



# AGENDA

## BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

MEETING LOCATION SIERRA CENTER MALL BOS CONFERENCE ROOM Suite 307, 3rd Floor Sierra Center  
Mall, 452 Old Mammoth Road, Suite 307, Mammoth Lakes, CA 93546

**Special Meeting**  
**February 7, 2018**

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### TELECONFERENCE LOCATIONS:

Mono County Courthouse, 278 Main, 2nd Floor Board Chambers, Bridgeport, CA 93517.

**NOTE:** In compliance with the Americans with Disabilities Act if you need special assistance to participate in this meeting, please contact Shannon Kendall, Clerk of the Board, at (760) 932-5533. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517), and in the County Offices located in Minaret Mall, 2nd Floor (437 Old Mammoth Road, Mammoth Lakes CA 93546). Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). **ON THE WEB:** You can view the upcoming agenda at <http://monocounty.ca.gov>. If you would like to receive an automatic copy of this agenda by email, please subscribe to the Board of Supervisors Agendas on our website at <http://monocounty.ca.gov/bos>.

1:00 PM Call meeting to Order

Pledge of Allegiance

### 1 OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

on items of public interest that are within the subject matter jurisdiction of the Board.  
(Speakers may be limited in speaking time dependent upon the press of business  
and number of persons wishing to address the Board.)

### 2. AGENDA ITEMS

#### A. Workshop - Commercial Cannabis Tax Ordinance

Departments: Finance, CAO, County Counsel, Community Development  
90 minutes (30 minutes presentation; 60 minutes discussion)

(David McPherson, HDL, Janet Dutcher, Finance Director) - David McPherson from

HdL will present a draft ordinance proposing a tax on commercial cannabis activities in the unincorporated areas of Mono County, upon approval by the Board and majority (or two-thirds if a special tax) voter approval. David will provide a fiscal analysis resulting from the tax and also an estimate of the cumulative tax burden placed upon cannabis businesses in Mono County from all taxing authorities.

**Recommended Action:** 1. Receive presentation and discuss the draft ordinance and fiscal analysis. 2. Approve staff recommendations as presented or amended. 3. Direct staff to finalize the draft ordinance and prepare such related documents as are necessary to adopt the ordinance and call an election for the purpose of submitting the question of whether the ordinance should be approved to the voters of Mono County.

**Fiscal Impact:** The amount of tax revenue is uncertain because the number of permitted businesses, the size of each cultivator and the amount of gross receipts generated by each business is largely unknown. Based on inquiries of potential cannabis related businesses in Mono County, tax revenue is estimated to range from \$142,840 to \$821,700 depending on the number of permits issued, the tax method employed and the tax rate adopted.

**ADJOURN**



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**SPECIAL MEETING AGENDA REQUEST**

Print

<b>MEETING DATE</b>	February 7, 2018	<b>DEPARTMENT</b>	
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	90 minutes (30 minutes presentation; 60 minutes discussion)	<b>PERSONS APPEARING BEFORE THE BOARD</b>	David McPherson, HDL, Janet Dutcher, Finance Director
<b>SUBJECT</b>	Workshop - Commercial Cannabis Tax Ordinance		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

David McPherson from HdL will present a draft ordinance proposing a tax on commercial cannabis activities in the unincorporated areas of Mono County, upon approval by the Board and majority (or two-thirds if a special tax) voter approval. David will provide a fiscal analysis resulting from the tax and also an estimate of the cumulative tax burden placed upon cannabis businesses in Mono County from all taxing authorities.

**RECOMMENDED ACTION:**

1. Receive presentation and discuss the draft ordinance and fiscal analysis. 2. Approve staff recommendations as presented or amended. 3. Direct staff to finalize the draft ordinance and prepare such related documents as are necessary to adopt the ordinance and call an election for the purpose of submitting the question of whether the ordinance should be approved to the voters of Mono County.

**FISCAL IMPACT:**

The amount of tax revenue is uncertain because the number of permitted businesses, the size of each cultivator and the amount of gross receipts generated by each business is largely unknown. Based on inquiries of potential cannabis related businesses in Mono County, tax revenue is estimated to range from \$142,840 to \$821,700 depending on the number of permits issued, the tax method employed and the tax rate adopted.

**CONTACT NAME:** Janet Dutcher

**PHONE/EMAIL:** 760-932-5494 / jdutcher@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

## ATTACHMENTS:

Click to download

[Staff Report](#)

[Draft Mono County Cannabis Tax Ordinance](#)

[Illustration of Cumulative Cannabis Tax Burden - State and Local](#)

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### History

Time	Who	Approval
2/2/2018 6:17 AM	County Administrative Office	Yes
2/1/2018 5:25 PM	County Counsel	Yes
2/1/2018 6:41 PM	Finance	Yes



# DEPARTMENT OF FINANCE AUDITOR-CONTROLLER COUNTY OF MONO

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*Stephanie M. Butters*  
Assistant Finance Director  
Auditor-Controller

*Janet Dutcher, CPA, CGFM*  
Director of Finance

*P.O. Box 556*  
*Bridgeport, California 93517*  
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**Date:** February 7, 2018  
**To:** Honorable Board of Supervisors  
**From:** Janet Dutcher, Finance Director  
**Subject:** Workshop – Commercial Cannabis Tax Ordinance

**Recommended Action:**

1. Receive presentation and discuss the draft ordinance and fiscal analysis.
2. Approve staff recommendations as presented or amended.
3. Direct staff to finalize the draft ordinance and prepare such related documents as are necessary to call an election for the purpose of submitting the question of whether the ordinance should be approved to the voters of Mono County.

**Discussion:**

At the October 3, 2017 meeting, the Board of Supervisors directed staff to bring back a cannabis tax ballot measure. Board direction includes proposing a fee and tax framework that fully covers our cost to regulate commercial cannabis. The cost of regulation includes the direct cost (or fees) associated with the regulated or licensed market and the indirect costs (or tax) of responding to the unregulated or illegal market. One primary purpose of a cannabis tax measure is to provide additional funding to pay for enforcement when businesses circumvent the registration and licensing process.

This agenda item presents a draft of the cannabis tax ordinance for discussion by your Board along with the fiscal analysis estimating potential revenues should the tax measure successfully pass at the ballot. As we finalize cannabis regulations in the coming months, we will present the fee aspect of our cannabis-funding framework at that time. David McPherson of HdL will present the draft tax ordinance and fiscal analysis and answer any questions your Board or the public may have.

The draft of the cannabis tax ordinance before you today was prepared by HdL and further discussed and reviewed by the County's Cannabis Workgroup and also County Counsel. We are presenting this ordinance prior to the traditional introduction and reading associated with ordinances to get your feedback and direction about changes you may desire. Additionally, HdL

conducted a fiscal analysis of the various taxing mechanisms and rates, which analysis is included in the agenda packet.

In developing a tax measure, staff present *four key tax policy questions* for your Board to consider. These include:

1. Should the cannabis tax be a general or a special tax?
2. Who pays the tax – countywide or unincorporated?
3. What method of taxing cultivators?
4. What is the most appropriate tax rate to use?

Discussion follows on each of the policy questions.

### ***Is the cannabis tax a general or a special tax?***

A general tax contains no restriction on its appropriation and is available for any general governmental purpose. A general tax requires approval by 4/5ths vote of the Board of Supervisors followed by a simple majority (50% + 1 vote) approval of the voters. A general tax allows flexibility for your Board to direct spending of the tax proceeds through the budgetary process. This gives the advantage of allowing discretion over the use of the tax by directing the proceeds where needed to cover our costs which are largely unknown (but estimated) at this time.

A special tax contains limits towards spending on a specific government project(s) or program(s). It is not available for general fund discretionary spending. A special tax requires a simple majority vote of the Board of Supervisors followed by a two-thirds approval of the voters. With a special tax, spending purposes are committed by your Board prior to the ballot and is fixed for the duration of the tax until and unless changed by the voters through the same process.

**RECOMMENDATION:** Staff recommends adopting a general tax allowing discretion over the use of the tax where needed to cover our costs.

### ***Who pays the tax – countywide or unincorporated?***

The County may choose to levy the cannabis tax on a countywide or unincorporated basis. A countywide tax includes taxing commercial cannabis activities within the jurisdiction of the Town of Mammoth Lakes in addition to those located in the unincorporated area. A tax limited to the unincorporated area would exclude businesses located in the Town.

One negative aspect of the countywide tax option is the County will incur staff time and costs to apportion the tax between taxing jurisdictions (the County and the Town). In addition, since the Town is pursuing its own cannabis regulatory structure and taxing measure, pursuing a tax limited to activities in the unincorporated area of the County achieves greatest flexibility over future changes for both jurisdictions and aligns with the need to maintain local control over this emerging industry.

While the design of the measure applies only in the unincorporated area, the vote is conducted on the tax measure countywide. There is concern about voter confusion because both taxing ballots will appear for some voters.

**RECOMMENDATION:** Staff recommends limiting the tax to the unincorporated area to respect local jurisdictional control.

### ***What method of taxing cultivators?***

There are generally three methods used to tax cultivators. Described below are these three methods along with the associated advantages and disadvantages.

1. Square Footage of Canopy. This is a tax rate applied to the square footage allowed by the approved permit. This method produces a predictable and stable level of tax because the tax applies without regard to production or sales. As a predictable and stable method of taxation, the County can responsibly direct tax revenues towards recurring expenses resulting from cannabis impacts. As drafted, it generally is simple to calculate and administer. It results in a fixed cost for the cultivator. Once reaching a break-even point, additional gross receipts of the cultivator contribute directly to their other costs or add to their business profits.

Some will argue that canopy sizes are constantly changing and this creates a complex tax structure difficult to administer and results in unpredictable tax revenues year after year. How can the County select a point in time from which to measure the canopy and calculate the tax that will produce fair and equitable results for all growers in Mono County? The answer is we cannot if we are basing the tax on the actual canopy size.

The tax ordinance stipulates the tax generally applies to the permitted canopy, not the actual canopy being grown on a particular day in a tax reporting quarter. This is consistent with state law defining “canopy.” State law defines canopy as the designated area described in the license (or permit) that will contain mature plants at any point in time. Since the maximum area containing plants is that described in the permit, the ordinance bases the tax on this limitation making the tax the same amount each year. The initial tax rate per square foot is set low enough to ease entry into this market and promote economic development especially in the depressed areas of our County. A significant advantage is knowing the tax burden prior to license approval. In addition, the ordinance indirectly caps the tax because of state laws limiting grow sizes.

A disadvantage for growers involves the effective tax rate, or the amount of tax when compared to a cultivator’s revenue. With a canopy tax, the effective tax varies depending on the amount produced (volume), the quality of the product, the wholesale price and other environmental impacts. For example, cultivators starting out, cultivators producing a lower quality product, or cultivators producing a strain with less density will experience a higher effective tax rate because their revenues are low. The result is a regressive tax system. However, the regressive nature of the tax dissipates as the cultivator’s revenue reaches a certain breakeven point.

With a canopy tax, there is no guarantee the cultivator's business produces enough resources to pay the tax. This is especially true during the first year harvest. A few mitigating suggestions include delaying the tax just for cultivation for one year, timing the tax payment with the harvest season or including a payment deferral program.

Some growers have argued that a canopy tax is unfair because it forces growers to pay the tax even if they experience crop losses, such as with a fire or other natural disaster. However, the ordinance before you today includes a provision for temporary relief from the tax requirement when a disaster causes crop losses, whether or not resulting from natural causes.

Another argument often voiced by growers in opposition of a canopy tax is a tax based on the permitted square footage of their facility instead of the actual square footage cultivated, especially when the permit contains square footage expressly included for future expansion. Also, another argument against is that a canopy tax does not account for growers who cultivate and harvest for a fraction of a year. The ordinance before you includes provisions to address each of these issues. A cultivator can present evidence about the size of their cultivation and receive credit against the permitted square footage. Likewise, a cultivator can receive a prorated tax based on the number of months in operation.

2. Gross Receipts. This is a tax on the gross receipts of the cultivator similar to that imposed on retail dispensaries, manufacturers and distributors. Tax revenue will fluctuate depending on production levels, product quality, crop yield, wholesale prices and other environmental factors. One negative aspect of the gross receipts tax when it applies specifically to cultivators who experience cyclical revenue streams is that the County's tax revenues are unequal throughout the fiscal year. This creates a cash flow problem if tax revenues fund recurring costs like salaries and benefits. Does this mean the County borrows to temporarily fund cannabis related costs until tax revenues are realized?

Gross receipt taxes are progressive in that cultivators pay taxes only on the product they produce, sell, and generate revenue. The levy of a gross receipts tax is in proportion to each operator's revenue. However, every dollar of revenue earned by the cultivator carries a tax burden to the County. There is no cap like there is with the canopy tax. As a result, the effective tax rate may be higher under a gross receipts tax for particular growers than it might be under a canopy tax.

Some speculate that the timing of tax proceeds likely produces cash flow closer in relation to cost impacts to the County. As legal operators generate revenue, competition results in an increase in the likelihood of others initiating cannabis businesses of their own but circumventing the licensing and regulatory process as a way to increase profits. Since enforcement costs mostly include salaries and benefits, the County may face budget deficits and inevitable layoffs when tax revenues decline during economically difficult times.



Note the gross receipts tax is on gross receipts and not on profits.

3. Weight. This is a tax on the weight of cannabis produced. As with a gross receipts tax, the amount of tax revenue fluctuates from year to year depending on production levels. The tax generally is easy to calculate and administer so long as the method uses a single fixed rate. Nevertheless, like the square footage of canopy method, the tax is still regressive and does not discriminate based on product quality or revenues. This type of tax could also encourage migration of commercial activities to another jurisdiction. Taxes based on weight are generally less regressive than the canopy tax because the tax applies only to cannabis produced.

**RECOMMENDATION:** Staff recommends a canopy tax based on square footage of the permitted canopy because the canopy tax is more predictable and stable for budgeting purposes. It generates a steadier stream of revenue from which to fund recurring costs associated with the impact of cultivation. With the tax rate set at the appropriate level, the canopy tax is low enough to provide ease of entry into this market and a fixed and known cost for cultivators.

***What is the most appropriate tax rate to use?***

The County should set a rate tax high enough to produce sufficient revenues to offset the cost of administering the tax and enforcing the unregulated market. Conversely, the County should set the tax low enough to avoid overtaxing this new and emerging industry.

Another policy decision is setting the rate low or eliminating the tax altogether for license types that are desirable or in short supply in our County. In the proposed ordinance, tax rates are purposely set lower for testing laboratories and distributors. Another consideration is to set a tax rate that discourages migration to other lower taxing jurisdictions or at least nullifies the impact between adjacent jurisdictions.

If the tax burden combining local and state taxes is too high, it may lead to an unsustainable cannabis industry in Mono County. Some businesses may feel pressure to relocate their businesses to a lower taxing jurisdiction or seek out the black market for sale of their product. An HdL-produced chart is included in your agenda packet. This chart illustrates the cumulative tax burden from all taxing jurisdictions. Industry experts generally agree that the maximum cumulative tax burden should not exceed 30%.

Other options commonly under consideration when choosing a cannabis tax rate include:

- Set the tax rate low with the option of the Board of Supervisors to increase the rate, sometimes after the expiration of a certain number of years to allow the industry to stabilize.
- Index the tax rate for inflation, also after a number of years.
- Set a minimum and a maximum tax rate and allow the Board of Supervisors to select the appropriate tax rate given the circumstances and experience.

The draft ordinance presented today includes all three of the above options. Staff advises building flexibility into the taxing framework allowing adjustments if needed over time as this industry matures. Such a framework makes the tax rate scalable and responsive to what happens in our communities. The Board will have discretion to raise rates in the future when needed.

The draft ordinance includes the following tax rates. This presumes a canopy square footage tax for cultivation.

LICENSE TYPE	INITIAL RATE	MAXIMUM RATE
Cultivator – facility using exclusively artificial lighting	\$2.00 per square foot of canopy space	\$3.00 per square foot of canopy space
Cultivator – facility using a combination of natural and supplemental artificial lighting	\$1.50 per square foot of canopy space	\$2.50 per square foot of canopy space
Cultivator – facility that uses no artificial lighting	\$0.50 per square foot of canopy space	\$1.50 per square foot of canopy space
Cultivator – nurse facility	\$0.50 per square foot of canopy space	\$1.00 per square foot of canopy space
Testing laboratory	1% of gross receipts	2.5% of gross receipts
Retailer (dispensary) Delivery Microbusiness (retail)	4% of gross receipts	6% of gross receipts
Distribution	2% of gross receipts	3% of gross receipts
Manufacturing, processing or nonretail microbusiness	2% of gross receipts	4% of gross receipts

The list below are the tax rates from other selected counties (not a complete listing):

COUNTY	GROSS RECEIPTS TAX	SQUARE FOOTAGE TAX	COMMENT
Amador	None	None	Ban on commercial activities
El Dorado	None yet	None yet	Cultivation approved Ban on all other activities
Fresno	None	None	Ban on commercial activities
Humboldt	None	\$1.00 to \$3.00	One of the first counties to implement
Inyo	5% - 12.5%	None	Minimum amounts for cultivators based on square footage per grow cycle
Lake	None	\$1-\$3	Cultivation only
Kern	None	None	Ban on commercial activities
Kings	None	None	Ban on commercial activities
Madera	None	None	Appears to be mostly a ban on commercial activities
Mendocino	Cultivation: 2.5% Dispensaries: 5%		Subject to annual increase by BOS in increments of 2.5%, maximum of 10%. Some

COUNTY	GROSS RECEIPTS TAX	SQUARE FOOTAGE TAX	COMMENT
			businesses subject to flat \$2,500.
Monterey	5% to 10%	Cultivation: \$25 Nurse: \$5	These are maximums Adjusted by CPI after 2021
Placer	None	None	Ban on commercial activities
Santa Barbara	None	None	No decision yet on allowable activities
Santa Cruz	7% - 10%	None	
San Luis Obispo	Proposed: 4% - 10%	None	
Solano	Up to 15%	None	
Sonoma	Proposed: maximum of 10%	None	March ballot
Tuolumne	None	None	Ban on commercial activities

**RECOMMENDATION:** Staff recommends the tax rates by license tax, including the initial and the maximum, as included in the draft ordinance.

**NEXT STEPS**

1. Update ordinance based on results of today’s discussion
2. Schedule introduction and first reading of the ordinance for the February 20<sup>th</sup> Board meeting.
3. Schedule adoption of the ordinance for the March 6<sup>th</sup> Board meeting.
4. Approved ordinance submitted to the Clerk by the close of business on March 9<sup>th</sup>
5. Continue finalizing cannabis regulatory framework.
6. Tax measure appears on the June 5<sup>th</sup> ballot.

**Fiscal Impact:** The amount of tax revenue is uncertain because the number of permitted businesses, the size of each cultivator and the amount of gross receipts generated by each business is largely unknown. Gross receipts alone may vary based on variables such as crop yields and wholesale prices.

Based on inquiries of potential cannabis related business in Mono County, the below chart illustrates the range of fiscal impacts that might result given the number of permits issued and rate of tax applied.

<b>CULTIVATION</b>	<b>LOW END (1 permit)</b>	<b>MIDDLE (3 permits)</b>	<b>HIGH END (5 permits)</b>
\$ 0.50 per SF	\$21,780	\$65,340	\$108,900
\$ 1.00 per SF	\$43,560	\$130,680	\$217,800
\$ 1.50 per SF	\$65,340	\$196,020	\$326,700
<b>MANUFACTURING</b>	<b>LOW END (1 permit)</b>	<b>MIDDLE (2 permits)</b>	<b>HIGH END (3 permits)</b>
2.5% of receipts	\$37,500	\$75,000	\$112,500
3.0% of receipts	\$45,000	\$90,000	\$135,000
4.0% of receipts	\$60,000	\$120,000	\$180,000
<b>TESTING LABS</b>	<b>LOW END (1 permit)</b>	<b>MIDDLE (1 permit)</b>	<b>HIGH END (1 permit)</b>
1.00% of receipts	\$10,000	\$10,000	\$10,000
1.25% of receipts	\$12,500	\$12,500	\$12,500
1.50% of receipts	\$15,000	\$15,000	\$15,000
<b>DISTRIBUTION</b>	<b>LOW END (1 permit)</b>	<b>MIDDLE (2 permits)</b>	<b>HIGH END (3 permits)</b>
2% of receipts	\$30,000	\$60,000	\$90,000
3% of receipts	\$45,000	\$90,000	\$135,000
4% of receipts	\$60,000	\$120,000	\$180,000
<b>RETAIL</b>	<b>LOW END (0 permit)</b>	<b>MIDDLE (1 permit)</b>	<b>HIGH END (2 permits)</b>
4% of receipts	\$0	\$40,000	\$80,000
5% of receipts	\$0	\$50,000	\$100,000
6% of receipts	\$0	\$60,000	\$120,000
<b>AGGREGATE TOTALS</b>	<b>LOW END (8 permit)</b>	<b>MIDDLE (9 permit)</b>	<b>HIGH END (14 permits)</b>
Conservative	\$142,840	\$250,340	\$401,400
Aggressive	\$233,180	\$373,180	\$600,300
Very Aggressive	\$331,020	\$511,020	\$821,700

**EXHIBIT A**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF MONO,  
CALIFORNIA ADDING CHAPTER 5.55 (CANNABIS  
BUSINESS TAX) TO TITLE 5 OF THE MONO COUNTY  
CODE SUBJECT TO VOTER APPROVAL AND  
ENACTMENT PURSUANT TO ELECTIONS CODE  
SECTION 9104 AND ARTICLE XIIC OF THE  
CALIFORNIA CONSTITUTION**

**THE PEOPLE OF THE COUNTY OF MONO DO ORDAIN AS FOLLOWS:**

SECTION 1. CODE AMENDMENT. Subject to voter approval and enactment of this ordinance pursuant to Elections Code Section 9104 and Article XIIC of the California Constitution, Chapter 5.55 of Title 5 shall be added to the Mono County Code to read as follows:

**CHAPTER 5.55  
CANNABIS BUSINESS TAX**

**Sections:**

- 5.55.010 Title.
- 5.55.020 Authority and Purpose.
- 5.55.030 Intent.
- 5.55.040 Definitions.
- 5.55.050 Tax imposed.
- 5.55.060 Reporting and remittance of tax.
- 5.55.070 Payments and communications –timely remittance.
- 5.55.080 Payment – when taxes deemed delinquent.
- 5.55.090 Notice not required by County.
- 5.55.100 Penalties and interest.
- 5.55.110 Refunds and credits.
- 5.55.120 Refunds and procedures.
- 5.55.130 Personal cultivation not taxed.
- 5.55.140 Administration of the tax.
- 5.55.150 Appeal procedure.
- 5.55.160 Enforcement –action to collect.
- 5.55.170 Apportionment.
- 5.55.180 Constitutionality and legality.
- 5.55.190 Audit and examination of premises and records.
- 5.55.200 Other licenses, permits, taxes or charges.
- 5.55.210 Payment of tax does not authorize unlawful business.
- 5.55.220 Deficiency determinations.
- 5.55.230 Failure to report – nonpayment, fraud.

- 5.55.240 Tax assessment –notice requirements.
- 5.55.250 Tax assessment – hearing, application, and determination.
- 5.55.260 Relief from taxes-disaster relief.
- 5.55.270 Conviction for violation – taxes not waived.
- 5.55.280 Violation deemed misdemeanor.
- 5.55.290 Severability.
- 5.55.300 Remedies cumulative.
- 5.55.310 Amendment or repeal.

**5.55.010 Title.**

This ordinance shall be known as the Cannabis Business Tax Ordinance.

**5.55.020 Authority and Purpose.**

The purpose of this Ordinance is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon Cannabis Businesses that engage in business in the County. The Cannabis Business Tax is levied based upon business gross receipts and square footage of plant canopy. 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 Chapter shall be placed in the County's general fund and be available for any legal County purpose.

**5.55.030 Intent.**

The intent of this Ordinance is to levy a tax on all Cannabis Businesses that operate in the County, regardless of whether such business would have been legal at the time this Ordinance was adopted. 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.

**5.55.040 Definitions.**

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

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. “Canopy” means all areas occupied by any portion of a cannabis plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area.

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

F. “Cannabis business tax” or “business tax,” means the tax due pursuant to this Chapter for engaging in cannabis business in the unincorporated area of the County.

G. “Commercial cannabis cultivation” means cultivation in the course of conducting a cannabis business.

H. “County permit” means a permit issued by the County to a person to authorize that person to operate or engage in a cannabis business.

I. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis and includes, but is not limited to, the operation of a nursery.

J. “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.

K. “Engaged in business as a cannabis business” means the 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 unincorporated area of 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 or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of the County for sale in the ordinary course of business;
4. Such person or person's employee regularly conducts solicitation of business within the unincorporated area of the County; or
5. Such person or person's employee performs work or renders services in the unincorporated area of the County.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

L. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of the County.

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

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

1. Cash discounts where allowed and taken on sales;
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of



refundable deposits previously included in gross receipts;

4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

5. Cash value of sales, trades or transactions between departments or units of the same business;

6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;

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

8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

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

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

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

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

S. "State" means the State of California.

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

U. “Tax Administrator” means the Finance Director of the County of Mono or his or her designee.

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

**5.55.050 Tax imposed.**

A. Beginning July 1, 2018, there is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax regardless if the business has been issued a permit to operate lawfully in the unincorporated area of the County or is operating unlawfully.

B. The initial rate of the cannabis business tax shall be as follows:

1. For every person who is engaged in commercial cannabis cultivation in the unincorporated area of the County:
  - a. Two dollars (\$2.00) annually per square foot of canopy space in a facility that uses exclusively artificial lighting.
  - b. One dollar and fifty cents (\$1.50) annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting.
  - c. Fifty cents (\$.050) annually per square foot of canopy space in a facility that uses no artificial lighting.
  - d. Fifty cents (\$.50) annually per square foot of canopy space for any nursery.

For purposes of this subdivision (B), the square feet of canopy space for a business shall be rebuttably presumed to be the maximum square footage of canopy allowed by the business’s County permit for commercial cannabis cultivation, or, in the absence of a County permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. Should a County permit be issued to a business which cultivates only for certain months of the year, the County shall prorate the tax as to sufficiently reflect the period in which cultivation is occurring at the business. In no case shall canopy square footage which is authorized by the County commercial cannabis permit but not utilized for cultivation be deducted for the purpose of determining the tax for cultivation, unless the Tax Administrator is informed in writing and authorizes such reduction for the purpose of relief from the tax prior to the period for which the space will not be used, that such space will not be used.

2. For every person who engages in the operation of a testing laboratory: one percent (1%) of gross receipts.
  3. For every person who engages in the retail sales of cannabis as a retailer (dispensary) or non-store front retailer (delivery) or microbusiness (retail sales): Four percent (4%) of gross receipts.
  4. For every person who engages in a cannabis distribution business: two percent (2%) of gross receipts.
  5. For every person who engages in a cannabis manufacturing, processing, or microbusiness (non-retail), or any other type of cannabis business not described in Section (B) (1), (2), (3) or (4): Two and half percent (2.5%) of gross receipts.
- C. The County Board of Supervisors may, by resolution or ordinance, adjust the rate of the cannabis business tax. However, in no event may the County Board of Supervisors set any adjusted rate that exceeds the maximum rate calculated pursuant to Subdivision (D) of this Section for the date on which the adjusted rate will commence.
- D. The maximum rate shall be calculated as follows:
1. For every person who is engaged in commercial cannabis cultivation in the unincorporated area of the County:
    - a. Through June 30, 2021, the maximum rate shall be:
      - i. Three dollars (\$3.00) annually per square foot of canopy space in a facility that uses exclusively artificial lighting.
      - ii. Two dollars (\$2.50) annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting.
      - iii. One dollar (\$1.50) annually per square foot of canopy space in a facility that uses no artificial lighting.
      - iv. One dollar (\$1.00) annually per square foot of canopy space for any nursery.
    - b. On July 1, 2021 and on each July 1 thereafter, the maximum annual tax rate per square foot of each type of canopy space shall increase by the percentage change between January of the calendar year prior to such increase and January of the calendar year of the increase in the Consumer

Price Index (“CPI”) for all urban consumers in the Western Region as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made.

2. For every person who engages in the operation of a testing laboratory, the maximum tax rate shall not exceed two and a half percent (2.5%) of gross receipts.
3. For every person who engages in the retail sales of cannabis as a retailer (dispensary) or non-store front retailer (delivery business), or microbusiness (retail sales activity) the maximum tax rate shall not exceed six percent (6%) of gross receipts.
4. For every person who engages in a cannabis distribution business, the maximum tax rate shall not exceed three percent (3%) of gross receipts.
5. For every person who engages in a cannabis manufacturing, processing, or microbusiness (non-retail activity) or any other type of cannabis business not described in Section (D) (1), (2), (3) or (4), the maximum tax rate shall not exceed four percent (4%) of gross receipts.

#### **5.55.060 Reporting and remittance of tax.**

A. The cannabis business tax imposed by this Chapter shall be paid, in arrears, on a quarterly basis. For commercial cannabis cultivation, the tax due for each calendar quarter shall be based on the square footage of the business’s canopy space during the quarter and the rate shall be 25% of the applicable annual rate. For all other cannabis businesses activities, the tax due for each calendar quarter shall be based on the gross receipts for the quarter.

B. Each person owing cannabis business tax for a calendar quarter shall, no later than the last day of the month following the close of the calendar quarter, file with the tax administrator a statement of the tax owed for that calendar quarter and the basis for calculating that tax. The Tax Administrator may require that the statement be submitted on a form prescribed by the Tax Administrator. The tax for each calendar quarter shall be due and payable on that same date as the statement for the calendar quarter is due.

C. Upon cessation of a cannabis business, tax statements and payments shall be immediately due for all calendar quarters up to the calendar quarter during which cessation occurred.

D. The Tax Administrator may, at his or her discretion, establish shorter report and payment periods for any taxpayer as the Tax Administrator deems necessary to ensure collection of the tax. The Tax Administrator may also require that a deposit, to be applied against the taxes for a calendar quarter, be made by a taxpayer at the beginning of that calendar quarter. In no event shall the deposit required by the Tax Administrator exceed the tax amount he or she projects will be owed by the taxpayer for the calendar quarter. The Tax Administrator may

require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.

E. For purposes of this section, the square feet of canopy space for a business shall be rebuttably presumed to be no less than the maximum square footage of canopy allowed by the business's County permit for commercial cannabis cultivation, or, in the absence of a County permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. In no case shall canopy square footage which is authorized by the permit or license but not utilized for cultivation be excluded from taxation unless the Tax Administrator is informed in writing, prior to the period for which the space will not be used, that such space will not be used.

**5.55.070 Payments and communications – timely remittance.**

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

**5.55.080 Payment - when taxes deemed delinquent.**

Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in Sections 5.55.060 and 5.55.070.

**5.55.090 Notice not required by the County.**

The County may as a courtesy send a tax notice to the business. However, the Tax Administrator is not required to send a notice of assessment pursuant to Section 5.55.240, a notice of delinquency pursuant to Section 5.55.220, or any other tax notice or bill to any person subject to the provisions of this Chapter. Failure to send any tax notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

**5.55.100 Penalties and interest.**

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

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one percent (1.0%) per month.
2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties.

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

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

**5.55.110 Refunds and credits.**

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 5.55.120.

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

**5.55.120 Refunds and procedures.**

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

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

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

**5.55.130 Personal Cultivation Not Taxed.**

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

**5.55.140 Administration of the tax.**

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all cannabis business taxpayers forms for the reporting of the tax;
2. Provide information to any taxpayer concerning the provisions of this Chapter;
3. Receive and record all taxes remitted to the County as provided in this Chapter;
4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
5. Assess penalties and interest to taxpayers pursuant to this Chapter;
6. Determine amounts owed and enforce collection pursuant to this Chapter.

**5.55.150 Appeal procedure.**

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the County Board of Supervisors by filing a notice of appeal with the Clerk of the Board within thirty (30) days of the serving or mailing of the notice of delinquency pursuant to Section 5.55.220 or notice of assessment pursuant to Section 5.55.240. The Clerk of the Board, or his or her designee, shall fix a time and place for hearing such appeal, and the Clerk of the Board, or his or her designee, shall give notice in writing to such operator at the last known place of address. The finding of the County Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this Chapter for service of notice. Any amount found to be due shall be immediately due and payable upon the service of the notice.

**5.55.160 Enforcement - action to collect.**

Any taxes, penalties 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 and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

**5.55.170 Appportionment.**

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

**5.55.180 Constitutionality and legality.**

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law. If a person believes that the tax, as applied to him or her, is impermissible under applicable law, he or she may request that the Tax Administrator release him or her from the obligation to pay the impermissible portion of the tax.

**5.55.190 Audit and examination of premises and records.**

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

B. It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this Chapter to keep and preserve, for a period of at least four (4) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the County, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

**5.55.200 Other licenses, permits, taxes, fees or charges.**

A. Nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other Chapter of this Code or any other ordinance or resolution of the County, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other Chapter of



this code or any other ordinance or resolution of the County. Any references made or contained in any other Chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Chapter of this Code.

B. The Tax Administrator may revoke or refuse to renew the license required by Chapter 5.04 of this Code, any other Chapter of this Code or any other ordinance or resolution of the County for any business that is delinquent in the payment of any tax due pursuant to this Chapter or that fails to make a deposit required by the tax administrator pursuant to Section 5.55.060.

**5.55.210 Payment of tax does not authorize unlawful business.**

A. The payment of a cannabis business tax required by this Chapter, and its acceptance by the 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 Chapter 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.

**5.55.220 Deficiency determinations.**

If the Tax Administrator 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, a notice of deficiency shall be given to the person concerned in the same manner as notices of assessment are given under Section 5.55.240.

**5.55.230 Failure to report—nonpayment, fraud.**

A. Under any of the following circumstances, the Tax Administrator 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 Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter; or
4. If the Tax Administrator determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and any other penalties allowed by law.

B. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator'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.

**5.55.240 Tax assessment - notice requirements.**

The notice of assessment shall be served upon the person either by personal delivery, 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 Tax Administrator for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

**5.55.250 Tax assessment - hearing, application and determination.**

Within thirty (30) days after the date of service of the notice of assessment, the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the County is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive. Within thirty (30) days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) days after the receipt of the application, unless

a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than five (5) days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall determine and, if applicable, reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.55.240 for giving notice of assessment.

**5.55.260 Relief from taxes -disaster relief.**

A. If a Business is unable to comply with any tax requirement due to a disaster, the Business may notify the Tax Administrator of this inability to comply and request relief from the tax requirement;

B. The Tax Administrator, in its sole discretion, may provide written relief from the cannabis business tax requirement for Businesses whose operations have been impacted by a disaster if such tax liability does not exceed five thousand (\$5,000) dollars. If such tax liability is five thousand one (\$5,001) dollars or more than such relief shall only be approved by the County Board of Supervisors;

C. Temporary relief from the cannabis tax may be provided for a reasonable amount of time as determined by the Tax Administrator in order to allow the Business time to recover from the disaster;

D. The Tax Administrator may require that certain conditions be followed in order for a Business to receive temporary relief from the cannabis business tax requirement;

E. A Business shall not be subject to an enforcement action for a violation of a cannabis business requirement in which the licensee has received temporary relief from the tax administrator;

F. For purposes of this section, “disaster” means fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes.

G. The Business shall notify the Tax Administrator in writing of its request for temporary relief from imposition of the tax requirement pursuant to subsection (A) of this Section. The request shall clearly indicate why relief is requested, the time period for which the relief is requested, a description of the disaster justifying relief, and the reasons relief is needed for the specified amount of time;

H. The Business will grant the Tax Administrator access to the location where the Business has been impacted due to a disaster.

**5.55.270 Conviction for violation - taxes not waived.**

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

**5.55.280 Violation deemed misdemeanor.**

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

**5.55.290 Severability.**

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

**5.55.300 Remedies cumulative.**

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

**5.55.310 Amendment or repeal.**

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

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

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

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

D. The adjustment of the tax in accordance with the provisions of subdivisions (C) and (D) of Section 5.55.050.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The County Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

This Ordinance was approved and adopted by the People of the County of Mono at the County's June 5, 2018 statewide election.

\_\_\_\_\_  
Bob Gardner, Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

Cumulative Cannabis Taxes			
Category	Amount	Increase	Cumulative Price
Producer Price	\$800	\$800	\$800
State Cultivation Tax	\$9.25/oz	\$148	\$948
Local Tax	1.00%	\$8	\$956
Batch Testing	\$50/lb, + 0.50%	\$55	\$1,011
Wholesale Price w/ Taxes		\$1,011	
Total Tax at Wholesale		\$211	
Tax as %		26.38%	
Manufacturer Markup	20.00%	\$202	\$1,213
Local Tax	2.50%	\$30	\$1,244
Total Manufacturer Price		\$1,244	
Total Taxes at Manufacturer		\$241	
Total Tax as %		19.41%	
Distributor Markup	30.00%	\$373	\$1,617
Local Tax	2.00%	\$32	\$1,649
Total Distributor Price		\$1,649	
Total Taxes at Distributor		\$274	
Total Tax as %		16.60%	
Retailer Markup	100.00%	\$1,649	\$3,298
Local Tax	4.00%	\$132	\$3,430
State Excise Tax	15.00%	\$495	\$3,924
Total Retailer Price		\$3,924	
Total Taxes at Retail		\$900	
Total Tax as %		22.94%	
CA Sales Tax	6.25%	\$245	\$4,170
Local Sales Tax	1.00%	\$39	\$4,209
Total Taxes at Retail		\$1,185	
Total Tax as %		28.15%	
Total Local Tax		5.75%	\$241.82