

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF LAKE, STATE OF CALIFORNIA, ADDING
ARTICLE VII (CANNABIS BUSINESS TAX) TO CHAPTER 18 OF THE
LAKE COUNTY CODE

THE PEOPLE OF THE COUNTY OF LAKE DO ORDAIN AS FOLLOWS:

SECTION ONE: Article VII of the Lake County Code shall be added to Chapter 18 to read as follows:

"ARTICLE VII. CANNABIS BUSINESS TAX

Sec. 18-61. Title. This ordinance shall be known as the Cannabis Business Tax Ordinance.

Sec. 18-62. Purpose.

The purpose of this Ordinance is to adopt a tax, for revenue purposes, upon Cannabis Businesses that engage in business in the unincorporated area of the County of Lake. The Cannabis Business Tax is levied based upon business gross receipts and square footage of plant cultivation site. It is not a sales and use tax, a tax upon income, or a tax upon real property. The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the County and not for specific purposes. All of the proceeds from the tax imposed by this Article shall be placed in the County's general fund and be available for any legal local governmental purpose. Its purpose is to impose a tax on the privilege of conducting a cannabis business in the County, which includes but is not limited to, cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by commercial cannabis businesses in the unincorporated area of the County.

Sec. 18-63. Intent.

The intent of this Ordinance is to levy a tax on all Cannabis Businesses that operate in the unincorporated areas of the County in accordance with the authority granted by California Revenue and Taxation Code section 7284 to impose a business license tax, regardless of whether such business would have been licensed by the State of California at the time this

Ordinance was adopted, to specify the type of tax and rate of tax to be levied and the method of collection, and to comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue. Nothing in this Ordinance shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

Sec. 18-64 Definitions.

The following words and phrases shall have the meanings set forth below when used in this Article:

A. "Business" shall include all activities 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.

B. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.

C. "Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

D. "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, packaged, stored, or trimmed or that does all or any combination of those activities.

1 E. "Cannabis business" means any business activity involving cannabis, including but not limited
2 to cultivating, transporting, distributing, manufacturing, compounding, converting, processing,
3 preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of
4 cannabis, of cannabis products or of ancillary products and accessories, whether or not carried
5 on for gain or profit.

6 F. "Cannabis business tax" or "business tax," means the tax due pursuant to this Article for
7 engaging in cannabis business in the unincorporated area of the County and includes the existing
8 tax described as a cannabis operations tax previously approved by the voters in 2016 and
9 implemented by Lake County Ordinance No. 3073.

10 G. "Commercial cannabis cultivation" means cultivation in the course of conducting a cannabis
11 business.

12 G.1. "Cannabis indoor cultivation" means the cultivation of cannabis using light
13 deprivation and/or artificial lighting below a rate of 25 watts per square foot.

14 G.2. "Cannabis mixed light cultivation" means the cultivation of cannabis in a
15 greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light
16 deprivation and/or artificial lighting below a rate of 25 watts per square foot.

17 G.3. "Cannabis outdoor cultivation" means the cultivation of cannabis without the use of
18 light deprivation and/or artificial lighting. Supplemental low intensity lighting is permissible only
19 to maintain immature plants as a source of propagation. Cultivation within a greenhouse
20 without supplemental light is considered outdoor cultivation.

21 H "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing,
22 grading, or trimming of cannabis and includes the operation of a nursery.

23 I. "Delivery" means the commercial transfer of cannabis or cannabis products from a
24 dispensary.

25 J. "Dispensary" means an adult-use retailer and includes, but is not limited to, a facility where
26 cannabis, cannabis products, or devices for the use of cannabis or cannabis products are
27 offered, either individually or in any combination, for retail sale, including a person that delivers
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1 cannabis and cannabis products as part of a retail sale. Where a dispensary performs its
2 functions through a technology platform of any type or character, the technology platform shall
3 also be deemed a dispensary for purposes of this chapter, and shall have the same duties and
4 liabilities as the principal. Compliance with the provisions of this Article by either the principal
5 or the technology platform shall, however, be considered compliance by both.

6 K. "Distributor" or "distribution", "distribution facility", "transporter", or "transportation facility"
7 means a person involved in the procurement, sale, and/or transport of cannabis and cannabis
8 products between two (2) or more cannabis businesses.

9 L. "Employee" means each and every person engaged in the operation or conduct of any
10 business, whether as owner, member of the owner's family, partner, associate, agent, manager
11 or solicitor, and each and every other person employed or working in such business for a wage,
12 salary, commission, barter or any other form of compensation.

13 M. "Engaged in business as a cannabis business" means the has obtained the County-required
14 permitting and/or licensing for, commencing, conducting, operating, managing or carrying on of
15 a cannabis business, whether done as owner, or by means of an officer, agent, manager,
16 employee, or otherwise, whether operating from a fixed location in the unincorporated area of
17 the County or coming into the County from an outside location to engage in such activities. A
18 person shall be deemed engaged in business within the unincorporated area of the County if:

- 19 1. Such person or person's employee maintains a fixed place of business within the
20 unincorporated area of the County for the benefit or partial benefit of such person;
- 21 2. Such person or person's employee owns or leases real property within the unincorporated
22 area of the County for business purposes;
- 23 3. Such person has obtained all necessary County and State permits and/or license for
24 cannabis business purposes;
- 25 4. Such person or person's employee regularly maintains a stock of tangible personal property
26 in the unincorporated area for sale in the ordinary course of business;
- 27 5. Such person or person's employee regularly conducts solicitation of business within the
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1 unincorporated area of the County; or

2 6. Such person or person's employee performs work or renders services in the County.

3 N. "Evidence of doing business" includes, but is not limited to, the use of signs, circulars, cards
4 or any other advertising media, including the use of internet or telephone solicitation, or
5 representation to a government agency or to the public that such person is engaged in a
6 cannabis business in the unincorporated area of the County.

7 O. "Fiscal year" means July 1 through June 30 of the following calendar year.

8 P. "Gross Receipts," except as otherwise specifically provided, means, whether designated a
9 sales price, royalty, rent, commission, dividend, or other designation, the total amount (including
10 all receipts, cash, credits and property of any kind or nature) received or payable for sales of
11 goods, wares or merchandise or for the performance of any act or service of any nature for
12 which a charge is made or credit allowed (whether such service, act or employment is done as
13 part of or in connection with the sale of goods, wares, merchandise or not), without any
14 deduction therefrom on account of the cost of the property sold, the cost of materials used,
15 labor or service costs, interest paid or payable, losses or any other expense whatsoever.

16 However, the following shall be excluded from Gross Receipts:

- 17 1. Cash discounts where allowed and taken on sales;
- 18 2. Any tax required by law to be included in or added to the purchase price and collected from
19 the consumer or purchaser;
- 20 3. Such part of the sale price of any property returned by purchasers to the seller as refunded
21 by the seller by way of cash or credit allowances or return of refundable deposits previously
22 included in gross receipts;
- 23 4. Whenever there are included within the gross receipts amounts which reflect sales for which
24 credit is extended and such amount proved uncollectible in a subsequent year, those amounts
25 may be excluded from the gross receipts in the year they prove to be uncollectible; provided,
26 however, if the whole or portion of such amounts excluded as uncollectible are subsequently
27 collected they shall be included in the amount of gross receipts for the period when they are
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1 recovered;

2 5. Receipts of refundable deposits, except that such deposits when forfeited and taken into
3 income of the business shall not be excluded when in excess of one dollar.

4 Q. "Lighting" means a source of light that is primarily used for promoting the biological process
5 of plant growth. Lighting does not include sources of light that primarily exist for the safety or
6 convenience of staff or visitors to the facility, such as emergency lighting, walkway lighting, or
7 light admitted via small skylights, windows or ventilation openings.

8 R. "Manufacturer" and "Manufacturing" means the production, preparation, processing,
9 labeling, packaging, propagation, or compounding of manufactured cannabis or cannabis
10 products either directly or indirectly or by extraction methods, or independently by means of
11 chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location
12 that packages or repackages cannabis or cannabis products or labels or re-labels its containers.

13 S. "Micro-Business means commercial cannabis activity falling under the category "Type
14 12--Microbusiness" in Section 26050 of the California Business and Professions Code.

15 T. "Nursery" means a facility or part of a facility that is used only for producing clones,
16 immature plants, seeds, and other agricultural products used specifically for the planting,
17 propagation, and cultivation of cannabis.

18 U. "Person" means an individual, firm, partnership, joint venture, association, corporation,
19 limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or
20 combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes
21 the plural as well as the singular number.

22 V. "Sale" means and includes any sale, exchange, or barter.

23 W. "State" means the State of California.

24 X. "State license," "license," or "registration" means a state license issued pursuant to California
25 Business & Professions Code Sections 19300, et seq. or other applicable state law.

26 Y. "Square foot" or "square footage" means the maximum amount of cannabis cultivation area
27 for commercial cannabis cultivation authorized by a county permit issued to a person engaging
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1 in commercial cannabis business, or by a state license in the absence of a county permit or
2 license, not deducting for unutilized square footage, and shall be the basis for the tax base for
3 cultivation.

4 Z. "Tax Administrator" means the County Administrative Officer or her/his designee who shall
5 be responsible for the initial development, operation, and maintenance of a program to
6 organize, structure, coordinate, and manage an administration process designed to assist the
7 Treasurer-Tax Collector in the collection of the cannabis business tax and to facilitate the
8 Treasurer-Tax Collector's tax collection processes. The position of Tax Administrator shall
9 continue until such time as the Board of Supervisors determines that sufficient administrative
10 structure and processes have been implemented and can be maintained to assist the
11 Treasurer-Tax Collector in the collection of these taxes pursuant to the statutory obligations of
12 that Office.

13 AA. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of medical
14 cannabis or medical cannabis products, (ii) offers no service other than such tests, (iii) sells no
15 products, excepting only testing supplies and materials, (iv) is accredited by an accrediting body
16 that is independent from all other persons involved in the medical cannabis industry in the state
17 and (v) is registered with the State Department of Public Health.

18 Sec. 18-65. Tax Imposed.

19 A. Commercial Cultivation - No Change Until On or After January 1, 2021.

20 No change in the tax rate imposed for commercial cannabis cultivation from those implemented
21 by Lake County Ordinance Number 3047 (Measure "C") shall be implemented on or before
22 January 1, 2021, as more fully explained in Sections 18-65 C and D herein. The following
23 restates and reaffirms those rates as provided in Lake County Ordinance Number 3047
24 (Measure "C"):

- 25 1. For outdoor cultivation, an annual tax of one dollar (\$1) per square foot of an outdoor
26 cultivation site;
- 27 2. For mixed-light cultivation, an annual tax of two dollars (\$2) per square foot of a mixed-light
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1 cultivation site;

2 3. For indoor cultivation, an annual tax of three dollars (\$3) per square foot of an indoor
3 cultivation site.

4 B. All Other Commercial Cannabis Business

5 The following tax rates to imposed on all commercial cannabis business other than cultivation of
6 the type described hereinabove in Section 18-65 A, shall be effective until January 1, 2021, at
7 which time they may be subject to change within the limitations described in Section ____
8 herein:

9 1. For cultivation at a nursery, an annual tax of one dollar (\$1) per square foot of any
10 cultivation site at any nursery.

11 2. For persons engaged in the operation of a testing laboratory, an annual tax of zero percent
12 (0%) of gross receipts.

13 3. For every person who engages in the retail sales of cannabis as a dispensary,
14 micro-business, or delivery business, an annual tax four percent (4%) of gross receipts.

15 4. For every person who engages in a cannabis manufacturing, processing, transportation,
16 distribution or any other type of cannabis business not specifically described hereinabove but
17 referenced in section 18-64 herein, an annual tax of two and one-half percent (2.5%) of gross
18 receipts.

19 C. No Tax Rate Increase Above the Initial Rate until 2021. On or after January 1, 2021, the
20 County Board of Supervisors may, by resolution or ordinance, at an open and public meeting of
21 that Board, adjust annually each of the rates of the cannabis business tax enumerated in Section
22 18-65 A and B herein in no greater than increments of one dollar (\$1) per year. Excepting the
23 annual consumer price index increase provided in Section 18-65 E hereinbelow, no increases
24 in tax rates may occur which exceed the maximum tax amounts provided in Section 18-65 D,
25 unless or until approved by the eligible voters of Lake County.

26 D. Maximum Tax Rates Which May Be Imposed Beginning On or After January 1, 2021.

27 On or after January 1, 2021, as determined by the County Board of Supervisors in the manner
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described in Section 18-65 C hereinabove, the tax rates enumerated in Section 18-65 A and B herein are subject to annual increases as follows;

1. For outdoor cultivation, an annual tax rate increase may be imposed on or after January 1, 2021 of no more than one dollar (\$1) per square foot per year up to a maximum of four dollars (\$4) annually per square foot of an outdoor cultivation site;
2. For mixed-light cultivation, an annual tax rate increase may be imposed on or after January 1, 2021 of no more than one dollar (\$1) per square foot per year up to a maximum of seven dollars (\$7) annually per square foot of an outdoor cultivation site
3. For indoor cultivation, an annual tax rate increase may be imposed on or after January 1, 2021 of no more than one dollar (\$1) per square foot per year up to a maximum of ten dollars (\$10) annually per square foot of an outdoor cultivation site.
4. For cultivation at a nursery, an annual tax rate increase may be imposed on or after January 1, 2021 of no more than one dollar (\$1) per square foot per year up to a maximum of two dollars (\$2) annually.
5. For persons engaged in the operation of a testing laboratory, an annual tax increase may be imposed on or after January 1, 2021 of no more than two and one-half percent (2.5%) of gross receipts.
6. For every person who engages in the retail sales of cannabis as a dispensary, micro-business, or delivery business, an annual tax increase may be imposed on or after January 1, 2021 of no more than six percent (6%) of gross receipts.
7. For every person who engages in a cannabis manufacturing, processing, transportation, distribution or any other type of cannabis business not specifically described hereinabove but referenced in section 18-64 herein, an annual tax increase may be imposed on or after January 1, 2021 of no more than four percent (4%) of gross receipts.

E. Consumer Price Index (CPI). On July 1, 2020 and each July 1 thereafter, the maximum annual tax rate per square foot of each type of a cultivation site shall increase by the percentage change between January of the calendar year prior to such increase and January of the calendar

1 year of the increase in the Consumer Price Index ("CPI") for all urban consumers in the San
2 Francisco County area as published by the United States Government Bureau of Labor
3 Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this
4 subsection shall be made.

5 Sec. 18-66. Reporting and Payment of Tax.

6 A. The cannabis business tax imposed by this Article shall be paid, in arrears, on a quarterly
7 basis. For commercial cannabis cultivation, the tax due for each calendar quarter shall be based
8 on the square footage of the business's cultivation site space during the quarter and the rate shall
9 be 25% of the applicable annual rate. For all other cannabis businesses activities, the tax due
10 for each calendar quarter shall be based on the gross receipts for the quarter. Each person
11 owing a commercial cannabis business tax, and each person on whom a zero percent tax rate is
12 imposed, shall, on or before the last day of the month following the close of each fiscal year
13 quarter, prepare and submit a tax statement remitting to the Treasurer-Tax Collector the tax
14 due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any
15 time pay the tax due for the entire fiscal year. Each business shall pay on or before the last day
16 of the month following the close of each calendar quarter.

17 B. All tax statements shall be completed on forms prescribed by the Tax Administrator and
18 approved by the Treasurer-Tax Collector.

19 C. Tax statements and payments for all outstanding taxes owed the county are immediately due
20 to the Treasurer-Tax Collector upon cessation of business for any reason.

21 D. The Treasurer-Tax Collector may, at his or her discretion, establish shorter report and
22 payment periods for any taxpayer as deemed necessary to ensure collection of the tax. The
23 Treasurer-Tax Collector may also require that a deposit, to be applied against the taxes for a
24 calendar quarter, be made by a taxpayer at the beginning that calendar quarter. In no event
25 shall the deposit required exceed the tax amount he or she projects will be owed by the
26 taxpayer for the calendar quarter. The Treasurer-Tax Collector may require that a taxpayer
27 make payments via a cashier's check, money order, wire transfer, or similar instrument.
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1 Sec. 18-67. Timely Remittance of Tax Payments.

2 Whenever any payment, statement, report, request or other communication is due, it must be
3 received by the Treasurer-Tax Collector on or before the final due date. A postmark will not
4 be accepted as timely remittance. If the due date would fall on a Saturday, Sunday or a holiday,
5 the due date shall be the next regular business day on which the County is open to the public.

6 Sec. 18-68. Registration.

7 In order that the county will have an accurate record of parties for purposes of collecting the
8 cannabis business tax, prior to commencing business each person engaged in commercial
9 cannabis cultivation and commercial cannabis business shall register such cannabis business with
10 the Tax Administrator submitting any information deemed necessary by the Tax Administrator.

11 Sec. 18-69 Delinquent Taxes.

12 Unless otherwise specifically provided under other provisions of this Article, the taxes required
13 to be paid pursuant to this Article shall be deemed delinquent if not received by the
14 Treasurer-Tax Collector on or before the due date as specified in Section 18-66 hereinabove.

15 Sec. 18-70. Issuance of Notice by the County Not Required.

16 The Treasurer-Tax Collector is not required to send a delinquency or other notice or bill to any
17 person subject to the provisions of this Article. Failure to send such notice or bill shall not
18 affect the validity of any tax or penalty due under the provisions of this Article.

19 Sec. 18-71. Penalties and Interest.

20 A. Any person who fails or refuses to pay any cannabis business tax required to be paid
21 pursuant to this Article on or before the due date shall pay penalties and interest as follows:

22 1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of
23 the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one
24 percent (1.0%) per month.

25 2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an
26 additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at
27 the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties.

1 3. Interest shall be applied at the rate of one percent (1.0%) per month on the first day of the
2 month for the full month, and will continue to accrue monthly on the tax and penalty until the
3 balance is paid in full.

4 B. Whenever a check or electronic payment is submitted in payment of a cannabis business tax
5 and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will
6 be liable for the tax amount due plus any fees, penalties and interest as provided for in this
7 Section, and any other amount allowed under state law.

8 Sec. 18-72. Refunds and Credits.

9 A. No refund shall be made of any tax collected pursuant to this Article, except as authorized
10 by law.

11 B. No refund of any tax collected pursuant to this Article shall be made because of the
12 discontinuation, dissolution, or other termination of a business.

13 Sec. 18-73. Refunds.

14 A. Whenever the amount of any cannabis business tax, penalty or interest has been overpaid,
15 paid more than once, or has been erroneously collected or received by the County under this
16 Article, it may be refunded to the claimant who paid the tax provided that a written claim for
17 refund is filed with the Treasurer-Tax Collector within one (1) year of the date the tax was
18 originally due and payable.

19 B. The Tax Administrator, his or her designee or any other County officer charged with the
20 administration of this Article shall have the right to examine and audit all the books and business
21 records of the claimant in order to determine the eligibility of the claimant to the claimed refund.
22 No claim for refund shall be allowed if the claimant refuses to allow such examination of
23 claimant's books and business records after request by the Tax Administrator to do so.

24 C. In the event that the cannabis business tax was erroneously paid and the error is attributable
25 to the County, the County shall refund the amount of tax erroneously paid up to one (1) year
26 from when the error was identified.

27 Sec. 18-74. Personal Cultivation Not Taxed.

1 The provisions of this Article shall not apply to personal and/or caregiver cannabis cultivation as
2 defined in the "Medicinal and Adult Use Cannabis Regulation and Safety Act". This Chapter
3 shall not apply to personal use of cannabis that is specifically exempted from state licensing
4 requirements, that meets the definition of personal use or equivalent terminology under state
5 law, and for which the individual receives no compensation whatsoever related to that personal
6 use.

7 Sec. 18-75. Administration of the Tax.

8 A. It shall be the duty of the Treasurer-Tax Collector to collect the taxes, penalties, fees, and
9 perform the duties of that Office as required by this Article.

10 B. For purposes of administration and enforcement of this Article generally, the County Board
11 of Supervisors may from time to time promulgate such administrative interpretations, rules, and
12 procedures consistent with the purpose, intent, and express terms of this Article as that Board
13 deems necessary to implement or clarify such provisions or aid in enforcement.

14 C. With the approval of the Treasurer-Tax Collector, the Tax Administrator may take such
15 administrative actions as needed to administer the tax, including but not limited to:

- 16 1. Provide to all cannabis business taxpayers forms for the reporting of the tax;
- 17 2. Provide information to any taxpayer concerning the provisions of this Article;
- 18 3. Prepare all necessary documentation in order to receive and record all taxes remitted to the
19 County as provided in this Article;
- 20 4. Maintain records of taxpayer reports and taxes collected pursuant to this Article;
- 21 5. Subject to review and final approval by the Treasurer-Tax Collector, calculate any penalties
22 and interest to taxpayers pursuant to this Article;
- 23 6. Subject to review and final approval by the Treasurer-Tax Collector, calculate the amounts
24 owed to assist the Treasurer-Tax Collector in the enforcement of collection pursuant to this
25 Article.

26 Sec. 18-76. Appeal Procedure.

27 Any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the
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1 amount of tax, interest, penalties and fees, if any, due under this Article may appeal to the Board
2 of Supervisors by filing a notice of appeal with the Clerk of the Board within thirty (30) days of
3 the serving or mailing of the determination of tax due. The Clerk of the Board, or his or her
4 designee, shall fix a time and place for hearing such appeal, and the Clerk of the Board, or his or
5 her designee, shall give notice in writing to such operator at the last known place of address. The
6 finding of the Board of Supervisors shall be final and conclusive and shall be served upon the
7 appellant in the manner prescribed by this Article for service of notice of hearing. Any amount
8 found to be due shall be immediately due and payable upon the service of the notice.

9 Sec. 18-77. Enforcement Actions to Collect Unpaid Taxes, Penalties, and Fees.

10 Any taxes, penalties and/or fees required to be paid under the provisions of this Article shall be
11 deemed a debt owed to the County. Any person owing money to the County under the
12 provisions of this Article shall be liable in an action brought in the name of the County for the
13 recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the
14 right of the County to bring any other action including criminal, civil, and equitable actions, based
15 upon the failure to pay the tax, penalties and/or fees imposed by this Article, the unfair business
16 practices which may result from such failure, or the failure to comply with any of the provisions
17 of this Article.

18 Sec. 18-78. Apportionment.

19 If a business subject to the tax is operating both within and outside the unincorporated area of
20 the County, it is the intent of the County to apply the cannabis business tax so that the measure
21 of the tax fairly reflects the proportion of the taxed activity actually carried on in the
22 unincorporated area of the County. To the extent federal or state law requires that any tax due
23 from any taxpayer be apportioned, the taxpayer may indicate said apportionment on his or her
24 tax return. The Tax Administrator may promulgate administrative procedures for apportionment
25 as he or she finds useful or necessary.

26 Sec. 18-79. Constitutionality.

27 This tax is intended to be applied in a manner consistent with the United States and California
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1 Constitutions and state law. None of the tax provided for by this Article shall be applied in a
2 manner that causes an undue burden upon interstate commerce, a violation of the equal
3 protection or due process clauses of the Constitutions of the United States or the State of
4 California or a violation of any other provision of the California Constitution or state law. Any
5 person who believes that the tax, as applied to him or her, is impermissible under applicable law,
6 may take seek those remedies which are legally authorized.

7 Sec. 18-80. Audit and Examination.

8 A. Power to Inspect. For the purpose of ascertaining the amount of cannabis business tax owed
9 or verifying any representations made by any taxpayer to the County in support of his or her tax
10 calculation, the Treasurer-Tax Collector shall have the power to inspect any location where
11 commercial cannabis cultivation occurs and to audit and examine all books and records
12 (including, but not limited to bookkeeping records, state and federal income tax returns, and
13 other records relating to the gross receipts of the business) of persons engaged in cannabis
14 businesses. In conducting such investigation, the Treasurer-Tax Collector shall have the power
15 to inspect any equipment, such as computers or point of sale machines that may contain such
16 records.

17 B. It shall be the duty of every person liable for the collection and payment to the County of any
18 tax imposed by this Article to keep and preserve, for a period of at least three (3) years, all
19 records as may be necessary to determine the amount of such tax as he or she may have been
20 liable for the collection of and payment to the County, which records the Tax Administrator or
21 his/her designee shall have the right to inspect at all reasonable times.

22 Sec. 18-81. Other Licenses/Permits/Taxes/Fees/Charges Are Not Affected.

23 Nothing contained in this Article shall be deemed to repeal, amend, be in lieu of, replace or in
24 any way affect any requirements for any permit or license required by, under or by virtue of any
25 provision of any other Article of this code or any other ordinance or resolution of the County.

26 Sec. 18-82. Payment of Tax Does Not Authorize Unlawful Business.

27 A. The payment of a cannabis business tax required by this Article, and its acceptance by the
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County, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state laws.

B. No tax paid under the provisions of this Article 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.

Sec. 18-83. Change of Ownership.

A. In the event that there is a change in ownership of any cannabis business, the new owner is required to submit an updated registration form to the Tax Administrator.

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 up until the date of sale; and

(2) A Certificate of Delinquent Cannabis Business 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 new owner is subject to an audit by the Tax Administrator or his or her designee.

D. Any owner of a cannabis business required to collect or pay the cannabis business tax may apply to the Treasurer-Tax Collector for and receive, within ninety (90) days of application, a Tax Clearance Certificate, provided that the taxes and any penalties are paid in full for the time period specified.

Sec. 18-84. Deficiency Determinations.

If the Treasurer-Tax Collector is not satisfied that any statement filed as required under the provisions of this Article 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

1 deficiency determination may be made at any time within three (3) years thereafter as to any
2 liability arising from engaging in such business whether or not a deficiency determination is issued
3 prior to the date the tax would otherwise be due. Whenever a deficiency determination is made,
4 a notice shall be given to the person concerned in the same manner as notices of assessment are
5 given under Section 18-86 herein.

6 Sec. 18-85. Failure to Report Nonpayment and/or Fraud.

7 A. Under any of the following circumstances, the Treasurer-Tax Collector may make and give
8 notice of an assessment of the amount of tax owed by a person as defined in Section 18-64(U)
9 herein at any time:

- 10 1. If the person has not filed a complete statement required under the provisions of this Article;
- 11 2. If the person has not paid the tax due under the provisions of this Article;
- 12 3. If the person has not, after demand by the Treasurer-Tax Collector, filed a corrected
13 statement, or furnished to the Treasurer-Tax Collector adequate substantiation of the information
14 contained in a statement already filed, or paid any additional amount of tax due under the
15 provisions of this Article; or
- 16 4. If the Treasurer-Tax Collector determines that the nonpayment of any business tax due under
17 this Article is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall
18 be added thereto in addition to penalties and interest otherwise stated in this Article and any
19 other penalties allowed by law.

20 B. The notice of assessment shall separately set forth the amount of any tax known by the
21 Treasurer-Tax Collector be due or estimated by the Treasurer-Tax Collector, after
22 consideration of all information available concerning the business and activities of the person
23 assessed, to be due under each applicable section of this Article and shall include the amount of
24 any penalties or interest accrued on each amount to the date of the notice of assessment.

25 Sec. 18-86. Tax Assessment - Notice Requirements.

26 The notice of assessment shall be served upon the person either by personal delivery, or by a
27 deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person
28

1 at the address of the location of the business or to such other address as he or she shall register
2 with the Treasurer-Tax Collector for the purpose of receiving notices provided under this Article
3 or, should the person have no address registered with the Treasurer-Tax Collector for such
4 purpose, then to such person's last known address. For the purposes of this Section, a service
5 by mail is complete at the time of deposit in the United States mail.

6 Sec. 18-87. Tax Assessment - Written Request for Hearing and Determination.

7 Within thirty (30) days after the date of service the person may request in writing to the
8 Treasurer-Tax Collector for a hearing on the assessment. If request for a hearing before the
9 County Board of Supervisors is not made within the time herein prescribed, the tax assessed by
10 the Treasurer-Tax Collector shall become final and conclusive. Within thirty (30) days of the
11 receipt of any such request for hearing, the Treasurer-Tax Collector shall cause the matter to be
12 set for hearing before him or her no later than thirty (30) days after the receipt of the request,
13 unless a later date is agreed to by the Treasurer-Tax Collector and the person requesting the
14 hearing. Notice of such hearing shall be given by the Treasurer-Tax Collector to the person
15 requesting such hearing not later than five (5) days prior to such hearing. At such hearing said
16 applicant may appear and offer evidence why the assessment as made by the Tax Administrator
17 should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall
18 determine and reassess the proper tax to be charged and shall give written notice to the person
19 in the manner prescribed in Section 18-86 for giving notice of assessment.

20 Sec. 18-88. Conviction for Violation-Taxes Not Waived.

21 The conviction and punishment of any person for failure to pay the required tax shall not excuse
22 or exempt such person from any civil action for the tax debt unpaid at the time of such
23 conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions
24 of this Article or of any state law requiring the payment of all taxes.

25 Sec. 18-89. Violation is a Misdemeanor.

26 Any person violating any of the provisions of this Article shall be guilty of a misdemeanor.

27 Sec. 18-90. Severability.

1 If any provision of this Article, or its application to any person or circumstance, is determined by
2 a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that
3 determination shall have no effect on any other provision of this Article or the application of this
4 Article to any other person or circumstance and, to that end, the provisions hereof are severable.

5 Sec. 18-91. Remedies Are Cumulative.

6 All remedies and penalties prescribed by this Article or which are available under any other
7 provision of the Lake County Code and any other provision of law or equity are cumulative. The
8 use of one or more remedies by the County shall not bar the use of any other remedy for the
9 purpose of enforcing the provisions of this Article

10 Sec. 18-92. Amendment or Repeal.

11 This Article may be repealed or amended by the County Board of Supervisors without a vote of
12 the people to the extent allowed by law. However, as required by Article XIII C of the
13 California Constitution, voter approval is required for any amendment that would increase the
14 rate of any tax levied pursuant to this Article. The people of the County of Lake affirm that the
15 following actions shall not constitute an increase of the rate of a tax:

16 A. The restoration of the rate of the tax to a rate that is no higher than that set by this Article, if
17 the Board of Supervisors has acted to reduce the rate of the tax;

18 B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to
19 the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or
20 clarification) is not inconsistent with the language of this Article; or

21 C. The collection of the tax imposed by this Article even if the County had, for some period of
22 time, failed to collect the tax."

23 **SECTION TWO:** Election. An election on the issue of imposing a Cannabis Business Tax shall be
24 held together with the statewide general election on November 6, 2018. This ordinance shall take
25 effect immediately upon its adoption by a majority of voters at the November 6, 2018 election.

26 **SECTION THREE:** The purpose of the Ordinance enacting this Article is to impose a general
27 tax to establish a government funding mechanism for those purposes described therein, but the County
28

1 is not committing to any specific course of action with regard to the tax revenue generated hereunder.
2 Therefore, this Article is not a "project" subject to the requirements of the California Environmental
3 Quality Act ("CEQA") as defined in section 15378, subdivision (b).

4 **SECTION FOUR:** Severability. If any section, subsection, sentence, clause or phrase of this ordinance
5 is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of
6 this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and
7 each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or
8 more sections, subsections, sentences, clauses, or phrases be declared invalid.

9 **SECTION FIVE:** All ordinances or parts of ordinances in conflict herewith are hereby
10 repealed to the extent of such conflict and no further.

11 **SECTION SIX:** Within fifteen days of the passage of the ordinance enacting this
12 Chapter, the Clerk of the Board of Supervisors shall publish a summary of this ordinance at least once
13 in a newspaper of general circulation printed and published in the County of Lake.

14 The Foregoing Ordinance was introduced before the Board of Supervisors on the _____
15 day of _____, 2018 and passed by the following vote on the ____ day of _____, 2018.

16 AYES:

17 NOES:

18 ABSENT OR NOT VOTING:

19 COUNTY OF LAKE

20
21 _____
22 Chair Board of Supervisors

23 //

24 //

25 //

26 //

27 //

1 ATTEST: CAROL J. HUCHINGSON
2 Clerk of the Board of Supervisors

3 APPROVED AS TO FORM:

4 ANITA L. GRANT

5 By: _____

6 Deputy

By: _____

7
8
9
10 This Ordinance was approved and adopted by the People of the County of Lake at the County's
11 November 6, 2018 statewide election.

12
13 ATTEST: CAROL J. HUCHINGSON
14 Clerk of the Board of Supervisors

15
16
17 By: _____

18 Deputy