

BOARD OF SUPERVISORS, COUNTY OF CALAVERAS
STATE OF CALIFORNIA
July 14, 2020

**Resolution
No. 20200714r079**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF CALAVERAS CALLING AND ORDERING AN
ELECTION FOR, AND AUTHORIZING THE SUBMISSION
TO THE VOTERS OF, A MEASURE TO AMEND AND
REPLACE IN FULL CHAPTER 3.56 OF THE CALAVERAS
COUNTY CODE OF ORDINANCES AND ESTABLISHING
ADMINISTRATIVE PROCEDURES AND TAX RATES FOR
COMMERCIAL CANNABIS ACTIVITIES FOR
UNRESTRICTED GENERAL REVENUE PURPOSES, AND
CONSOLIDATING THE ELECTION WITH THE GENERAL
STATEWIDE ELECTION ON NOVEMBER 3, 2020**

WHEREAS, the Board of Supervisors (the "Board") of Calaveras County (the "County") is authorized, pursuant to Elections Code section 9140, to submit to the voters without petition, an ordinance, and call and conduct the special election in the same manner as provided by law; and

WHEREAS, Government Code section 53739 authorizes the County to present a proposed tax measure which states a range of rates or amounts which the Board of Supervisors may thereafter impose at any rate or amount that is less than or equal to the maximum amount authorized by the voter-approved ordinance; and

WHEREAS, cannabis businesses are likely to create demands upon County services and the Board has expressed interest in using additional revenue to increase essential County services including increasing emergency fire district response/protection, Sheriff's patrols, road repairs, and attracting/retaining businesses and other County services and infrastructure; and

WHEREAS, resident priorities include enhancing crime prevention and investigation, enforcing cannabis licensing, operation and public safety and environmental regulation, and all revenues received from the taxes imposed by Chapter 3.56 shall be deposited in the County's General Fund to be expended for general purposes; and

WHEREAS, Government Code section 53724 additionally provides that no tax subject to the vote requirement prescribed by Government Code section 53723 (general taxes) shall be presented at an election unless the ordinance or resolution proposing such tax is approved by a two-thirds vote of all members of the legislative body of the local government; and

WHEREAS, every person and entity engaged in cannabis business activity in the unincorporated area of Calaveras County will be required to register and to pay the cannabis activities tax; and

WHEREAS, the Board of Supervisors hereby finds and determines that approval of this Resolution is not a project pursuant to Public Resources Code § 21065 because the ballot measure involves a government funding mechanism and related fiscal activities, which does not involve a commitment to a specific project;

NOW THEREFORE BE IT RESOLVED, the Board of Supervisors of the County of Calaveras does hereby order and provide as follows:

Section 1. Election Order.

The Board of Supervisors hereby calls and orders an election to be held and conducted in and for the County of Calaveras on Tuesday, November 3, 2020, for the purpose of submitting the Ordinance to the voters of Calaveras County, and further orders that the election be consolidated with the Statewide General Election to be held on November 3, 2020.

Section 2. Statement of the Measure.

Pursuant to Elections Code section 9140, the below measure shall be submitted on the ballot at said election to the voters of Calaveras County to be held on November 3, 2020, and the Elections Official hereby is instructed to place same on the ballot at said election in a manner consistent with California Elections Code sections 13119 and 13247 in the following form:

Measure_____: CANNABIS ACTIVITIES TAX MEASURE

For general revenue purposes, including the improvement of essential County services such as road maintenance, crime prevention, and environmental regulation, shall the measure establishing maximum cannabis activities tax rates not to exceed \$7.00 per square-foot for cultivation canopy area and 8% of gross receipts for all other cannabis activities, in unincorporated Calaveras County, generating an estimated \$1.5 - \$3,000,000 annually, with all funds used locally and annual audits, unless/until repealed, be adopted?	<input type="checkbox"/> Yes
	<input type="checkbox"/> No

Section 3. Conduct of the Election.

The Calaveras County Registrar of Voters is hereby authorized and directed to take any and all actions necessary to prepare for and conduct the election and canvass the returns of the election as set forth in the Elections Code, and to do all things required by law to present the proposed Measure to the electorate, including, without limitation, the following:

- A. Furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
- B. Fix and determine dates for submission of arguments for or against said proposed ordinance pursuant to the provisions of the Elections Code.
- C. Take the necessary and appropriate action to provide the election officers, polling places and voting precincts.
- D. Transmit a copy of the Measure to the County Auditor and County Counsel in accordance with Elections Code 9160.

- E. Give notice of the time and place of holding the election together with any other notices required by law.
- F. Hold and conduct the election as provided bylaw for the holding of County initiative elections.

Section 4. Full Measure.

The full text of the proposed Measure shall be as set forth in **Exhibit "A"** attached

hereto and made a part hereof. The sample ballot to be mailed to the voters, pursuant to Sections 9160 and 13303 of the Elections Code, shall include a statement that voters may contact the Elections Official at (209) 754-6376 for a copy of the full text of the Measure, and a complete copy of the Measure will be mailed to the voter at no charge. The Calaveras County Registrar of Voters may also publish the full text of the measure on the County website pursuant to Section 9160(b)(4).

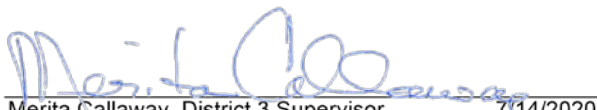
Section 5. Impartial Analysis.

In accordance with Elections Code section 9160, the Calaveras County Counsel is directed to prepare an impartial analysis of the measure and the County Auditor is directed to prepare a fiscal impact statement.

Section 6. Proposed Measure Not a Project.

The Board of Supervisors hereby finds and determines that approval of this Resolution is not a project pursuant to Public Resources Code § 21065 because the ballot measure involves a government funding mechanism and related fiscal activities, which does not involve a commitment to a specific project;

AYES: Callaway, Stopper, Tofanelli, Garamendi, Mills


Merita Callaway, District 3 Supervisor 7/14/2020

ATTEST


Rebecca Turner, Clerk to the Board 7/14/2020

AN ORDINANCE OF COUNTY OF CALAVERAS AMENDING AND REPLACING IN FULL CHAPTER 3.56 OF THE CALAVERAS COUNTY CODE OF ORDINANCES RELATING TO THE COMMERCIAL CANNABIS CULTIVATION AND CANNABIS WHOLESALE AND RETAIL ACTIVITY TAX

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Ordinance No. 20_____ - _____.

The People of the County of Calaveras ordain as follows:

Section 1: Ordinance No. 3071, as codified in Chapter 3.56 of the Calaveras County Code of Ordinances is hereby amended and replaced in its entirety to read as follows:

Chapter 3.56 - COMMERCIAL CANNABIS ACTIVITY TAX

3.56.010 - Title.

This Chapter 3.56 shall be known as the “Commercial Cannabis Activity Tax Ordinance.” This Chapter shall be applicable in the unincorporated area of the County of Calaveras, the County of Calaveras will be referred to as “County.”

3.56.020 – General Tax.

The commercial cannabis activity tax as provided in this Chapter is enacted solely for general governmental purposes for 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 used for general governmental purposes.

3.56.030 - Purpose of the Ordinance.

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

- A. To impose a tax on the privilege of cultivating, manufacturing, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis and/or cannabis products and accessories as commercial cannabis activity in the unincorporated area of the County, pursuant to the state Medicinal and Adult-Use Cannabis Regulation and Safety Act, and specifically California Revenue and Taxation Code section 34021.5;
- B. To impose a tax on lawful commercial cannabis activity in accordance with the authority granted by California Revenue and Taxation Code section 7284 to impose a business license tax;
- C. To specify the type of tax and rate of tax to be levied and the method of collection; and
- D. 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.

3.56.040 - Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. “Calendar Year” means the first day of January through and including the thirty-first day of December of each year.
- B. “Cannabis” means the plants themselves and 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, any product for consumption, any topical product, or other product where a derivative of cannabis is a component. “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, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, and includes all of the space(s) within the boundaries.
- E. “Commercial cannabis activity” or “cannabis activity” for purposes of this chapter means any activity relating to cannabis and includes cultivation, possession, manufacture, distribution, processing, storing, delivering, storing, distribution, transportation, delivery, and sale of cannabis or of cannabis products and accessories, whether or not carried on for gain or profit, in the unincorporated area of the County.
- F. “Cannabis activity tax” or “commercial cannabis tax” means the tax due pursuant to this Chapter for engaging in commercial cannabis activity in the unincorporated area of the County.
- G. “County permit,” as used in this Chapter, means a permit issued by the County to a person to authorize that person to operate or engage in a commercial cannabis activity. The term “County permit” includes, but is not limited to, a commercial cannabis permit issued pursuant to Chapter 17.95, 17.91, and any other subsequent or additional Chapter of the Calaveras County Code which may be adopted or amended from time to time which authorizes any cannabis activity.
- H. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

I. “Delivery” means the commercial transfer of cannabis or cannabis products to a retail customer at a separate location. Delivery also includes the use by a retailer of any technology platform.

J. “Dispensary” means a facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

K. “Distributor” or “distribution” or “distribution facility” means a person or facility involved in the procurement, sale, and/or transport of cannabis and cannabis products between permitted or licensed entities.

L. “Gross Receipts,” except as otherwise specifically provided, means the total amount actually received or receivable from all sales; 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 such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in “gross receipts” shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of goods or materials used, labor or service costs, interests 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. 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 any sale of any goods, products, or property returned by purchaser to seller and refunded by the seller by way of cash or credit 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 commercial cannabis tax payer in the regular course of their business;
5. Whenever there are included within 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 uncollectable;
6. Receipts of refundable deposits, except when such deposits are forfeited and taken as income; and
7. Amounts collected for others where the commercial cannabis tax payer is acting as an agent or trustee and to the extent that such amounts are paid to those for whom it is collected.

M. “Manufacture” or “Manufacturing” means the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction

methods, or independently by means of chemical synthesis, or by combination of extraction and chemical syntheses.

N. “Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used for the planting, propagation, and cultivation of cannabis.

O. “Permittee” means any person that has received a County Permit.

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

Q. “Personal Cultivation” means cultivation of six or fewer mature cannabis plants for personal medical or personal adult use. Cultivation of six or fewer mature cannabis plants shall not be considered “commercial cannabis activity” for the purposes of this chapter.

R. “Processing” means to harvest, dry, cure, grade, trim, or package for transport commercial cannabis.

S. “Sale” means and includes any sale, exchange, or barter of cannabis or cannabis products.

T. “State” means the State of California.

U. “State license,” “license,” or “registration” means a state license issued pursuant to California Business & Professions Code section 26000, *et seq.* or other applicable state law.

V. “Tax collector” means the County treasurer/tax collector.

W. “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 (i) accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state, and (ii) registered with the California State Department of Public Health.

X. “Transport” means the transfer of cannabis or cannabis products from the permitted business location of one permittee or licensee to the permitted business location of another permittee or licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state law and the County code.

3.56.050 – Commercial Cannabis Activity Tax Imposed.

A. There is established and imposed a commercial cannabis activity tax at the rates set forth in this Chapter. Every person who is engaged in commercial cannabis activity in the unincorporated area of the County shall pay an annual cannabis activity tax.

B. Tax on commercial cannabis cultivation except nurseries:

1. Every person engaged in commercial cannabis cultivation under a County permit for outdoor cultivation in the unincorporated area of the County shall pay a cannabis activity tax

equal to the sum of two dollars (\$2.00) per square foot of canopy area authorized by each County permit, per calendar year. The square footage shall be the maximum square footage of the canopy allowed by the County permit. In no case shall canopy square footage which is authorized by the permit, but not utilized for cultivation, be deducted for the purpose of determining the tax for cultivation.

2. Every person engaged in commercial cannabis cultivation under a County permit for mixed light cultivation in the unincorporated area of the County shall pay a cannabis activity tax equal to the sum of three dollars (\$3.00) per square foot of canopy area authorized by each County permit per calendar year. The square footage shall be the maximum square footage of the canopy allowed by the County permit. In no case shall canopy square footage which is authorized by the permit, but not utilized for cultivation, be deducted for the purpose of determining the tax for cultivation.

3. Every person engaged in commercial cannabis cultivation under a County permit for indoor cultivation in the unincorporated area of the County shall pay a cannabis activity tax equal to the sum of four dollars (\$4.00) per square foot of canopy area authorized by each County permit per calendar year. The square footage shall be the maximum square footage of the canopy allowed by the County permit. In no case shall canopy square footage which is authorized by the permit, but not utilized for cultivation, be deducted for the purpose of determining the tax for cultivation.

C. Gross Receipts Tax:

1. Every person permitted pursuant to Chapter 17.95 to operate a nursery shall pay a commercial cannabis activity tax equal to the sum of two percent (2%) of gross receipts per calendar year.

2. Every person who is engaged in all other commercial cannabis activity, including but not limited to as a retailer, distributor, distribution facility, testing laboratory, transporter, manufacturing facility, dispensary or engaged in the delivery of cannabis, in the unincorporated area of the County, shall pay a cannabis activity tax at the rate of five percent (5%) of the gross receipts per calendar year.

D. As of January 1, 2022, the Board of Supervisors may, by ordinance, increase the cannabis activity tax base rates once per year in increments of up to one dollar (\$1.00) per square foot of canopy for each category of tax in subdivision (B) of this Section, and by up to one percent (1%) of gross receipts based taxes provided in subdivision (C) of this Section. For example, a discretionary increase in the initial base rate of tax for a nursery would be 3% on January 1, 2022 if the Board exercised discretion to increase by full allowance. The maximum tax rates shall be seven dollars (\$7.00) per square foot for cultivation, and eight percent (8%) of gross receipts for all other commercial cannabis activities. Such increases shall be at the discretion of the Board of Supervisors. Incremental increases in the base tax rate shall not occur more than once per calendar year, following the approval by the Board of Supervisors of such increase, at a regularly

scheduled meeting of the Board of Supervisors. The authorized increases provided in this subdivision D continue to accrue, as provided, whether exercised or not.

3.56.060 – Proration and apportionment.

If a County permit is issued during the course of a particular calendar year, the County designated department shall prorate in daily increments, from the date of issuance, the amount due for the then applicable calendar year quarter. If a permittee 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 activity 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. For purposes of apportionment as may be required by law, the tax collector may promulgate such administrative procedures for apportionment as he or she finds useful or necessary.

3.56.070 - Authorization to adjust rates.

The Board of Supervisors may, by a 4/5 vote, impose the tax authorized by this chapter at a lower rate and may establish exemptions, incentives, or other reductions, as otherwise allowed by state law. No action by the Board of Supervisors under this section shall prevent it from later restoring the tax to the levels authorized by voter approval of this ordinance or removing any exemption, incentive, or reduction, and restoring the maximum tax specified in this chapter. This section does not apply to a modification of permit tax basis as provided in Section 3.56.050(B)(1)-(3), as distinguished from the tax rate itself.

3.56.080 - Payment of tax does not authorize activity.

The payment of a commercial cannabis activity tax required by this Chapter, and its acceptance by the County, shall not entitle any person to carry on any cannabis activity unless the person has complied with all of the requirements of the Calaveras County Code and all other applicable state laws. 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. This Chapter does not provide for the authorization and permitting to conduct commercial cannabis activity, and instead solely provides for the taxation of such activity conducted under a County permit.

3.56.090 - Amendments and administration of tax.

This Chapter 3.56 of the Calaveras County Code may be repealed or amended by the Board of Supervisors, by a 4/5 vote, 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 above the maximum authorization pursuant to this Chapter. The people of the County of Calaveras affirm that the following actions shall not constitute an increase of the rate of a tax:

1. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the Board of Supervisors has acted to reduce the rate of the tax;
2. 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
3. The collection of the tax imposed by this Chapter, even if the County had, for some period of time, failed to collect the tax.

3.56.100 - Reports and remittances.

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

- A. Each person engaged in a cannabis activity and subject to the cannabis activity tax shall, on or before the last day of the month immediately following the close of each calendar year quarter, prepare and submit a tax return on the mandatory form prescribed by the tax collector. The full amount of the tax due for the quarter shall be remitted to the tax collector at the time the return is filed. The tax due shall be no less than the quarterly installment due. Each permittee shall pay the cannabis activity tax due 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 collector.
- C. The tax collector may, at his or her discretion, establish shorter reporting and payment periods for any taxpayer as the tax collector deems necessary to insure collection of the tax.
- D. The 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.

3.56.110 - Remitting and reporting requirement upon cessation of operations.

Termination of a cannabis permit shall not relieve a permittee from their obligation to pay taxes pursuant to this chapter. Tax statements and payments for all outstanding taxes owed the County are immediately due to the tax collector upon cessation of business for any reason.

3.56.120 – Penalties, interest, and discretionary relief.

- A. Any person who fails or refuses to pay any cannabis activity 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.

2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to ten percent (10%) 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 and on the unpaid penalties.

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 tax and penalty until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a cannabis activity 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 3.56.120, and any other amount allowed under state law.

C. The commercial cannabis activity tax due shall be that amount due and payable from the first date on which the person was engaged in commercial cannabis activity in the unincorporated area of the County, together with applicable penalties and interest calculated in accordance with Section 3.56.120(A), above.

D. Any person whose commercial cannabis activity tax is delinquent by at least sixty (60) calendar days may be subject to revocation of the County permit associated with that commercial cannabis activity. Chronic non-compliance with Section 3.56.100, established as two or more violations in a 12 month period shall also be grounds for revocation of a County permit.

E. The tax collector is authorized to make an assessment in the manner provided for in Sections 3.56.140 and 3.56.150 of the anticipated tax liability for up to the following four (4) quarters for any person who has failed to file one or more returns or payments, or who has filed one or more delinquent returns or payments, in any twelve (12) month period, without curing the failure or delinquency within sixty (60) days of the original due date after written notice by the tax collector of the failure or delinquency. Failure to remit the anticipated tax within sixty (60) days of the notice of assessment shall be grounds for revocation of the County permit associated with the subject County permit.

F. The tax collector may waive the first and second penalties of 10% each imposed upon any person if: (i) the person provides evidence satisfactory to the tax collector that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent cannabis activity tax and accrued interest owed the County prior to applying to the tax collector for a waiver, and (ii) the waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during a twenty-four (24) month period per permittee.

3.56.130 – Audit and Examination of Records and Equipment.

A. The correctness of any tax return filed pursuant to this Chapter shall be subject to audit and verification by the tax collector, the County Division of Cannabis Control, or their respective

designees, who are authorized and empowered to inspect and audit the books and records of any commercial cannabis permittee. No cannabis permittee shall refuse or fail to allow the tax collector, the Division of Cannabis Control or their respective designees, to inspect and audit such books and records, or shall refuse or fail to provide such additional information as requested by the tax collector, the Division of Cannabis Control or their respective designees.

B. The tax collector, the Division of Cannabis Control, or their respective designees shall have the power to inspect any location where commercial cannabis activity occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, state and federal income tax returns, state tax returns, bank statements and other evidence documenting the gross receipts of the business) of persons engaged in cannabis activity in the County, for the purposes of ascertaining the amount of the cannabis activity tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or items thereof when filed by any person pursuant to this Chapter. In conducting such investigation, the tax collector the Division of Cannabis Control, or their respective designees shall have the power to inspect any equipment, such as computers or point of sale machines that may contain such records.

C. If any person engaged in a commercial cannabis activity, after written demand by the tax collector, Division of Cannabis Control, or their designee, refuses to make available for audit, examination or verification such books, records or equipment, the tax collector, unilaterally or upon recommendation by the Division of Cannabis Control, may after full consideration of all information within their knowledge concerning the cannabis activity of the person so refusing, make an assessment in the manner provided by Sections 3.56.140 and 3.56.150 of any taxes estimated to be due. The tax collector may collect a fee adopted by the Board of Supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the tax collector to make a determination of the tax due. Any inferences arising from the negligent or willful loss or destruction of records by any permittee shall be construed favorably to the County's deficiency determination or assessment.

D. It shall be the duty of every person liable for the payment of cannabis activity tax imposed by this Chapter to keep and preserve, for a period of at least three (3) 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 collector, the Division of Cannabis Control or their respective designees shall have the right to inspect at all reasonable times. The Division of Cannabis Control may serve a notice upon any person previously found in violation of Section 3.56.120 to preserve specific records.

3.56.140 – Deficiency Determination.

If the tax collector 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 (1) 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 cannabis activity, 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 is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 3.56.150.

3.56.150 –Notice of Assessment.

A. Under any of the following circumstances, the 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: (i) if the person has not filed a complete statement required under the provisions of this Chapter; (ii) if the person has not paid the tax due under the provisions of this Chapter; (iii) if the person has not, after demand by the tax collector, filed a corrected statement, or furnished to the 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

B. The notice of assessment shall separately set forth the amount of any tax known by the tax collector to be due or estimated by the tax collector, after consideration of all information within the 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 accrued on each amount to the date of the notice of assessment.

C. 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 collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the 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.

3.56.160 – Notice not required.

The 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.

3.56.170 - Tax assessment – Hearing, application, and determination.

Within ten (10) days after the date of service of the notice of assessment or deficiency determination, the person may apply in writing to the 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 tax collector shall become final and conclusive. Upon receipt of any such application for hearing, the tax collector shall cause the matter to be set for hearing before him or her no later than forty-five (45) business days after the receipt of the application,

unless a later date is agreed to by the tax collector and the person requesting the hearing. Notice of such hearing shall be given by the tax collector to the person requesting such hearing not later than five (5) calendar days prior to such hearing. At such hearing, said applicant may appear and offer evidence why the assessment or deficiency determination as made by the tax collector should not be confirmed and fixed as the tax due. After such hearing the tax collector 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 3.56.150(C) for giving notice of assessment. The amount determined to be due shall be payable thirty (30) calendar days after written notice of the decision has been given unless it is appealed to the Board of Supervisors in accordance with Section 3.56.180.

3.56.180 – Appeal procedure.

A. Any taxpayer aggrieved by any decision of the tax collector under Section 3.56.170 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 fifteen (15) calendar days after notice of decision provided for in Section 3.56.170 is served in compliance with Section 3.56.150(C). If a timely notice of appeal is not filed, the tax, interest and penalties determined by the tax collector shall become final and conclusive.

B. 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 appellant at the last known place of address. The tax collector, who may be represented by counsel, shall present the matter to the Board of Supervisors. The tax collector shall also submit proposed findings and a proposed resolution of the appeal. At the hearing, both the tax collector and the taxpayer shall have an opportunity to explain their cases and introduce other statements and evidence. The Board of Supervisors may impose reasonable time limits on the parties' presentation. The determination of the County Board of Supervisors shall be final and conclusive and the notice of decision shall be served upon the appellant in the manner prescribed by Section 3.56.150(C). Any amount found to be due shall be immediately due and payable upon the service of the notice of decision. If appellant fails to appear at the appeal hearing under this Section, the appeal shall be deemed withdrawn.

C. The Board of Supervisors may, by resolution, delegate the authority to hear such appeals, including to an administrative hearing officer, and may establish a fee for appeal applications and proceedings.

3.56.190 - Refunds and Credits.

A. Whenever the amount of any commercial cannabis activity 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 collector within one (1) year of the date the tax was originally due and payable.

B. The 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 tax collector, his or her deputies or any other County officer charged with the administration of this Chapter.

C. In the event that the commercial cannabis activity 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.

3.56.200 - Enforcement – Action to Collect.

A. 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.

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 tax collector may, within three (3) years after the amount is due record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the individual or business as it appears on the records of tax collector. The lien shall also specify that the 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 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 (10) years from the date of filing of the certificate unless sooner released or otherwise discharged.

C. At any time within three (3) years after any individual or business is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under Subsection B of this Section, the 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 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. The tax collector shall approve the fees for publication in the newspaper of any required notice.

D. At any time within three (3) years after recording a lien against any individual or business, if the lien is not discharged and released in full, the 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.

3.56.210 – Remedies cumulative.

All remedies and penalties prescribed by this Chapter or which are available under any other provision of the Calaveras County Code of Ordinances 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.

3.56.220 - Violation deemed misdemeanor.

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

3.56.230 - 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.

3.56.240 - 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. The People of the County of Calaveras hereby declare that they would have passed this ordinance, and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

3.56.250 – Effective and operative dates.

This ordinance shall take effect immediately upon its approval by a majority of voters at the November 3, 2020, statewide general election and become operative on January 1, 2021.

Any cannabis that is cultivated pursuant to Chapter 17.95 of this code between January 1, 2020 and December 31, 2020, and harvested between said dates, prior to the operative date of this Ordinance on January 1, 2021, shall be deemed product realized in the year 2020 for purposes of cannabis cultivation taxation whether or not said product is actually processed in the year 2020 and entered into the State's Track and Trace system provided in Business & Professions Code

section 26067, et seq., within the year of 2020. Solely for the purpose of taxing cannabis cultivation taking place in the calendar year of 2020, and applying strictly thereto, former section 3.56.030(B)(1)-(2) of the County Code (as ordained by Ordinance No. 3071) shall survive the replacement of former Chapter 3.56 by this Ordinance; the terms "licensees or registrants" in former section 3.56.030(B)(1)-(2) shall mean and refer to a county permit for cultivation under Chapter 17.95. The administrative provisions and procedures of this Ordinance shall apply to the administration and enforcement of taxation under this Section, including as to any deficiency determinations, investigations, and appeals of taxes under this Section.