

MAR 08 2018

ORDINANCE NO. 1496BY Julie Radtke
DEPUTY CLERK OF THE BOARD

**AN ORDINANCE OF THE COUNTY OF YOLO, STATE OF CALIFORNIA,
AMENDING CHAPTER 18 TO TITLE 3 TO THE YOLO COUNTY CODE
IMPOSING A TAX ON CANNABIS BUSINESSES**

County Counsel Summary

This ordinance amends Chapter 18 to Title 3 to the Yolo County Code to impose a County general tax on cannabis businesses in the unincorporated area of Yolo County. The ordinance establishes the following tax rates: a minimum tax rate of one percent of gross receipts per fiscal year, not to exceed a maximum tax rate of 15 percent of gross receipts per fiscal year, with the initial tax rate for cultivation being set at four percent of gross receipts per fiscal year with an automatic increase to five percent as of July 1, 2020, and the initial tax rate for all other commercial cannabis businesses being set at five percent, with subsequent adjustments of no more than two percentage points (up or down) in any 12 month period. The tax applies to all medical and nonmedical cannabis businesses. Personal cultivation and personal use, as further delineated in the ordinance, are exempt from the tax. The ordinance includes a citizen's oversight committee to review expenditures of tax revenues. The ordinance contains payment and reporting requirements and enforcement provisions and authorizes the County Treasurer-Tax Collector to administer the tax. The tax is for general governmental purposes and revenue generated from the tax can be spent for unrestricted general revenue purposes, including for items such as criminal enforcement of illegal cultivation, early childhood intervention and prevention, youth development, substance abuse education and treatment for children and adults, rural infrastructure and programs and cannabis research, or any other expenditure per the Board's discretion. As a general tax, it will go into effect only if the tax is approved by the number of voters required by law voting on the tax at an election.

The Board of Supervisors of the County of Yolo, State of California, ordains as follows:

SECTION 1. Chapter 18 to Title 3 is deleted in its entirety and replaced with the following:

Chapter 18 CANNABIS BUSINESS TAX

Sections:

- 3-07.01 Title.
- 3-07.02 General tax.
- 3-07.03 Purpose of the ordinance.
- 3-07.04 Definitions.
- 3-07.05 Tax imposed.
- 3-07.06 Reporting and remittance of tax.
- 3-07.07 Payments and communications –timely remittance.
- 3-07.08 Payment – when taxes deemed delinquent.
- 3-07.09 Notice not required by County.
- 3-07.10 Penalties and interest
- 3-07.11 Refunds and credits.
- 3-07.12 Refunds and procedures.
- 3-07.13 Exemptions from the tax.
- 3-07.14 Administration of tax.
- 3-07.15 Appeal procedure.
- 3-07.16 Enforcement –action to collect
- 3-07.17 Apportionment.
- 3-07.18 Constitutionality and legality.
- 3-07.19 Audit and examination of records and equipment.
- 3-07.20 Other licenses, permits, taxes or charges.
- 3-07.21 Payment of tax does not authorize unlawful business.
- 3-07.22 Deficiency determinations.
- 3-07.23 Failure to report – nonpayment and fraud.
- 3-07.24 Tax assessment –notice of requirements.
- 3-07.25 Tax assessment – hearing, application, and determination.
- 3-07.26 Conviction for chapter violation – taxes not waived.
- 3-07.27 Violation deemed misdemeanor –penalty.
- 3-07.28 Severability.
- 3-07.29 Remedies cumulative.
- 3-07.30 Amendment or repeal.

3-07.01 Title.

This ordinance shall be known as the Cannabis Business Tax Ordinance. This ordinance shall be applicable in the unincorporated territory of the County of Yolo, which shall be referred to in this Chapter as “County.”

3-07.02 General tax.

The Cannabis Business Tax is enacted solely for general governmental purposes for the County and not for specific purposes. The tax revenue raised by this Chapter shall be placed in the County's general fund and can be spent for unrestricted general revenue purposes.

3-07.03 Purpose of the ordinance.

This Chapter is adopted to achieve the following purposes, among others, and directs that the provisions of this Chapter be interpreted in order to accomplish those purposes:

a) To impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical and nonmedical cannabis or cannabis products by cannabis businesses, in the unincorporated area of the County, pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), specifically California Revenue and Taxation Code section 34021.5 or other enabling legislation;

b) To specify the type of tax and rate of tax to be levied and the method of collection; and

c) To comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by the number of voters required by law voting in an election on the issue.

3-07.04 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", or "marijuana", shall have the same definition as

"cannabis" as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

c) "Commercial cannabis business" or "cannabis business" means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the County, whether or not carried on for gain or profit.

d) "Commercial cannabis business tax," "cannabis business tax," "business tax," or "commercial cannabis tax" means the tax due pursuant to this Chapter for engaging in cannabis business in the unincorporated area of the County.

e) "Commercial cannabis cultivation" means cultivation conducted by, for, as part of a cannabis business.

f) "Cultivate" or "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

g) "Delivery" shall have the same definition as "delivery" as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

h) "Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including a person that delivers cannabis and cannabis products as part of a retail sale. Where a dispensary performs its functions through a technology 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 Chapter by either the principal or the technology platform shall, however, be considered compliance by both.

i) "Distributor" or "distribution" or "distribution facility" shall have the same definition as "distribution" as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

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" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, 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 County if:

1) Such person or person's employee maintains a fixed place of business within 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 County for business purposes;

3) Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of 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 County;

5) Such person or person's employee performs work or renders services in the unincorporated area of County; and

6) Such person or person's employee utilizes the streets within the unincorporated area of County in connection with the operation of motor vehicles for business purposes.

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 County.

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

n) "Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales, transactions or transfers, or the cash value thereof; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, whether or not evidenced by sales registers or any transaction recording devices, 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, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

- 1) Cash discounts where allowed and taken on sales;
- 2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- 3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- 4) 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;
- 5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

6) 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;

7) Cash value of sales, trades or transactions that occur entirely within the County of Yolo between departments or units of the same business;

8) 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;

9) Transactions between a partnership and its partners that occur entirely within the County of Yolo;

10) Receipts from services or sales in transactions that occur entirely within the County of Yolo between affiliated corporations. An affiliated corporation is a corporation:

a. The voting and non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or

b. Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or

c. At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.

11) Transactions between a limited liability company and its member(s) that occur entirely within the County of Yolo, provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;

12) 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;

13) 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 Treasurer-Tax Collector 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) "County License" means a license issued by the County of Yolo to a person to authorize that person to operate or engage in a cannabis business.

p) "Manufacturer" shall have the same definition as "manufacturer" as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

q) "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 cannabis products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

r) "Nursery" means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

s) "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.

t) "Personal cannabis cultivation" means cultivation pursuant to Section 5-20.04(A)(1) of the Yolo County Code.

u) "Processing" means to harvest, dry, cure, grade, trim, or package for transport cannabis.

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

w) "State" means the State of California.

x) "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.

y) "Testing laboratory" means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products and that is both of the following:

1) Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and

2) Registered with the California State Department of Public Health.

z) "Treasurer-Tax Collector" means the Treasurer-Tax Collector of the County of Yolo, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter.

3-07.05 Tax imposed.

a) There is established and imposed a cannabis business tax at the rates set forth in this Chapter.

b) Tax on commercial cannabis cultivation.

1) Every person who is engaged in commercial cannabis cultivation in the unincorporated area of the County shall pay an annual cannabis business tax. The minimum tax rate for commercial cannabis cultivation shall be one percent of gross receipts per fiscal year and the maximum rate shall be 15 percent of gross receipts per fiscal year.

2) Effective July 1, 2018 through June 30, 2020, the initial tax rate on commercial cannabis cultivation shall be set at 4 percent of gross receipts per fiscal year. Unless the Board of Supervisors takes action otherwise, beginning on July 1, 2020, such tax rate shall automatically increase to five percent of gross receipts per fiscal year and shall continue at that rate until and unless the Board of Supervisors, in its discretion and subject to Subsection (E) below, implements a

higher or lower tax rate.

c) Tax on all other cannabis businesses.

1) Every person who is engaged in a cannabis business other than cultivation, including but not limited to nurseries, processing, transporting, distributing, distribution facility, manufacturing, compounding, converting, preparing, storing, packaging, delivering, selling or a testing laboratory in the unincorporated area of the County shall pay an annual cannabis business tax. The minimum tax rate shall be one percent of gross receipts per fiscal year and the maximum rate shall be 15 percent of gross receipts per fiscal year. The initial tax rate shall be set at five percent of gross receipts per fiscal year.

d) Notwithstanding the initial tax rates established in Subsection (B) and Subsection (C) above and subject to Subsection (E) below, the Board of Supervisors may, in its discretion, at any time by ordinance, implement a lower or higher tax rate for all persons engaged in a cannabis business in the unincorporated area of the County or establish differing tax rates for different categories of cannabis businesses, including for medical or adult use, subject to the minimum and maximum rates established in Subsection (B) and Subsection (C) above.

e) Notwithstanding Subsection (B), Subsection (C) and Subsection (D) above, the Board of Supervisors shall not increase or decrease the effective tax rate for any category of cannabis business more frequently than once in a 12 month period and not by more than two percentage points, either up or down.

f) The Board of Supervisors may, in its discretion, at any time by ordinance, establish exemptions, incentives, or other reductions, and penalties or interest charges or assessments for failure to pay the tax in a timely manner, as otherwise allowed by California law.

3-07.06 Reporting and remittance of tax.

The cannabis business tax imposed by this Chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

a) Each person owing a cannabis business tax shall, on or before the last day of the month following the close of each quarter, prepare and

submit a tax return on the form prescribed by the Treasurer-Tax Collector and remit to the Treasurer-Tax Collector the tax due. The tax due shall be no less than the quarterly installment due, but the Treasurer-Tax Collector may permit the taxpayer to pay the tax due for the entire fiscal year. Each business shall pay on or before the last day of the month following the close of each quarter.

b) Tax statements and payments for all outstanding taxes owed the County are immediately due to the Treasurer-Tax Collector upon cessation of business for any reason.

c) The Treasurer-Tax Collector may, at his or her discretion, establish shorter report and payment periods for any taxpayer as the Treasurer-Tax Collector deems necessary to ensure collection of the tax.

d) The Treasurer-Tax Collector may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

e) The correctness of any tax return filed pursuant to this Chapter shall be subject to audit and verification by the Treasurer-Tax Collector, or designee, who is authorized and empowered to inspect and audit the books and records of any commercial cannabis business. No cannabis business shall refuse or fail to allow the Treasurer-Tax Collector, or designee, to inspect and audit such books and records, or shall refuse or fail to provide such additional information as requested by the Treasurer-Tax Collector, or designee.

f) For the purposes of this section, "on or before" shall be interpreted as: (1) hand delivery; or (2) postal delivery of a properly stamped and addressed envelope containing the return and full amount of the tax to the United States Postal Service. Delivery to the Postal Service must be verified by cancellation by the Postal Service showing a postmark date no later than midnight on the date the tax is due. If the due date of the tax falls on a United States Post Office closure date, the tax due date shall be the next business day (excluding federal holidays). Private postal meter strips and dates shall not be considered evidence of delivery to the United States Postal Service.

3-07.07 Payments and communications – timely remittance.

Whenever any payment, statement, report, request or other communication is due, it must be received by the Treasurer-Tax Collector on or before the final due date. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the County is open to the public.

3-07.08 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 Treasurer-Tax Collector on or before the due date as specified in Sections 3-07.06 and 3-07.07.

3-07.09 Notice not required by the County.

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

3-07.10 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 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 1.5% per month; and

2) If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to 10% of the amount of the tax, plus interest at the rate of 1.5% per month on the unpaid tax and on the unpaid penalties.

3) Interest shall be applied at the rate of 1.5% 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.

3-07.11 Refunds and credits.

a) No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 3-07.12.

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.

3-07.12 Refunds and procedures.

a) Whenever the amount of any tax or penalty has been overpaid under this Chapter, it may be refunded as provided in Subsection (B) of this section; provided a written claim, stating under penalty of perjury under the laws of the State of California the specific grounds upon which the claim is founded, is filed with the Treasurer-Tax Collector within three years of the date of payment. The claim shall be on forms furnished by the Treasurer-Tax Collector.

b) A person licensed to engage in commercial cannabis activity may claim a refund or take as credit against taxes collected and remitted any amount overpaid when it is established, in a manner prescribed by the Tax Collector, that a refund is due.

c) The Treasurer-Tax Collector, his or her deputies 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 Treasurer-Tax Collector to do so.

3-07.13 Exemptions from the tax.

The provisions of this Chapter shall not apply to personal cannabis cultivation as set forth in Section 5-20.04(A)(1) of the Yolo County Code.

3-07.14 Administration of the tax.

a) It shall be the duty of the Treasurer-Tax Collector 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 Treasurer-Tax Collector may from time to time promulgate such administrative 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 Treasurer-Tax Collector 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; or waive such penalties and interest when there is demonstrated evidence of extenuating circumstances that were clearly beyond the control of the taxpayer; and

6) Determine amounts owed and enforce collection pursuant to this Chapter.

3-07.15 Appeal procedure.

Any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within 15 days of the serving or mailing of the determination of tax due. The Clerk shall fix a time

and place for hearing such appeal, and the Clerk shall give notice in writing to such operator at the last known place of address. The finding of the 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 of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

3-07.16 Enforcement - action to collect.

a) Any taxes, penalties, interest and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the County. Any person owing money to the County under the provisions of this Chapter shall be liable in an action brought in the name of the County for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the County to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

b) In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the County under this Chapter is not paid when due, the Treasurer-Tax Collector may, within three years after the amount is due, record a certificate of lien specifying the amount of taxes, fees, interest and penalties due, and the name and address of the individual or business as it appears on the records of Treasurer-Tax Collector. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this Chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties, fees and interest thereon, constitutes a lien upon all real property in the County owned by the individual or business, or subsequently acquired by the individual or business before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten years from filing of the certificate unless sooner released or otherwise discharged.

c) At any time within three years after any individual or business is delinquent in the payment of any amount required to be paid under this Chapter or within three years after the last recording of a certificate of lien under Subsection B of this Section, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the County under this Chapter. The warrant shall be directed to the Sheriff and shall have the same effect as a writ of

execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Treasurer-Tax Collector may pay or advance to the Sheriff, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution.

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

e) The following shall constitute grounds for terminating a County License:

- 1) Failure to pay any cannabis business tax due under this Chapter within 30 days of the due date.
- 2) Failure to cooperate with the Treasurer-Tax Collector, or designee, as determined by Treasurer-Tax Collector, or designee, during an audit pursuant to this Chapter.
- 3) Underpaying any business tax due under this Chapter in any period by 50 percent or more.
- 4) If the County determines that the nonpayment of any business tax due under this Chapter is due to fraud.
- 5) A County License revocation shall be subject to the appeal process set forth in Yolo County Code section 5-20.04(A)(2)(c)(6).

3-07.17 Apportionment.

If a business subject to the business tax is operating both within and outside the unincorporated County, it is the intent of the County to apply the commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the County.

For purposes of apportionment as may be required by law, the Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with state law and is authorized to obtain any necessary information from the taxpayer for this purpose, including financial records pertaining to activity occurring outside of the unincorporated County area.

3-07.18 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 and 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.

3-07.19 Audit and examination of records and equipment.

a) The Treasurer-Tax Collector shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment, of any person engaged in cannabis businesses in the County, for the purpose of ascertaining the amount of commercial cannabis tax, if any, required to be paid by the provisions of this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter.

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 three 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 Treasurer-Tax Collector or his/her designee shall have the right to inspect at all reasonable times.

3-07.20 Other licenses, permits, taxes, fees or charges.

Nothing contained in this Chapter 18 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 title or 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 title or chapter of this Code or any other ordinance or resolution of the County. Any references made or contained in any other title or 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 titles or chapters of this Code.

3-07.21 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.

3-07.22 Deficiency determinations.

If the Treasurer-Tax Collector is not satisfied that any return 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 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 years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 3-07.24.

3-07.23 Failure to report--nonpayment, fraud.

a) Under any of the following circumstances, the Treasurer-Tax Collector may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at any time:

1) If the person has not filed a complete statement required under the provisions of this Chapter;

2) If the person has not paid the tax due under the provisions of this Chapter;

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

4) If the County determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of 30% 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 Treasurer-Tax Collector to be due or estimated by the Treasurer-Tax Collector, after consideration of all information within the Treasurer-Tax Collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

3-07.24 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 Treasurer-Tax Collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Treasurer-Tax Collector for such purpose, then to such person's last known address. For the purposes of this Section, a service by mail is complete at the

time of deposit in the United States mail.

3-07.25 Tax assessment - hearing, application and determination.

Within ten days after the date of service the person may apply in writing to the Treasurer-Tax Collector 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 Treasurer-Tax Collector shall become final and conclusive. Upon receipt of any such application for hearing, the Treasurer-Tax Collector shall cause the matter to be set for hearing before him or her not later than 35 days after the receipt of the application, unless a later date is agreed to by the Treasurer-Tax Collector and the person requesting the hearing. Notice of such hearing shall be given by the Treasurer-Tax Collector to the person requesting such hearing not later than five days prior to such hearing. At such hearing the applicant may appear and offer evidence why the assessment as made by the Treasurer-Tax Collector should not be confirmed and fixed as the tax due. After such hearing the Treasurer-Tax Collector shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 3-07.24 for giving notice of assessment.

3-07.26 Conviction for chapter 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.

3-07.27 Violation deemed misdemeanor.

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and shall be punishable therefore as provided in Chapter 2 to Title 1 to this Code.

3-07.28 Oversight committee

The Board of Supervisors shall, by resolution, establish a citizen's oversight committee to act in an advisory role to the Board of Supervisors in reviewing the annual revenue and expenditure of funds from the tax authorized by this Chapter, including the annual expenditure plan, and reviewing an annual accounting of the previous year's expenditures. The resolution shall establish

the committee members' terms, qualifications and duties, and the committee's scope of authority.

3-07.29 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.

3-07.29 Remedies cumulative.

All remedies and penalties prescribed by this Chapter or which are available under Title 1 of the 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.

3-07.30 Amendment or repeal.

Chapter 18 to Title 3 of the Yolo County Code may be repealed or amended by the 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 maximum rate of any tax levied pursuant to this Chapter. The people of the County of Yolo affirm that the following actions shall not constitute an increase of the rate of a tax:

a) The setting of the rate of any tax allowed under this Chapter to a rate that is no higher than the maximum rate set by this Chapter, or the restoration of the rate of the tax to a rate that is no higher than the maximum rate set by this Chapter, if the 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

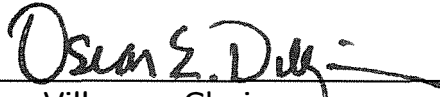
County had, for some period of time, failed to collect the tax.

SECTION 2. EFFECTIVE DATE. This ordinance shall only be effective if approved by the number of voters required by law voting on the tax at an election. If approved by the voters, this ordinance shall become operative on July 1, 2018, or as soon thereafter as allowed by law.

SECTION 3. BOARD AMENDMENTS. The Board of Supervisors of the County of Yolo is hereby authorized to amend Chapter 18 to Title 3 of the Yolo County Code as adopted by this Ordinance in any manner that does not increase the tax rate above the maximum rate specified for each category of business or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution

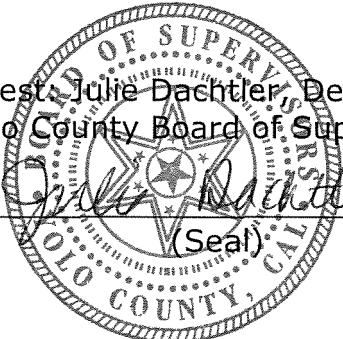
PASSED AND ADOPTED by the Yolo County Board of Supervisors at its regular meeting on March 6, 2018, by the following vote:

AYES: Saylor, Provenza, Chamberlain, Villegas.
NOES: Rexroad.
ABSENT: None.
ABSTENTION: None.



Oscar Villegas, Chair
Yolo County Board of Supervisors

Attest: Julie Dachtler, Deputy Clerk
Yolo County Board of Supervisors



(Seal)

Philip J. Pogledich, County Counsel

By: 

Carrie Scarlata, Asst. County
Counsel