

ORDINANCE NO. 4508

ORDINANCE AMENDING CHAPTER 6.32 – CANNABIS BUSINESS TAX TO ADD SECTION 6.32.055 – RELIEF FROM MINIMUM TAX – NOTICE AND AFFIDAVIT OF FALLOWING

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

Section 1: Section 6.32.055 is hereby added to the Mendocino County Code to read as follows:

Sec. 6.32.055 – Relief From Minimum Tax – Notice and Affidavit of Fallowing

- A. Notice of Fallowing. Subject to the requirements of this section, any person with a permit or application for a permit to cultivate commercial cannabis may file with the Cannabis Department a notice stating under penalty of perjury their intent to fallow the cultivation site that is the subject of the permit or application for a permit to cultivate commercial cannabis, or a portion thereof (the “Fallowed Area”), and that during the fallow period no commercial cannabis will be grown on the Fallowed Area.
1. The Notice of Fallowing (“notice”) shall be on a form provided by the Cannabis Department and approved by County Counsel and the Tax Collector. The Cannabis Department shall only accept complete notices. Accepted notices shall be provided to the Tax Collector.
 2. The Fallowed Area may be fallowed for a calendar year, January 1 through December 31 (“fallow period”), provided that a person files the notice on or before December 31 of the preceding calendar year. However, for the calendar year in which the ordinance adding this section was adopted, a person may file a notice within thirty (30) days after the effective date of said ordinance to fallow the Fallowed Area, for the remainder of said calendar year and the remainder of that year shall be the fallow period.
 3. The notice shall provide that, during the fallow period, the applicant or permittee shall not grow any cannabis on the Fallowed Area or on any newly developed area on the parcel that contains the Fallowed Area, except for:
 - a. cultivation of cannabis on any portion of the cultivation site identified as not being fallowed on the Notice of Fallowing; and
 - b. cultivation in compliance with the limitations of paragraph (B) and/or paragraph (C) of section 10A.17.030, and
 - c. utilizing any immature plant area as identified on the most recent site plan submitted to the Cannabis Department to maintain genetic stock.
- B. Revocation of Notice by Taxpayer. An applicant or permittee who has filed a Notice of Fallowing may revoke that notice by providing written notice to the Cannabis Department, on a form provided by the Cannabis Department and approved by County Counsel, of the intent to resume cultivation prior to the end of the fallow period. Such notice must be received by the Cannabis Department at least thirty (30) days before the resumption of any activity beyond what is allowed under paragraph A of this section. The form shall include an acknowledgement

that the taxpayer shall be subject to the full minimum tax for the relevant calendar year.

- C. Affidavit of Following. After January 1 but before February 1, any applicant or permittee who filed a Notice of Following for the preceding calendar year shall file an affidavit, on a form provided by the Cannabis Department and approved by County Counsel, affirming that they complied with all requirements of paragraph A, above. The affidavit shall further affirm that the applicant or permittee has fully and accurately reported all gross receipts for the prior calendar year for any sales of preexisting stock or other taxable revenue. .
- D. Review of Affidavit; Effect on Minimum Tax. Upon receipt of the affidavit, the Cannabis Department shall determine whether the applicant or permittee is in compliance with this section. If compliance with this section is confirmed, the Cannabis Department shall provide the affidavit and the Cannabis Department's determination to the Tax Collector and the applicant or permittee shall be subject to the minimum tax under section 6.32.050 for the prior calendar year as follows:
 - 1. Where the Fallowed Area consists of an entire cultivation site (not including any immature plant area), the applicant or permittee shall not be subject to the minimum tax.
 - 2. Where the Fallowed Area consists of a portion of the cultivation site, the applicant or permittee shall be subject to the minimum tax that corresponds to the square footage of the non-fallowed portion of the cultivation site, such that:
 - a. Where the non-fallowed portion of the cultivation site is two thousand five hundred (2,500) square feet or less, the applicant or permittee shall pay the minimum tax amount stated in section 6.32.050.B.1.a.
 - b. Where the non-fallowed portion of the cultivation site is over two thousand five hundred (2,500) square feet and up to and including five thousand (5,000) square feet, the applicant or permittee shall pay the minimum tax amount stated in section 6.32.050.B.1.b.
 - c. Where the non-fallowed portion of the cultivation site is over five thousand (5,000) square feet, the applicant or permittee shall pay the minimum tax amount stated in section 6.32.050.B.1.c.
- E. Penalties for Violation. If the Department becomes aware, at any point during the fallow period, that the applicant or permittee is failing to adhere to those requirements set forth in paragraph A, then the Department shall promptly notify the Tax Collector. Submission of a false or fraudulent document under this section, or failure to adhere to the requirements of paragraph A, without first submitting a revocation of notice in the time period set forth in paragraph B, shall constitute a violation of law and constitute grounds for denial of a permit application or revocation of a permit. Any violation of this section may be punishable by an administrative penalty not more than the minimum tax owed pursuant to section 6.32.050 for the prior calendar year.
- F. No Impact to Permitting Requirements or Gross Receipts Tax. Neither the Notice of Following nor relief from the minimum tax shall in any way alter any requirements to have and maintain a permit under Chapter 10A.17 or other applicable law. This includes but is not limited to any annual or other inspection requirements imposed

by County ordinance. The Notice of Fallowing is not an exemption from the payment of gross receipts taxes on any cannabis harvested before the fallowing period but sold during the fallowing period, or cannabis cultivated on an approved non-fallowed portion of a cultivation site and sold during the fallowing period.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 12th day of July, 2022, by the following roll call vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: DARCIE ANTLE
Clerk of the Board

TED WILLIAMS, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

BY: DARCIE ANTLE
Clerk of the Board

Deputy