

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE VI. OF CHAPTER 18 LAKE COUNTY CODE TO INCLUDE ENFORCEMENT MEASURES AND ASSOCIATED DUE PROCESS REQUIREMENTS FOR CANNABIS CULTIVATION RELATED TAXES

WHEREAS, it is the desire of the County of Lake Board of Supervisors to establish a common framework of cannabis cultivation related taxes____; and

WHEREAS, Revenue and Taxation Code Section 34021.5 authorizes the County to impose a tax on the cultivation of cannabis; and

WHEREAS, the purpose of the Cannabis Cultivation Tax Ordinance is to impose a tax on cannabis cultivation operations which occur in the unincorporated areas of the County of Lake.

WHEREAS, it is the desire of the County to ensure that the cannabis cultivation tax provisions taxing such activities are both comprehensive and readily understood; and

WHEREAS, the Lake County Board of Supervisors desires to amend the Lake County Cannabis Cultivation Tax Ordinance to address _ cannabis cultivation related taxes ____in an amended article of the Lake County Ordinance designated for that sole purpose; and

WHEREAS, on _____, 2025, the Board of Supervisors conducted a duly-noticed public hearing on the ordinance amendment _____.

NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE ORDAINS AS FOLLOWS:

Section One: Section 18-49 of Article VI of Chapter Eighteen of the Lake County Code is hereby amended to read as follows:

"Sec. 18-49. Definitions.

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

"Cultivation" means the germinating, cloning, seed production, planting, growing, and harvesting of cannabis plants and the on-site drying, curing, grading, or trimming of cannabis plants.

"Cultivation site" means the sum of the area(s) of cannabis cultivation as measured around the perimeter of each discrete area of cannabis cultivation on a single premises, as defined herein.

"Indoor Cultivation" means the cultivation of cannabis in permanent structures using exclusively artificial light sources.

"Legally-Authorized Cannabis Cultivation" means cannabis cultivation performed in compliance with local and state laws and regulations. Following passage of Proposition 64 in 2016, legally-authorized cannabis cultivation at the State and County level includes:

- i. Medical cannabis cultivation;
- ii. Commercial or Recreational cannabis cultivation.

"Mixed Light Cultivation" means the cultivation of cannabis which involves the use of a combination of natural and supplemental artificial lighting at a maximum threshold as determined by the Department of Food and Agriculture.

"Outdoor Cultivation" means the cultivation of cannabis using no artificial light of any kind.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, cooperative, collective, syndicate, or any group or combination thereof acting as a unit, and includes the plural as well as the singular number.

"Personal Use" means cultivation of medical cannabis under one (1) of the following two (2) conditions:

- a. Cultivation of medical cannabis by an individual in an area which does not exceed one hundred (100) square feet if cultivated for his/her Personal use and which is not sold, distributed, donated, or provided to any other Person or entity; or
- b. Cultivation of medical cannabis by a primary caregiver if the cultivation site does not exceed five hundred (500) square feet and he/she cultivates cannabis exclusively for the Personal use of no more than five (5) specified qualified patients for whom he/she is the primary caregiver.

"Premises" means a legal parcel compliant with the Subdivision Map Act, or leasehold interest in agricultural land for agricultural purposes of outdoor, mixed-light, or indoor cultivation or processing of cannabis, or leased or owned space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture or distribution of cannabis."

Section Two: Sections 18-60.1 through 18-60.9 of Article VI of Chapter Eighteen of the Lake County Code are hereby added to read as follows:

"Sec. 18-60.1 Waiver of penalties and interest.

The Treasurer-Tax Collector may waive interest accrued, and the first and second penalties of twenty five percent (25%) each imposed upon any Person owing penalties or interest if all the following are met:

- (a) 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 the ordinary care and the absence of willful neglect, and
- (b) The Person paid the delinquent tax owed the county prior to applying to the Treasurer-Tax Collector for a waiver.

~~Sec. 18-60.2 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 commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in 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.~~

Sec. 18-60.23 Enforcement—Action to collect.

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

- (b) In addition to any other remedies available under federal, state, or local law, if any

amount required to be paid to the County under this chapter is not paid when due, the Treasurer-Tax Collector may, within three (3) years after the amount is due, record a certificate of lien specifying the amount of taxes, fees, penalties, and interest due, and the name and address of the Person as it appears on the records of Treasurer-Tax Collector. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest thereon, constitutes a lien upon all real property in the county owned by the Person, or subsequently acquired by the Person before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the certificate unless sooner released or otherwise discharged. A fee may be adopted by the Board of Supervisors and collected by the Treasurer-Tax Collector to pay for the cost of recording and administering the lien.

(c) At any time within three (3) years after any Person is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under subsection (b) of this section, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the county under this chapter. The warrant shall be directed to 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. The Treasurer-Tax Collector may pay or advance to the Sheriff, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The Treasurer-Tax Collector may approve the fees for publication in the newspaper.

(d) At any time within three (3) years after recording a lien against any Person, if the lien is not discharged and released in full, the Treasurer-Tax Collector may forthwith seize any asset or property, real or Personal (including bank account), of the Person and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the Person subject to seizure and sale subject to this chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

Sec. 18-60.34 Deficiency determinations.

If the Treasurer-Tax Collector is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a Person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the Person concerned in the same manner as notices of assessment are given under Sections 18-60.5 and 18-60.6 of this Chapter.

Sec. 18-60.45 Failure to report—Nonpayment.

(a) Under any of the following circumstances, the Treasurer-Tax Collector may make and

give notice of an assessment of the amount of tax owed by a Person under this chapter at any time:

- (1) If the Person has not filed a complete statement required under the provisions of this chapter;
- (2) If the Person has not paid the tax due under the provisions of this chapter;
- (3) If the Person has not, after demand by the Treasurer-Tax Collector, filed a corrected statement, or furnished to the Treasurer-Tax Collector adequate substantiation of the information contained in a statement already filed; or
- (4) If the Person has not paid any additional amount of tax due under the provisions of this chapter.

(b) The Notice of Assessment shall separately set forth the amount of any tax known by the Treasurer-Tax Collector to be due or estimated by the Treasurer-Tax Collector, after consideration of all information within the Treasurer-Tax Collector's knowledge concerning the business and activities of the Person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the Notice of Assessment.

Sec. 18-60.56 Notice of tax assessment—Notice requirements, Service.

The notice of Assessment prescribed in Section 18-60.5 shall be served upon the Person by personal delivery, or electronic mail addressed to the Person at the electronic mail address he or she shall register with the Treasurer-Tax Collector for the purpose of receiving notices provided under this chapter, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the Person at the address of the location of the business or to such other address as he or she shall register with the Treasurer-Tax Collector for the purpose of receiving notices provided under this chapter; or, should the Person have no address registered with the Treasurer-Tax Collector for such purpose, then to such Person's last known address or electronic mail address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail. For purposes of this section, a service by electronic mail is complete at the time of transmission of the electronic mail.

Sec. 18-60.67 Tax assessment—Appeal of Tax Assessment.

(a) Within ten (10) business days after the date of service of the Notice of Assessment, the Person may apply in writing to the Treasurer-Tax Collector for a review of the assessment. If application for review of the assessment is not made within the time herein prescribed, the tax assessed by the Treasurer-Tax Collector shall become final and conclusive.

(b) At the time of submission of a request for review on the assessment, the Person may submit any written evidence or argument and supporting documentation as to why the tax, including any penalties and interest, as assessed should not be confirmed and fixed as the tax due. All written evidence and arguments shall be signed under penalty of perjury.

(c) Within forty-five (45) business days of the receipt of the written evidence and argument, the Treasurer-Tax Collector shall review the proffered evidence and either confirm the amount of tax due or reassess the proper tax to be charged.

(d) The Treasurer-Tax Collector shall give written notice to the Person of the determination in the manner prescribed in Section 18-60.6 for giving Notice of Assessment. The amount determined to be due shall be payable within thirty (30) calendar days of mailing of written notice unless an appeal is filed with the Board of Supervisors.

Sec. 18-60.78 Appeal from Treasurer-Tax Collector determination—Filing.

Any Person may file an appeal of the decision of the Treasurer-Tax Collector with respect to the

amount of tax, interest, penalties and fees, if any, due under this Chapter. A Person may appeal to the Board of Supervisors by filing a request for appeal in writing within ten (10) business days of the serving or mailing by the Treasurer-Tax Collector of the determination of tax due as reassessed under Section 18-60.7 of this Chapter.

Sec. 18-60.89 Appeal hearing—Notice.

Upon a Person's filing of an appeal as provided in Section 18-60.8 of this Chapter, the Treasurer-Tax Collector shall fix a time and place for hearing such appeal, and shall give notice in writing to the appealing Person in the manner prescribed in Section 18-60.6."

Section Three: The Board of Supervisors independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As a series of Municipal Code text amendments, it can be seen with certainty that there is no possibility that the proposed action may result in a significant effect on the environment, and the proposed revisions to the Municipal Code are exempt from further review under CEQA.

Section Four: All ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section Five: This Ordinance shall take effect on the _____ day of _____, 2025 and within fifteen (15) days after its passage. The Clerk of the Board of Supervisors shall publish the adopted ordinance with the names of the Board Members and their votes at least once in a newspaper of general circulation printed and published in the County of Lake.

The foregoing Ordinance was introduced before the Board of Supervisors on the day of _____, 2025 and passed by the following votes on the _____ day of _____ 2025.

ATTEST: SUSAN PARKER
Clerk to the Board of Supervisors

COUNTY OF LAKE
Chair of the Board of Supervisors

By: _____

By: _____

APPROVED AS TO FORM
LLOYD GUINTIVANO
County Counsel

By: _____