

VOTER'S PAMPHLET
MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)
Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

COUNTY OF LAKE
MEASURE "K"

K "Shall Article VII be added to Chapter 18 of the Lake County Code imposing a Cannabis Business Tax in the unincorporated areas of the County, which, as of January 1, 2021, will impose an annual tax of \$1.00 per square foot for nursery cultivation, 4% of gross receipts on a cannabis dispensary, micro-business, or delivery business, and 2.5% of gross receipts on a cannabis manufacturing, processing, transportation, distribution or other type of cannabis business?"
Yes ___ No ___

ORDINANCE NO. _____

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

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

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

"ARTICLE VII. CANNABIS BUSINESS TAX

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

Sec. 18-62. Purpose.

The purpose of this Ordinance is to adopt a tax, for revenue purposes, upon Cannabis Businesses that engage in business in the unincorporated area of the County of Lake. The Cannabis Business Tax is levied based upon business gross receipts and, for cultivation at a nursery, square footage of plant cultivation site. It is not a sales and use tax, a tax upon income, or a tax upon real property.

The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the County and not for specific purposes. All of the proceeds from the tax imposed by this Article shall be placed in the County's general fund and be available for any legal local governmental purpose. Its purpose is to impose a tax on the privilege of conducting certain cannabis businesses in the County, which includes but is not limited to, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by commercial cannabis businesses in the unincorporated area of the County.

Sec. 18-63. Intent.

The intent of this Ordinance is to levy a tax on those Cannabis Businesses described herein that operate in the unincorporated areas of the County in accordance with the authority granted by California Revenue and Taxation Code section 7284 and/or section 34021.5 and Government Code section 53723 to impose a business tax, regardless of whether such business would have been licensed by the State of California at the time this Ordinance was adopted, to specify the type of tax and rate of tax to be levied and the method of collection, and to comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue. Nothing in this Ordinance shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

Sec. 18-64 Definitions.

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

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

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

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

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

E. "Cannabis business" means any business activity involving cannabis, including but not limited to cultivation at a nursery, 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. With the sole exception of cultivation at a nursery, cultivation is not included for purposes of this Ordinance, having already been separately addressed in Lake County Ordinance Number 3047 (Measure "C").

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

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

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

I. "Dispensary" ("Retailer") means an adult-use retailer and includes, but is not limited to, 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 Article by either the principal or the technology platform shall, however, be considered compliance by both.

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

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

L. "Engaged in business as a cannabis business" means the has obtained the County-required permitting and/or licensing for, commencing, conducting, operating, managing or carrying on of a cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the unincorporated area of the County or coming into the

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County from an outside location to engage in such activities. A person shall be deemed engaged in business within the unincorporated area of the County if:

1. Such person or person's employee maintains a fixed place of business within the unincorporated area of the County for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the unincorporated area of the County for business purposes;
3. Such person has obtained all necessary County and State permits and/or license for cannabis business purposes;
4. Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area for sale in the ordinary course of business;
5. Such person or person's employee regularly conducts solicitation of business within the unincorporated area of the County; or
6. Such person or person's employee performs work or renders services in the County.

M. "Evidence of doing business" includes, but is not limited to, the 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.

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

O. "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. 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;
5. 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.

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

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

R. "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.

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 non-profit or for-profit entity, and includes the plural as well as the singular number.

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

U. "State" means the State of California.

V. "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.

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

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

Y. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of medical cannabis or medical 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 medical cannabis industry in the state and (v) is registered with the State Department of Public Health.

Sec. 18-65. Tax Imposed.

A. Tax to be Effective January 1, 2021.

The following tax rates are to be imposed on all commercial cannabis business of the type described hereinabove.

1. For cultivation at a nursery, an annual tax of one dollar (\$1) per square foot of any cultivation site at any nursery.
2. For persons engaged in the operation of a testing laboratory, an annual tax of zero percent (0%) of gross receipts.
3. For every person who engages in the retail sales of cannabis as a dispensary, micro-business, or delivery business, an annual tax four percent (4%) of gross receipts.
4. For every person who engages in a cannabis manufacturing, processing, transportation, distribution or any other type of cannabis business not specifically described hereinabove but referenced in section 18-64 herein, an annual tax of two and one-half percent (2.5%) of gross receipts.

B. Consumer Price Index (CPI). On July 1, 2020 and each July 1 thereafter, the maximum annual tax rate 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 San Francisco County area 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.

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

A. For cannabis cultivation at a nursery, the tax due for each calendar quarter shall be based on the square footage of the business's cultivation site 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. Each person owing a commercial cannabis business tax, and each person on whom a zero percent tax rate is imposed, shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement remitting to the Treasurer-Tax Collector the tax due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time 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 calendar quarter.

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

C. 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.

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

**IMPARTIAL ANALYSIS OF
COUNTY MEASURE "K"**

Measure "K", placed on the ballot by the County of Lake (the "County"), seeks voter approval of the Lake County Cannabis Business Tax Ordinance, adding Article VII to Chapter 18 of the Lake County Code. The tax imposed by this ordinance applies to all medical and nonmedical commercial cannabis businesses. The Cannabis Business Tax is a general tax enacted solely for general governmental purposes. The proposed measure would impose a tax on commercial cannabis businesses as follows: For cultivation at a nursery, an annual tax of one dollar (\$1) per square foot of any cultivation site at any nursery. For persons engaged in the operation of a testing laboratory, an annual tax of zero percent (0%) of gross receipts. For every person who engages in the retail sales of cannabis as a dispensary, micro-business, or delivery business, an annual tax four percent (4%) of gross receipts. For every person who engages in a cannabis manufacturing, processing, transportation, distribution or any other type of cannabis business not specifically described above, but referenced in the Cannabis Business Tax Ordinance, an annual tax of two and one-half percent (2.5%) of gross receipts. It is noted in the Cannabis Business Tax Ordinance that cultivation is included therein only to the extent it addresses cultivation at a nursery, cultivation having been separately addressed in Lake County Ordinance Number 3047.

In addition to establishing tax rates, Measure K would adopt certain related regulatory provisions as part of the addition of Article VII to Chapter 18 of the Lake County Code. These include definitions, requirements for the reporting and remission of the tax, penalties and interest for late payment, credits and refunds, and an appeal procedure for cannabis businesses regarding their tax assessments.

A "Yes" vote on this measure would authorize the County to impose a Cannabis Business Tax in the unincorporated areas of the County.

A "No" vote on this measure would prevent the County from imposing this tax.

s/Anita L. Grant
County Counsel
County of Lake

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**ARGUMENT IN FAVOR OF
MEASURE "K"**

Vote YES on Measure K to impose a tax on the privilege of conducting legal cannabis business in the unincorporated areas of Lake County.

Measure K will tax cannabis businesses at the following rates:

Retail sales at a dispensary, through delivery or micro business - 4% of gross receipts

Manufacturing, processing, transportation, distribution or any other type of cannabis business - 2.5% of gross receipts

Cultivation at a nursery - \$1.00 per square foot

Testing laboratories - no tax imposed

Starting July 1, 2020 and each year thereafter, the tax may be increased in accordance with any increase in the Consumer Price Index (CPI).

Repeated disasters have devastated Lake County's finances. Without Measure K, the County will not be able to address the risks and impacts of cannabis businesses while maintaining other general County services vital to local citizens.

A NO vote on Measure K means the County will not be able to effectively address possible impacts upon other businesses, our residents and entire communities.

Vote YES on Measure K to enable the County to fund collateral costs associated with cannabis businesses including code enforcement, law enforcement, policy development, health impacts, educational impacts, and environmental damage and clean up.

Please join us in supporting Measure K to ensure that cannabis does not create a burden that takes money away from existing programs and services.

s/Jim Steele, Chairman - Board of Supervisors

**THERE WAS NO ARGUMENT FILED
AGAINST MEASURE K**