



August 27, 2019
Commercial Cannabis ad hoc Advisory Committee
Proposed Ordinance Amendments
COMMERCIAL CANNABIS ACTIVITIES TAX



Measure N – Commercial Cannabis Activities Tax

- Is a general tax, which means it can be used for general revenue purposes.
- Established taxes for any potential commercial cannabis activity so that taxes are in place for any ballot measure that passed and for any commercial cannabis activity the Board of Supervisors may authorize in the future.
- Taxes were set at a range within which the Board of Supervisors may set the rate.
- Taxes will be administered by the County Treasurer-Tax Collector and the ordinance provides the procedures for calculation, collection, and enforcement, including imposition of liens for unpaid taxes.
- **If the Commercial Cannabis Activities Tax is challenged or invalidated for any reason, all ordinances authorizing commercial cannabis activities would automatically expire.**



Commercial Cannabis Activities Tax Proposed Amendments

- While voters enacted the cannabis ordinances through the ballot measures, the ordinance retains the Board of Supervisors' power to “amend the procedures and regulations provided in the ordinance without further voter approval, with the exception of any action that would broaden or increase the taxes beyond the scope and rates established” by the voters.
- Recodifies the Commercial Cannabis Activates Tax within the Revenue and Finance section of the County Code as Chapter 3.22.
- Codifies the current tax rates that the Board of Supervisors set by Resolution today. The amounts set will be added to the ordinance prior to the second reading and final passage on September 10, 2019.



Commercial Cannabis Activities Tax Proposed Amendments

- For manufacturing, tax can be set based on the type of manufacturing. The proposed amendments link the levels of the taxes to the manufacturing types as identified by the State Department of Health’s Manufactured Cannabis Safety Branch.
- Incorporates State’s new language to determine sale prices in “non-arm’s length transactions,” such as the sale between a distributor, manufacturer, or retailer that are affiliated or under common-ownership:
 - “Annual gross receipts for such transactions shall be based on the product’s fair market value if it were sold in an arm’s length transaction. An ‘arm’s length transaction’ means a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.”
- Clarifies that the illegal status of cannabis at the federal level does not preclude the Treasurer-Tax Collector from issuing a County Business License.
- Clarifies that issuance of a County Business License does not authorize any commercial cannabis activity.



Commercial Cannabis Activities Tax Proposed Amendments

- Minor amendments to address constantly changing nature of industry as a “cash only” industry.
 - For payment of taxes, changes the requirement for an appointment from mandatory to within the discretion of the Treasurer-Tax Collector.
 - As enacted, Measure N gave the Treasurer-Tax Collector discretion to establish reporting and payment periods. Amendments expressly state that monthly reporting and payments could be required.
- Requires that returns and payments are immediately due upon cessation of a business.
- Updates section references based on renumbering of the ordinance and the proposed renumbering of the remainder of the commercial cannabis ordinances.