

ORDINANCE NO. _____

ORDINANCE AMENDING SECTIONS 6.32.050 AND 6.32.100 OF THE MENDOCINO COUNTY CODE TO PROVIDE, FOR CANNABIS CULTIVATION AND NURSERY OPERATIONS, A REDUCTION IN THE CANNABIS BUSINESS TAX FOR TAX YEARS 2023 AND 2024 AND TO ESTABLISH A PENALTY AND INTEREST AMNESTY PROGRAM AND A PRIOR YEAR TAX PAYMENT PLAN

Section 1: Section 6.32.050 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.32.050 Tax Imposed.

- A. There is established and imposed a cannabis business tax at the rates set forth in this Chapter. Every person who is engaged in commercial cannabis cultivation in the unincorporated area of the County shall pay an annual cannabis business tax.
- B. Tax on commercial cannabis cultivation excluding nurseries.
 - 1. Every person who cultivates commercial cannabis in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017, through December 31, 2020, shall be set at two and one half percent (2.5%) of the gross receipts per calendar year; provided, however, that cultivators shall pay not less than the following amounts:
 - a. Persons cultivating pursuant to a cultivation permit applied for or issued pursuant to Chapter 10A.17 that authorizes the cultivation of a maximum of two thousand five hundred (2,500) square feet of cannabis (including, but not limited to, Type C, Type C-A or Type C-B cultivation permits) shall pay a tax of no less than one thousand two hundred fifty dollars (\$1,250) per calendar year.
 - b. Persons cultivating pursuant to a cultivation permit applied for or issued pursuant to Chapter 10A.17 that authorizes the cultivation of over two thousand five hundred (2,500) square feet and up to five thousand (5,000) square feet of cannabis (including, but not limited to, Type 1, Type 1A and Type 1B cultivation permits) shall pay a tax of no less than two thousand five hundred dollars (\$2,500) per calendar year.
 - c. Persons cultivating pursuant to a cultivation permit applied for or issued pursuant to Chapter 10A.17 that authorizes the cultivation of over five thousand (5,000) square feet of cannabis (including, but not limited to, Type 2, Type 2A and Type 2B cultivation permits) shall pay a tax of no less than five thousand dollars (\$5,000) per calendar year.

- d. Persons who file a Notice of Non-Cultivation with the Department of Agriculture pursuant to Chapter 10A.17 shall not be required to pay the minimum payment amounts required by this paragraph B.1 for either (1) the calendar year in which the Notice of Non-Cultivation is filed or (2) the calendar year in which the Notice of Non-Cultivation terminates, at the election of the Person, which election shall be made at the time of the filing of the Notice of Non-Cultivation; for Persons who do not make an election, the Treasurer-Tax Collector shall select the first of the two calendar years.
- e. Payment of the minimum payment amounts required by this paragraph B.1. shall be effective starting January 1, 2018.

2. As of July 1, 2020, such tax rate may be increased in two and one half percent (2.5%) increments, not to exceed the maximum tax rate of ten percent (10%) per calendar year on gross receipts. Incremental increases in the tax rate shall occur January 1 following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board of Supervisors, and occur not more than once per calendar year.

2-3. For tax years 2023 and 2024, the tax rates and minimum tax amounts stated in paragraph B.1. of this section shall be reduced by fifty percent (50%).

C. Tax on commercial cannabis dispensaries.

- 1. Every person who is engaged in business as a dispensary in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017, through December 31, 2020, shall be set at five percent (5%) of the gross receipts per calendar year.
- 2. As of July 1, 2020, such tax rate may be increased in two and one half percent (2.5%) increments, not to exceed the maximum tax rate of ten percent (10%) per calendar year on gross receipts. Incremental increases in the tax rate shall occur January 1 following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board of Supervisors, and occur not more than once per calendar year.

D. Tax on all other commercial cannabis businesses.

- 1. Every person who is engaged in business as a distributor, delivery service manufacturer, processor, nursery, testing laboratory, and transporter in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017, through December 31, 2020, shall be set at a flat rate of two thousand five hundred dollars (\$2,500) per

calendar year. Notwithstanding the foregoing, for tax years 2023 and 2024, the tax rate for nursery businesses shall be reduced by fifty percent (50%).

2. Beginning on July 1, 2020, and on July 1 of each succeeding year thereafter, the amount of the tax imposed the following January 1 by this paragraph D of this Section shall be adjusted up to the equivalent to the most recent change in the State Department of Industrial Relations (or successor agency) in the Consumer Price Index (CPI) for all urban consumers (California). However, no CPI adjustment resulting in a decrease of any tax imposed by this paragraph D shall be made.

Section 2: Section 6.32.100 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.32.100 Penalties and Interest.

- A. Any person who fails or refuses to pay any commercial 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 and one-half percent (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 twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one and one-half percent (1.5%) per month on the unpaid tax.
3. Interest shall be applied at the rate of one and one-half percent (1.5%) per month on the first day of the month for the full month, and will continue to accrue monthly on the unpaid tax until the balance is paid in full.

- B. Whenever a check or electronic payment is submitted in payment of a commercial 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 applicable as provided for in this Section, and any other amount allowed under state law.

- C. Limited Amnesty for Tax Years 2018 through 2021. Penalties and interest for any person who failed or refused to pay any commercial cannabis business tax required to be paid pursuant to this Chapter for cannabis cultivation or for a nursery business for tax years 2018, 2019, 2020 or 2021 shall be waived, subject to meeting the requirements of this paragraph. Persons seeking a waiver of said penalties and interest shall be required to enter into a payment plan pursuant to paragraph D of this section. Once the person has satisfied all requirements of the payment plan, the

Treasurer-Tax Collector is authorized to forgive payment of any of the persons' outstanding penalties and interest for tax years 2018, 2019, 2020 and 2021.

D. Payment Plan. The Treasurer-Tax Collector is hereby authorized to enroll into a payment plan persons who failed or refused to pay any commercial cannabis business tax required to be paid pursuant to this Chapter for cannabis cultivation or for a nursery business for tax years 2018, 2019, 2020 or 2021. Persons seeking to enroll into a payment plan shall make a request to the Treasurer-Tax Collector, on a form provided by the Treasurer-Tax Collector, no later than May 31, 2023.

1. Schedule. The payment plan shall require payment of the full delinquent amount of taxes owed by the person for all of the years stated above (not including penalties and interest) over a three (3) year period as follows:

a. Twenty-five percent (25%) of taxes owed for all prior years by May 31, 2023.

b. Seventy-five percent (75%) of taxes owed for all prior years by June 30, 2024.

c. One hundred percent (100%) of taxes owed for all prior years by June 30, 2025.

2. Timely Payment of New Taxes. The person shall timely pay all taxes owed pursuant to this Chapter for tax years 2023, 2024 and 2025.

~~B-3.~~ Delinquency. If a person is delinquent in paying either the amounts owed under the payment plan or taxes owed for tax years 2023, 2024 and 2025, the Treasurer-Tax Collector shall terminate the payment plan for the person and all penalties and interest owed shall be immediately due and payable.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2023, by the following roll call vote:

AYES:
NOES:
ABSENT:

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

ATTEST: DARCIE ANTLE
Clerk of the Board

GLENN MCGOURTY, Chair
Mendocino County Board of Supervisors

Deputy

APPROVED AS TO FORM:
Christian M. Curtis
County Counsel

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

BY: DARCIE ANTLE
Clerk of the Board

Deputy