

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, for
cultivation at a nursery, 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 certain cannabis businesses in the County, which includes
but is not limited to, 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 those Cannabis Businesses described
herein that operate in the unincorporated areas of the County in accordance with the

1 authority granted by California Revenue and Taxation Code section 7284 and/or
2 section 34021.5 and Government Code section 53723 to impose a business tax,
3 regardless of whether such business would have been licensed by the State of
4 California at the time this Ordinance was adopted, to specify the type of tax and rate
5 of tax to be levied and the method of collection, and to comply with all requirements
6 for imposition of a general tax, such tax to become operative only if submitted to the
7 electorate and approved by a majority vote of the voters voting in an election on the
8 issue. Nothing in this Ordinance shall be interpreted to authorize or permit any
9 business activity that would not otherwise be legal or permissible under laws
10 applicable to the activity at the time the activity is undertaken.

11 Sec. 18-64 Definitions.

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

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

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

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

4 D. "Cultivation site" for purposes of this Ordinance means *a location at a nursery*
5 where cannabis is planted, grown, harvested, dried, cured, graded, packaged, stored,
6 or trimmed or that does all or any combination of those activities.

7 E. "Cannabis business" means any business activity involving cannabis, including
8 but not limited to *cultivation at a nursery*, transporting, distributing, manufacturing,
9 compounding, converting, processing, preparing, storing, packaging, delivering,
10 testing, dispensing, retailing and wholesaling of cannabis, of cannabis products or of
11 ancillary products and accessories, whether or not carried on for gain or profit. *With*
12 *the sole exception of cultivation at a nursery, cultivation is not included for purposes*
13 *of this Ordinance, having already been separately addressed in Lake County*
14 *Ordinance Number 3047 (Measure "C").*

15 F. "Cannabis business tax" or "business tax," means the tax due pursuant to this
16 Article for engaging in cannabis business as described herein in the unincorporated
17 area of the County.

18 G. "Cultivation" for purposes of this Ordinance means *operations at a nursery*
19 involving the planting, growing, harvesting, drying, curing, grading, or trimming of
20 cannabis.

21 H. "Delivery" means the commercial transfer of cannabis or cannabis products from
22 a dispensary.

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

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

K. "Employee" means each and every person engaged in the operation or conduct of any 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 such business for a wage, salary, commission, barter or any other form of compensation.

L. "Engaged in business as a cannabis business" means the has obtained the County-required permitting and/or licensing for, commencing, conducting, operating, managing or carrying on of a cannabis business, 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 County from an outside location to engage in such activities. A person shall be deemed engaged in business within the unincorporated area of the County if:

1. Such person or person's employee maintains a fixed place of business within the unincorporated area of the County for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the unincorporated area of the County for business purposes;
3. Such person has obtained all necessary County and State permits and/or license for cannabis business purposes;
4. Such person or person's employee regularly maintains a stock of tangible personal

1 property in the unincorporated area for sale in the ordinary course of business;
2 5. Such person or person's employee regularly conducts solicitation of business
3 within the unincorporated area of the County; or
4 6. Such person or person's employee performs work or renders services in the
5 County.

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

11 N. "Fiscal year" means July 1 through June 30 of the following calendar year.

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

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

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

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

15 Q. "Micro-Business means commercial cannabis activity falling under the category
16 "Type 12--Microbusiness" in Section 26050 of the California Business and
17 Professions Code.

18 R. "Nursery" means a facility or part of a facility that is used only for producing
19 clones, immature plants, seeds, and other agricultural products used specifically for
20 the planting, propagation, and cultivation of cannabis.

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

25 T. "Sale" means and includes any sale, exchange, or barter.

26 U. "State" means the State of California.

27 V. "State license," "license," or "registration" means a state license issued pursuant to
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1 California Business & Professions Code Sections 19300, et seq. or other applicable
2 state law.

3 W. "Square foot" or "square footage" for purposes of this Ordinance means the
4 maximum amount of cannabis cultivation area at a *nursery operation authorized by a*
5 *county permit issued to a person engaging in said operation, or by a state license in*
6 *the absence of a county permit or license, not deducting for unutilized square*
7 *footage.*

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

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

23 Sec. 18-65. Tax Imposed.

24 A. Tax to be Effective January 1, 2021.

25 The following tax rates to imposed on all commercial cannabis business of the type
26 described hereinabove shall be effective until January 1, 2021, at which time they
27 may be subject to change within the limitations described in Section ____ herein:
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1 1. For cultivation at a nursery, an annual tax of one dollar (\$1) per square foot of any
2 cultivation site at any nursery.

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

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

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

12 B. Consumer Price Index (CPI). On July 1, 2020 and each July 1 thereafter, the
13 maximum annual tax rate shall increase by the percentage change between January of
14 the calendar year prior to such increase and January of the calendar year of the
15 increase in the Consumer Price Index ("CPI") for all urban consumers in the San
16 Francisco County area as published by the United States Government Bureau of
17 Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax
18 imposed by this subsection shall be made.

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

20 A. For cannabis cultivation at a nursery, the tax due for each calendar quarter shall be
21 based on the square footage of the business's cultivation site space during the quarter
22 and the rate shall be 25% of the applicable annual rate. For all other cannabis
23 businesses activities, the tax due for each calendar quarter shall be based on the gross
24 receipts for the quarter. Each person owing a commercial cannabis business tax, and
25 each person on whom a zero percent tax rate is imposed, shall, on or before the last
26 day of the month following the close of each fiscal year quarter, prepare and submit a
27 tax statement remitting to the Treasurer-Tax Collector the tax due. The tax due shall
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1 be no less than the quarterly installment due, but the taxpayer may at any time pay
2 the tax due for the entire fiscal year. Each business shall pay on or before the last day
3 of the month following the close of each calendar quarter.

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

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

9 D. The Treasurer-Tax Collector may, at his or her discretion, establish shorter report
10 and payment periods for any taxpayer as deemed necessary to ensure collection of the
11 tax. The Treasurer-Tax Collector may also require that a deposit, to be applied
12 against the taxes for a calendar quarter, be made by a taxpayer at the beginning that
13 calendar quarter. In no event shall the deposit required exceed the tax amount he or
14 she projects will be owed by the taxpayer for the calendar quarter. The Treasurer-Tax
15 Collector may require that a taxpayer make payments via a cashier's check, money
16 order, wire transfer, or similar instrument.

17 Sec. 18-67. Timely Remittance of Tax Payments.

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

23 Sec. 18-68. Registration.

24 In order that the county will have an accurate record of parties for purposes of
25 collecting the cannabis business tax, prior to commencing business each person
26 engaged in a commercial cannabis business as described herein shall register such
27 cannabis business with the Tax Administrator submitting any information deemed
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1 necessary by the Tax Administrator.

2 Sec. 18-69 Delinquent Taxes.

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

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

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

12 Sec. 18-71. Penalties and Interest.

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

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

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

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

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

4 Sec. 18-72. Refunds and Credits.

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

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

9 Sec. 18-73. Refunds.

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

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

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

24 Sec. 18-74. Administration of the Tax.

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

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

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

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

19 Sec. 18-75. Appeal Procedure.

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

3 Sec. 18-76. Enforcement Actions to Collect Unpaid Taxes, Penalties, and Fees.

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

12 Sec. 18-77. Apportionment.

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

20 Sec. 18-78. Constitutionality.

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

1 Sec. 18-79. Audit and Examination.

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

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

17 Sec. 18-80. Other Licenses/Permits/Taxes/Fees/Charges Are Not Affected.

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

22 Sec. 18-81. Payment of Tax Does Not Authorize Unlawful Business.

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

26 B. No tax paid under the provisions of this Article shall be construed as authorizing the
27 conduct or continuance of any illegal or unlawful business, or any business in violation of
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1 any local or state law.

2 Sec. 18-82. Change of Ownership.

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

5 B. Unless otherwise provided by law, upon the sale of any cannabis business:

6 (1) It is the joint and several liability of both the seller and buyer to remit any tax due up
7 until the date of sale; and

8 (2) A Certificate of Delinquent Cannabis Business Tax Lien may be filed against both the
9 seller and/or buyer in an amount determined by the Treasurer-Tax Collector.

10 C. Following any change of ownership, the new owner is subject to an audit by the Tax
11 Administrator or his or her designee.

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

16 Sec. 18-83. Deficiency Determinations.

17 If the Treasurer-Tax Collector is not satisfied that any statement filed as required under the
18 provisions of this Article is correct, or that the amount of tax is correctly computed, he or
19 she may compute and determine the amount to be paid and make a deficiency
20 determination upon the basis of the facts contained in the statement or upon the basis of
21 any information in his or her possession or that may come into his or her possession within
22 three (3) years of the date the tax was originally due and payable. One or more deficiency
23 determinations of the amount of tax due for a period or periods may be made. When a
24 person discontinues engaging in a business, a deficiency determination may be made at
25 any time within three (3) years thereafter as to any liability arising from engaging in such
26 business whether or not a deficiency determination is issued prior to the date the tax would
27 otherwise be due. Whenever a deficiency determination is made, a notice shall be given to
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1 the person concerned in the same manner as notices of assessment are given under Section
2 18-86 herein.

3 Sec. 18-84. Failure to Report Nonpayment and/or Fraud.

4 A. Under any of the following circumstances, the Treasurer-Tax Collector may make and
5 give notice of an assessment of the amount of tax owed by a person as defined in Section
6 18-64(U) herein at any time:

7 1. If the person has not filed a complete statement required under the provisions of this
8 Article;

9 2. If the person has not paid the tax due under the provisions of this Article;

10 3. If the person has not, after demand by the Treasurer-Tax Collector, filed a corrected
11 statement, or furnished to the Treasurer-Tax Collector adequate substantiation of the
12 information contained in a statement already filed, or paid any additional amount of tax
13 due under the provisions of this Article; or

14 4. If the Treasurer-Tax Collector determines that the nonpayment of any business tax due
15 under this Article is due to fraud, a penalty of twenty-five percent (25%) of the amount of
16 the tax shall be added thereto in addition to penalties and interest otherwise stated in this
17 Article and any other penalties allowed by law.

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

24 Sec. 18-85. Tax Assessment - Notice Requirements.

25 The notice of assessment shall be served upon the person either by personal delivery, or by
26 a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the
27 person at the address of the location of the business or to such other address as he or she
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1 shall register with the Treasurer-Tax Collector for the purpose of receiving notices
2 provided under this Article or, should the person have no address registered with the
3 Treasurer-Tax Collector for such purpose, then to such person's last known address. For
4 the purposes of this Section, a service by mail is complete at the time of deposit in the
5 United States mail.

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

21 Sec. 18-87. Conviction for Violation-Taxes Not Waived.

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

26 Sec. 18-88. Violation is a Misdemeanor.

27 Any person violating any of the provisions of this Article shall be guilty of a misdemeanor.
28

1 Sec. 18-89. Severability.

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

7 Sec. 18-90. Remedies Are Cumulative.

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

12 Sec. 18-91. Amendment or Repeal.

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

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

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

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

25 **SECTION TWO:** Election. An election on the issue of imposing a Cannabis Business
26 Tax shall be held together with the statewide general election on November 6, 2018. This
27 ordinance shall take effect immediately upon its adoption by a majority of voters at the
28

1 November 6, 2018 election.

2 **SECTION THREE:** The purpose of the Ordinance enacting this Article is to impose a
3 general
4 tax to establish a government funding mechanism for those purposes described therein, but
5 the County is not committing to any specific course of action with regard to the tax revenue
6 generated hereunder. Therefore, this Article is not a "project" subject to the requirements of
7 the California Environmental Quality Act ("CEQA") as defined in section 15378,
8 subdivision (b).

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

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

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

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

4
5 AYES:

6 NOES:

7 ABSENT OR NOT VOTING:

8 COUNTY OF LAKE

9
10 _____
11 Chair Board of Supervisors

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

14 APPROVED AS TO FORM:

15 ANITA L. GRANT

16 By: _____

17 Deputy

By: _____

18
19 This Ordinance was approved and adopted by the People of the County of Lake at the
20 County's November 6, 2018 statewide election.

21
22 ATTEST: CAROL J. HUCHINGSON
23 Clerk of the Board of Supervisors

24
25 By: _____

26 Deputy