimum of two dollars (\$2.00) per square foot of canopy space and a maximum of four dollars (\$4.00) per square foot of canopy space where outdoor cultivation occurs.
 - (4) A minimum of one dollar (\$1.00) per square foot of canopy space and a maximum of two dollars (\$2.00) per square foot of canopy space in a facility that operates exclusively as a nursery.
- (d) On July 1, 2021, and on each July 1 thereafter, the maximum annual tax rate per square foot of each type of canopy space shall automatically increase by a percentage equal to the percentage increase of the Consumer Price Index measured between January 1 of the calendar year immediately preceding the increase and January 1 of the calendar year of the increase. No Consumer Price Index adjustment resulting in a decrease of any tax shall be made. (Ord. 2018-22, § 1.)

64-16.406 Tax on cannabis distribution.

- (a) Beginning January 1, 2019, the tax rate on cannabis distribution is two percent (2%) of gross receipts.
- (b) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on cannabis distribution to a rate equal to or above the minimum rate and up to the maximum rate. For cannabis distribution, the minimum tax rate is two percent (2%) of gross receipts and the maximum tax rate is three percent (3%) of gross receipts. (Ord. 2018-22, § 1.)

64-16.408 Tax on cannabis manufacturing.

- (a) Beginning January 1, 2019, the tax rate on cannabis manufacturing is two and one-half percent (2.5%) of gross receipts.
- (b) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on cannabis manufacturing to a rate equal to or above the

minimum rate and up to the maximum rate. For cannabis manufacturing, the minimum tax rate is two and one-half percent (2.5%) of gross receipts and the maximum tax rate is four percent (4%) of gross receipts. (Ord. 2018-22, § 1.)

64-16.410 Tax on cannabis retailers.

- (a) Beginning January 1, 2019, the tax rate on cannabis retailers is four percent (4%) of gross receipts.
- (b) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on cannabis retailers to a rate equal to or above the minimum rate and up to the maximum rate. For cannabis retailers, the minimum tax rate is four percent (4%) of gross receipts and the maximum tax rate is six percent (6%) of gross receipts. (Ord. 2018-22, § 1.)

64-16.412 Tax on cannabis testing laboratories.

- (a) Beginning January 1, 2019, the tax rate on cannabis testing laboratories is zero percent (0%) percent of gross receipts.
- (b) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on cannabis testing laboratories to a rate equal to or above the minimum rate and up to the maximum rate. For cannabis testing laboratories, the minimum tax rate is zero percent (0%) of gross receipts and the maximum tax rate is two and one-half percent (2.5%) of gross receipts. (Ord. 2018-22, § 1.)

64-16.414 Tax on vertically-integrated businesses.

- (a) Beginning January 1, 2019, the tax rate on vertically-integrated businesses engaged in retail sales is four percent (4%) of gross receipts.
- (b) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on vertically-integrated businesses engaged in retail sales to a rate equal to or above the minimum rate and up to the maximum rate. For vertically-integrated businesses engaged in retail sales, the minimum tax rate is four percent (4%) of gross receipts and the maximum tax rate is six percent (6%) of gross receipts.
- (c) Beginning January 1, 2019, the tax rate on vertically-integrated businesses not engaged in retail sales is two and one-half percent (2.5%) of gross receipts.
- (d) The Board of Supervisors may, in its discretion, by ordinance, adjust the rate of the cannabis business tax imposed on vertically-integrated businesses not engaged in retail sales to a rate equal to or above the minimum rate and up to the maximum rate. For vertically-integrated businesses not engaged in retail sales, the minimum tax rate is two and one-half percent (2.5%) of gross receipts and the maximum tax rate is four percent (4%) of gross receipts. (Ord. 2018-22, § 1.)

64-16.416 Personal Cultivation Not Taxed. This chapter does not apply to personal cultivation, as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act. This chapter does 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 for which a person receives no compensation whatsoever related to that personal use. (Ord. 2018-22, § 1.)

Article 64-16.6

Administration and Enforcement

64-16.602 Reporting and Remittance of Cannabis Business Tax.

- (a) The cannabis business tax is due and payable in legal tender and in accordance with Revenue and Taxation Code section 2501 et seq. The cannabis business tax is due and payable on a quarterly basis as follows:
 - (1) Each person owing a tax under this chapter shall, on or before the last day of the month following the close of each calendar quarter, complete and submit to the Treasurer-Tax Collector a tax statement and remit to the Treasurer-Tax Collector the tax due. The tax due is no less than the quarterly installment due, but a person may at any time pay the estimated tax due for the entire fiscal year. The tax is due on or before the last day of the month following the close of that calendar quarter (i.e., on or before April 30, July 31, October 31, or January 31, as applicable). Any deficiencies of the estimated tax due must be remitted before the last day of the month following the calendar quarter in which the deficiency existed to avoid penalties.
 - (2) If a tax is owed on commercial cannabis cultivation, the tax due shall be determined in accordance with section 64-16.404(b). The tax will not be prorated or adjusted for any reduction in the square footage of canopy authorized but not utilized for cultivation. If cultivation begins in the middle of a fiscal year, the Treasurer-Tax Collector will prorate, in monthly increments, the amount due for the fiscal year.
- (b) All cannabis business tax statements must be completed on the forms designated by the Treasurer-Tax Collector.
- (c) Tax statements and payments for all outstanding taxes owed by a commercial cannabis activity are immediately due to the Treasurer-Tax Collector if the commercial cannabis activity ceases operating for any reason.
- (d) If any person, while liable for any cannabis business tax, sells, assigns or otherwise transfers ownership or control of a commercial cannabis activity, whether voluntarily or involuntarily ("transferor"), the person receiving ownership or control of that commercial cannabis activity ("transferee") shall do both of the following within five days after the effective date of the change in ownership or control: (1) notify the Treasurer-Tax

Collector of the change in ownership or control; and (2) pay the amount of cannabis business tax due, including all penalties and interest assessed on the tax. Notwithstanding the foregoing, and unless otherwise provided by law, upon the transfer of ownership of a cannabis business, the transferor and transferee are jointly and severally liable for any cannabis business tax due as of the date the Treasurer-Tax Collector receives notice of the transfer, and all remedies available to the Treasurer-Tax Collector may be sought against both the transferor and the transferee.

- (e) The Treasurer-Tax Collector may, at his or her discretion, establish shorter payment periods for any person 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 requirements concerning the form of payment and take other administrative actions as needed to facilitate collection of the tax.
- (g) Whenever any payment, statement, report, request, or other communication is due, it must be received by the Treasurer-Tax Collector on or before the due date. A postmark will not be accepted as timely remittance. If the due date falls on a Saturday, a Sunday, or a holiday, the due date is the next regular business day on which the County is open to the public. (Ord. 2018-22, § 1.)

64-16.604 Delinquent Payments.

- (a) A cannabis business tax statement and payment is delinquent if not received by the Treasurer-Tax Collector by the due date. Partial payments are not accepted.
- (b) Any person who fails to timely pay the cannabis business tax shall pay penalties and interest as follows:
 - (1) If the cannabis business tax is not paid by the due date, the person shall pay a penalty equal to ten percent (10%) of the unpaid cannabis business tax.
 - (2) If the cannabis business tax and any associated interest and penalties remain unpaid for more than 30 days after the due date, the person shall pay an additional penalty of twenty-five percent (25%) of the unpaid tax, plus interest at the rate of one and one-half percent (1.5%) per month on the unpaid tax.
 - (3) Interest will continue to accrue monthly on the unpaid tax until the balance is paid in full.
- (c) If a check or electronic payment is submitted in payment of the cannabis business tax and the payment is subsequently reversed or returned unpaid by the bank for any reason, the taxpayer shall be liable for the tax due, a returned check fee, and the amount of all penalties and interest assessed for late payment of the cannabis business tax.

- (d) Any penalty or interest imposed under this chapter shall become part of the tax required to be paid. (Ord. 2018-22, § 1.)

64-16.606 Refunds.

- (a) A tax collected pursuant to this chapter will not be refunded except as provided in subsection (b) of this section.
- (b) A cannabis business tax that was overpaid or erroneously collected by the County may be refunded to the person who paid the tax if the person files a written claim for a refund with the Treasurer-Tax Collector within 90 days of the later of: (1) the date the tax was originally due and payable; and (2) the date the tax was paid.
- (c) The Treasurer-Tax Collector will send written notice of the determination on the refund claim.
- (d) A person who disputes a determination on a refund claim may request a hearing pursuant to section 64-16.612 by filing a written request for hearing with the Treasurer-Tax Collector within 15 days after the date of the notice of determination. (Ord. 2018-22, § 1.)

64-16.608 Administration by the Treasurer-Tax Collector.

- (a) A commercial cannabis activity shall, before beginning operations, register with the Treasurer-Tax Collector, and provide information regarding the commercial cannabis activity as required by the Treasurer-Tax Collector, including: (1) the name and address for the commercial cannabis activity; (2) a description of the type of commercial cannabis activity to be conducted; (3) the name and telephone number of an individual with responsibility for reporting information to governmental authorities for the commercial cannabis activity; and (4) copies of all permits issued by the County and the State of California. If any of the foregoing information changes, the commercial cannabis activity shall promptly notify the Treasurer-Tax Collector of the changes.
- (b) The Treasurer-Tax Collector may from time to time promulgate administrative rules and procedures necessary to implement this chapter or aid in its enforcement, including procedures for tax apportionment pursuant to section 64-16.616 and creating and providing forms for reporting the cannabis business tax.
- (c) The Treasurer-Tax Collector may take any administrative actions needed to administer and collect the cannabis business tax, including but not limited to:
 - (1) Determining the amount of cannabis business taxes owed by commercial cannabis activities;
 - (2) Receiving all cannabis business taxes remitted to the County;
 - (3) Determining penalties and interest for delinquent cannabis business taxes;

- (4) Maintaining records of cannabis business tax returns and taxes collected;
- (5) Verifying or determining the square footage of canopy space; and
- (6) Determining which products constitute cannabis products. (Ord. 2018-22, § 1.)

64-16.610 Audit, Assessment, and Deficiency Determination.

- (a) The Treasurer-Tax Collector or designee is authorized to audit and examine all books and records of commercial cannabis activities and of persons having ownership or control of commercial cannabis activities, including state and federal income tax returns, state sales tax returns, bank records, permits, accounting records, employment records, evidence documenting the gross receipts of the cannabis business, and goods and equipment used in the commercial cannabis activity, for the purpose of ascertaining the amount of gross receipts and the amount of cannabis business tax due and for the purpose of verifying the accuracy of any forms submitted to the Treasurer-Tax Collector. If the commercial cannabis activity refuses or fails to make available all requested materials, the Treasurer-Tax Collector may, after full consideration of all information within his or her knowledge concerning the commercial cannabis activity, issue a notice assessment of cannabis business tax due. The Treasurer-Tax Collector may collect a fee adopted by the Board of Supervisors to pay for the cost of an audit if the books and records provided were insufficient to allow the Treasurer-Tax Collector to accurately determine the amount of cannabis business tax due.
- (b) The Treasurer-Tax Collector may issue a notice of assessment of the amount of cannabis business tax, penalties and interest owed by a person at any time within three years after the due date if the person: (1) has not correctly computed the amount of cannabis tax due; (2) has not filed a complete cannabis business tax statement; (3) has not paid the cannabis business tax, penalties, and interest due; (4) has not filed a corrected cannabis business tax statement after demand by the Treasurer-Tax Collector; or (5) has not provided adequate substantiation of the information contained in the cannabis business tax statement after demand by the Treasurer-Tax Collector.
- (c) If the Treasurer-Tax Collector determines that the nonpayment of any cannabis business tax is due to fraud, a penalty shall be imposed that is equal to twenty-five percent (25%) of the amount of the cannabis business tax owed for the period in which the amount of tax due was underreported. This penalty is in addition to interest and penalties assessed for delinquent taxes.
- (d) A person who disputes the amount of cannabis business tax, penalties, and interest assessed may request a hearing pursuant to section 64-16.612 by filing a written request for hearing with the Treasurer-Tax Collector within 15 days after the notice of assessment. (Ord. 2018-22, § 1.)

64-16.612 Hearing on Disputed Amounts.

- (a) A request for hearing must be in writing and timely filed. If a request for hearing is timely filed, the Treasurer-Tax Collector will schedule a hearing and give written notice of the hearing date, time, and location to the person who paid the tax. If a request for hearing is not timely filed, the tax assessed by the Treasurer-Tax Collector is final and conclusive.
- (b) After the hearing, the Treasurer-Tax Collector will give written notice of the final determination of the amount of cannabis business tax, penalties, and interest due. Any delinquent cannabis business tax shall continue to accrue penalties and interest until it is paid in full, as set forth in the notice of determination. Any taxes, penalties, or interest found by the Treasurer-Tax Collector to have been assessed in error will be refunded.
- (c) The decision of the Treasurer-Tax Collector is final and conclusive. A person who contends the Treasurer-Tax Collector's final decision is erroneous may, after paying all taxes, penalties, and interest due, file an action in the Superior Court of Contra Costa County in accordance with California Code of Civil Procedure section 1094.5. (Ord. 2018-22, § 1.)

64-16.614 Enforcement.

- (a) Any cannabis business tax, interest, and penalties required to be paid under this chapter shall be deemed a debt owed to the County. Any person owing money to the County under this chapter shall be liable in an action brought in the name of the County for the recovery of the debt. The provisions of this section shall not be deemed a limitation upon the right of the County to bring any other action, including criminal, civil, and equitable actions, based upon the failure to pay the cannabis business tax, interest, and penalties assessed or to otherwise comply with the provisions of this chapter, or any other state or local law.
- (b) In addition to any other remedies available under federal, state, or local law, if any cannabis business tax, interest or penalties are delinquent, the Treasurer-Tax Collector may, within three years after the amount is due, record a certificate of lien specifying the amount of cannabis business taxes, interest, and penalties due, and identifying the names and last known addresses of the persons responsible for payment. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this chapter in determining the amount required to be paid. From the time of filing the certificate of lien, the amount of cannabis business taxes, interest, and penalties due shall constitute a lien upon all real property in the County owned or subsequently acquired by the persons responsible for payment of the delinquent tax. The lien shall have the force, effect, and priority of a judgment lien and shall continue for ten years from the date of recording unless sooner released or otherwise discharged.
- (c) At any time within three years after any person is determined by the Treasurer-Tax Collector to be delinquent in the payment of cannabis business tax, or within three years

after the last recording of a certificate of lien for delinquent cannabis business tax, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any delinquent cannabis business tax, including interest and penalties assessed thereon. The warrant shall be directed to the Sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy and sale pursuant to a writ of execution under Code of Civil Procedure section 699.010 et seq.

- (d) At any time within three years after the last recording of a certificate of lien for delinquent cannabis business tax, if the lien is not discharged and released in full, the Treasurer-Tax Collector may seize any asset or property, real or personal (including bank accounts), of the commercial cannabis activity and sell at public auction the asset or property, or a sufficient part of it to pay the amounts due, including all interest and penalties and any costs incurred to collect the delinquent cannabis business tax. Assets exempt from execution under Code of Civil Procedure section 699.720 are exempt from any action to enforce the cannabis business tax.
- (e) All remedies and penalties prescribed by this chapter or that are available under the County Ordinance Code or any other provision of law or equity are cumulative. The use of one or more remedies by the County does not constitute a waiver or bar the use of any other remedy for the purpose of enforcing the provisions of this chapter. (Ord. 2018-22, § 1.)

64-16.616 Apportionment, Compliance with Law, Fees.

- (a) If a commercial cannabis activity operates both within and outside the unincorporated area of the County, it is the intent of the County to apply this chapter so that the tax fairly reflects the proportion of the activity actually carried on in the unincorporated area of the County. For purposes of apportionment as may be required by law, the Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with state law and is authorized to obtain any necessary information from the commercial cannabis activity for this purpose, including financial records pertaining to activities outside the unincorporated area of the County.
- (b) It is the intent of the County to apply this chapter in a manner consistent with the United States and California Constitutions and state law. The tax authorized by this chapter will not 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 United States or California Constitution, or a violation of any other provision of state law.
- (c) Nothing 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 under any other provision of the County Ordinance Code or state law. Nothing contained in this chapter shall be deemed to affect any tax, interest, penalty, fee, or other charge imposed under any other provision of the County Ordinance Code or state law.

- (d) Payment of the tax authorized by this chapter, and the County's acceptance of the tax, does not entitle a person to conduct a commercial cannabis activity unless that person has complied with all requirements of the County Ordinance Code and applicable state law. Payment of the tax authorized by this chapter, and the County's acceptance of the tax, does not authorize the conduct or continuance of any illegal or unlawful activities.
- (e) Fees charged by the Treasurer-Tax Collector will be in accordance with a fee schedule adopted by the Board of Supervisors. (Ord. 2018-22, § 1.)

64-16.618 Amendment or Repeal.

- (a) This chapter may be repealed or amended by the Board of Supervisors without a vote of the people to the extent allowed by law. Voter approval is required for any amendment that would increase the rate of any tax levied under this chapter, as required by Article XIII C of the California Constitution.
- (b) The following actions do not constitute an increase of the rate of a tax:
 - (1) Adjustment of the tax rate to a rate that is no higher than the maximum rate set by this chapter, as adjusted by the Consumer Price Index in accordance with the terms of this chapter;
 - (2) An action that interprets or clarifies the methodology of the tax or any definition under this chapter, so long as the interpretation or clarification, even if contrary to a prior interpretation or clarification, is not inconsistent with the language of this chapter;
 - (3) The automatic adjustment of the maximum rate by the Consumer Price Index as provided in this chapter; and
 - (4) The collection of the tax imposed by this chapter even if the County, for some period of time, failed to collect the tax. (Ord. 2018-22, § 1.)

SECTION II. Severability. If any provision of this ordinance or its application to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, that invalidity or unconstitutionality shall not affect any other provisions or applications of this ordinance, and to this end the provisions of this ordinance are declared to be severable. The people of the County of Contra Costa hereby declare that they would have adopted this ordinance, and each section, subsection, clause, phrase, part, or portion of this ordinance, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts, or portions of this ordinance be declared invalid or unconstitutional.

SECTION III. Effective Date. The Board of Supervisors passed this ordinance on July 24, 2018, and approved submitting this ordinance to the voters at an election to be held on November 6, 2018. Within 15 days after passage by the Board of Supervisors, this ordinance shall be published in a manner satisfying the requirements of Government Code Section 25124, with the names of supervisors voting for and against it. If approved by a majority of the voters

voting on the ordinance at an election on November 6, 2018, this ordinance shall take effect immediately, pursuant to Elections Code section 9141.

PASSED by the Board of Supervisors by the following vote:

AYES: Gioia, Andersen, Burgis, Mitchoff, Glover

NOES: None

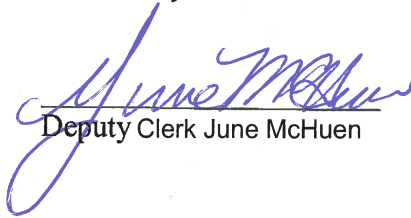
ABSENT: None

ABSTAIN: None

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator


Board Chair Karen Mitchoff

By:


Deputy Clerk June McHuen

[SEAL]

TLG:

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