MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION
County of Placer

TO: Honorable Board of Supervisors

FROM: David Boesch, County Executive Officer

By: Bekki Riggan, Deputy CEO

DATE: June 21, 2016

SUBJECT: Medical Marijuana Regulation (Amended)

ACTION REQUESTED

1. Receive an update on community outreach regarding medical marijuana regulation, and;
2. Provide staff direction on regulatory ordinance development, and;
3. Provide Staff direction on introducing a tax ordinance and, if applicable, waive first reading of an ordinance imposing a general tax on cultivation or sale of commercial cannabis as appropriate.

BACKGROUND

The laws governing the use, production, and distribution of marijuana in California have been in flux for the past twenty years. In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act of 1996 (CUA), becoming the first state in the nation to exempt qualified users of medicinal marijuana from penalties imposed under state law. In 2003, the legislature passed Senate Bill 420, also known as the Medical Marijuana Program (MMP), allowing patients with a physician's recommendation to possess six plants or up to half a pound of marijuana. It also authorized non-profit medical marijuana cooperatives that provide marijuana for medical uses to their members through dispensaries.

These laws were intended to provide reasonable access to medical marijuana for patients with medical recommendations to use marijuana. However, the law was loosely constructed and resulted in broad interpretation on the conditions under which marijuana access, use, production and distribution were to be allowed. The absence of a comprehensive, statewide regulatory framework resulted in a patchwork of locally adopted measures to address significant public safety, health, land use, zoning and environmental concerns.

The legal and policy landscape on medical marijuana has also been impacted by numerous court cases, actions by the California legislature and by additional voter initiatives:

- In 2000, Proposition 36 mandated that those convicted of non-violent drug offenses receive probation and treatment in lieu of incarceration
- In 2010, Senate Bill 1449 made punishment for possession of less than one ounce of marijuana equivalent to a traffic violation, with a $100 fine with no mandatory court appearance or criminal record
- In 2010, the California Supreme Court ruled unanimously that the legislature's action in 2003 placing limits on the allowed quantities of marijuana improperly overrode Proposition 215 (People v. Kelly, 2010)
- In 2014, Proposition 47 reduced nonviolent drug and property offenses from felonies to misdemeanors

Regardless of perspective on medical marijuana, few argue with the conclusion that the policies of the past twenty years have contributed to "a large illicit market of cultivation and retail sale, and a quasi-legal medical cannabis system that is largely unregulated, untaxed and untenable." (Pathways Report. Policy Options for Regulating Marijuana in California, Blue Ribbon Commission on Marijuana Policy, July 15, 2015).

Changing State and Federal Landscape Regarding Marijuana Regulation and Enforcement
Since 1996, 43 states have enacted laws allowing some form of marijuana use for medical purposes (26 have enacted comprehensive public medical marijuana programs, 17 allow use of "low THC" products for medical use). More recently, four states, Alaska, Colorado, Oregon and Washington, along with the District of Columbia, chose to legalize, regulate and tax adult recreational use of marijuana. In November 2016, California voters will determine whether the state will legalize adult use.

As states continue to move towards less-restrictive laws regarding marijuana, questions arise on the inconsistencies between state and federal legislation and the preemptive power of federal over state drug laws. The Federal Controlled Substances Act (CSA) classifies marijuana as a Schedule I Drug, the highest of five classes, alongside heroin and LSD. The CSA makes it unlawful, under federal law, for any person to possess, cultivate, manufacture, distribute or dispense, or possess with the intent to manufacture, distribute or dispense marijuana.

While Congress has the power to preempt state law under the Constitution's supremacy clause [U.S. Const., art. VI, cl. 2], aspects of the federalist system of government along with provisions within the CSA allow considerable autonomy for states to define crimes and affix their punishments, including allowing drug-related activities prohibited by federal law (Cooperative Federalism and Marijuana Regulation, UCLA Law Review, 2015).

> "No provision of [the CSA] shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, *unless there is a positive conflict* between that provision of this subchapter and that State law *so that the two cannot consistently stand together."*

Courts have found that the CSA does not pre-empt California's CUA or MMP. (Kirby v. County of Fresno (2015) 242 Cal.App.4th 940, 961-964; *Qualified Patients Assn. v. City of Anaheim* (2010) 187 Cal.App.4th 734, 756-763)

Since 2009, the Department of Justice (DOJ) and Congress have issued policy guidance on federal and state law regarding marijuana-related activities:

- On October 19, 2009, Deputy Attorney General David Ogden issued a memorandum to U.S. attorneys in states that enacted medical marijuana laws advising it unwise to "focus federal resources on individuals whose actions are in clear and unambiguous compliance with existing state law providing for the medical use of marijuana."

- Following the 2012 legalization of adult use of marijuana in Colorado and Washington, the Attorney General informed the Governors of these states that the DOJ would be

taking a "trust but verify" approach, but would allow implementation of their ballot initiatives.

- On August 29, 2013, Deputy Attorney General James Cole provided guidance to federal prosecutors in all states regarding federal marijuana enforcement activities, advising that the DOJ will defer to state law and will not legally challenge jurisdictions that authorize marijuana use if those state and local governments maintain strict regulation and enforcement that address the issues of greatest federal concern; including, the distribution of marijuana to minors, the growing of marijuana on public lands, the flow of revenue from marijuana sales to criminal enterprises, gangs and cartels, and the impact of drugged driving and other adverse public health consequences associated with marijuana use. He further explained that a state with a robust regulatory system for the control of marijuana "is less likely to threaten federal priorities than a state that lacks such controls".

- On February 14, 2014, the Department of Justice and the Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued guidance in providing banking and financial services to marijuana-related business. Both agencies reiterated the importance of considering the federal enforcement priorities defined in the 2013 Cole memo along with state law, and that investigations and prosecutions would be subject to the same considerations and prioritization.

- On December 16, 2014, Congress passed the Consolidated and Continuing Appropriations Act, including an amendment prohibiting the DOJ from using funds to prevent specified states, including California, from implementing laws that authorize the use, distribution, possession of cultivation of medical marijuana. This Act was reaffirmed in two subsequent (2015 and 2016) appropriation bills.

<u>The Medical Marijuana Regulation and Safety Act (MMRSA)</u>
MMRSA was signed by Governor Brown in October 2015, implementing a comprehensive structure for licensing and enforcement of medical marijuana cultivation, product manufacturing, testing, transportation, storage and distribution. In addition to regulating medical marijuana, MMRSA brings California into compliance with the policy guidance of the Department of Justice and contains components that may serve as an enforcement framework for a potential voter initiative to legalize marijuana for adult use, should that be the will of the voters.

The three interlocking bills comprising MMRSA establish three distinct regulatory responsibilities covering a wide range of issues and industry practices:

- AB266 establishes the Bureau of Medical Marijuana Regulation (BMMR) within the Department of Consumer Affairs and serves as the primary state regulatory agency to oversee licensing and operations for cultivation, production and retail sales.
- AB243 authorizes the use of licensing fees to carry out the framework and establishes a fund to assist local governments in addressing environmental issues.
- SB643 enhances oversight of medical providers issuing medical marijuana recommendations absent valid health screening, along with creating labeling and safety standards.

BMMR serves as the lead regulatory agency; however, the departments of Food and Agriculture, Pesticide Regulation, Public Health, Fish and Wildlife, the State Water Resources Control Board and the Medical Board of California are each assigned responsibilities within the new regulatory framework. State code delineates, that should there be a conflict between protecting the public and any other interests, protection of the public will be paramount. Various restrictions are placed on license holders regarding water conservation, pesticide use and other environmental concerns.

MMRSA requires a dual licensing/permitting system requiring both a state and local license or permit with revocation of one resulting in loss of the other. Cities and counties retain authority to adopt ordinances establishing additional standards or requirements that can exceed, but cannot reduce state standards. The legislation creates a tiered, commercial industry and establishes 17 licenses across 10 specific areas, grouped into the following categories: Cultivation, Manufacturing, Testing, Dispensing, Distribution and Transportation.

Legal patient access is provided according to the following controlled distribution system: Licensed cultivators and/or manufacturers must utilize licensed transporters and distributors who utilize licensed testing facilities. The distributor/transporter then delivers the product to licensed dispensaries for retail sale to qualified patients. All licensees must possess both state and local licenses to remain in compliance. MMRSA also mandates a “track and trace program” to prevent inversion or diversion of cannabis between the regulated and unregulated markets.

Cultivator licenses are classified by four basic types, 1-3 below are further subdivided into outdoor, indoor and “mixed-light” (a combination of artificial and natural light, typically occurring in a greenhouse or other accessory structure):

Type 1) Specialty (5,000 square feet or less total canopy size on one premise or parcel)
Type 2) Small (5,000 – 10,000 square feet)
Type 3) Medium (10,001 square feet to one acre for outdoor; 10,001 – 22,000 for indoor)
Type 4) Nurseries (no current limits on square footage)

MMRSA exempts personal use cultivation from regulation “if the area he or she uses to cultivate marijuana does not exceed 100 square feet and is for personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity”. MMRSA also exempts from licensing requirements, “Primary Caregiver” cultivation for up to 500 square feet and up to five patients provided the caregiver meets the qualifications found in the Health and Safety Code. While local jurisdictions can further reduce the 100/500 square foot criteria, they cannot completely ban medical marijuana cultivation.

June 7, 2016 Ballot Measures

On June 7th, 2016 several local jurisdictions in the Sacramento region had ballot measures pertaining to marijuana. These measures ranged from additional sales taxes for medical and nonmedical marijuana to banning, limiting, or expanding indoor and outdoor cultivation of Medical Marijuana.

City of Davis
Measure C (Passed) – Would establish a business license tax up to 10% of the annual gross receipts of nonmedical (recreational) marijuana businesses, if such businesses become legal and permitted in California and in the City of Davis.

City of Sacramento
Measure Y (Failed) - 5 percent tax on commercial cultivation to fund youth programs (2/3 needed).

Yuba County
Measure A (Failed) – Would have replaced the county's marijuana cultivation ordinance, which prohibited outdoor marijuana cultivation and restricted indoor marijuana cultivation to 12 plants per parcel. This initiative would have allowed outdoor marijuana cultivation, a greater number of plants per property and fewer restrictions on marijuana cultivation.

Measure B (Failed) – Would have allowed a certain number of dispensaries based on the county's population. With the county's 2015 population, the ordinance would have allowed four or five marijuana dispensaries within the county and also have allowed the Board of Supervisors to impose additional sales and use tax on medical marijuana of up to 4 percent.

Nevada County
Measure W (Failed) –This measure would have made permanent the restrictions placed by the Board of Supervisors in January 2016 which included an outdoor medical marijuana grow ban, limited indoor grows to 12 plants, restricted growers to qualified patients or their caregivers, and prohibited all commercial marijuana activity.

Summary of City regulations within Placer County:

Placer County City Medical Marijuana Ordinances

City	Indoor Grows	Outdoor Grows	Dispensaries
Roseville - March 2016	No more than 50 sq. feet Not visible	Prohibited	Prohibited
Rocklin - April 2016	No more than 50 sq. feet (100 sq. ft. in some cases) Not visible	Prohibited	Prohibited
Lincoln - October 2014	Prohibited	Prohibited	Prohibited
Auburn - January 2016	Prohibited	Prohibited	Prohibited
Colfax - February 2016	Prohibited	Prohibited	Currently Prohibited (November 2016 Ballot Measure)
Loomis - March 2016	Prohibited	Prohibited	Prohibited

COMMUNITY OUTREACH EFFORTS

Consistent with the direction received by your Board on December 8th, 2015, staff completed extensive community outreach on regulating medical marijuana. Presentations highlighted the current challenges with cultivation in Placer County, recent state and federal legislative and policy actions and the new MMRSA legislation. Staff conducted 26 community meetings, including presentations to 12 MACS (10 of which took action), the Agricultural Commission, 2 town hall presentations (North Auburn and Rocklin), presentations to Roseville, Rocklin, Lincoln, Auburn, and Colfax City Councils, the Criminal Justice Policy Committee, Placer County Law Enforcement, the Roseville Chamber of Commerce Government Relations Committee, Auburn Meddlers, Placer County Association of Realtors, and the Roseville Coalition of Neighborhood Associations.

Additionally, staff conducted traditional and social media outreach, with three different news releases, coverage in at least 13 newspaper and televisions stories throughout the county, and multiple outreach efforts on Facebook, Twitter and Nextdoor.com reaching thousands of people with information about the county's public meetings and opportunities to provide input. A short video was created by the county's public information office introducing key aspects of related issues to each MAC and garnered over 6,800 views online.

Municipal Advisory Councils (MACs)

Placer County has a total of thirteen Municipal Advisory Council's comprised of Board-appointed community members. Presentations were provided to all MAC's except Donner Summit. Of the twelve receiving presentations, ten voted to recommend that the board implement zoning and land use regulations to control the location, amount and distribution of medical marijuana in the unincorporated areas consistent with the state regulatory framework; to have the industry bear the cost of regulation through fees and general taxes; and to support a comprehensive framework for regulation of medical marijuana, allowing and regulating both indoor and outdoor cultivation, as well as dispensaries.

Agricultural Commission

The Agricultural Commission voted to recognize medical cannabis as "crop production" – an agricultural commodity; and, should the board allow commercial activities, extend "Right to Farm" protections to cannabis cultivation. The Commission also chose to wait until the State Department of Conservation provides input on the Williamson Act Contract eligibility implications to act on that issue.

Town Halls:

The two town halls were very well attended, with more than 100 people attending each meeting. Staff used hand-held remote polling technology to survey the audience (survey results included as an attachment). While this survey is not scientific, it is additional input for consideration. It has been noted that the majority of the attendees at the town halls appeared to be medical marijuana patient or industry representatives, and that the polling results overwhelmingly supported regulation, with 82 percent stating that the industry should bear the cost of regulation through fees and taxes.

City Councils:

During presentations to the city councils, staff received a number of comments. Most councils requested your Board develop regulations consistent with their city ordinances, to include banning urban outdoor grows, limiting total cultivation to 50 square feet, and banning

dispensaries. However, staff also received comments, that should your Board choose to allow and regulate commercial activities in unincorporated Placer County, that consideration be given to implementing a buffer zone along city boundaries; developing collaborative revenue sharing arrangements for enforcement activities; and establishing regular planning and coordination sessions to review data on regulatory effectiveness, monitor expenditures and analyze long term-results. Letters from the individual city councils are attached.

POTENTIAL REGULATORY MODELS FOR PLACER COUNTY

MMRSA allows for a range of policy options from which your Board may choose when considering local regulation. Staff has constructed five representative models based on a series of assumptions and estimates for your consideration. Each has different impacts and implications for patients regarding access to medical marijuana.

There are certain considerations that staff recommends be incorporated into any regulatory approach your Board may direct:

- Starting any approach with a more conservative model, and allowing for frequent review and adjustment
- Restricting marketing, advertising and other related activities to the extent allowed by law
- Expanding prevention and education measures aimed at curbing potential use by youth
- Convening an advisory council with stakeholder involvement, including city, law enforcement, concerned citizens, patient advocates, health and human services and medical marijuana patient and industry representatives, and that this council prepare an annual report on regulatory effectiveness and related issues
- Ensuring that regulatory and enforcement efforts are proactive and adequately staffed to ensure effectiveness
- Developing a swift and substantial enforcement response to ensure timely and effective action
- Land use regulations should clearly delineate both what is allowed and what is prohibited, rather than prohibiting via omission as done in current code

Alternative A

Personal Use Indoor Cultivation Only

- Regulate personal use cultivation in compliance with the Compassionate Use Act of 1996.
- Allow a maximum of 50 square feet or 6 plants, whichever is less, indoors only. Declare all other marijuana cultivation and related activities a public nuisance.
- Enact land use regulations and penalty structure to ensure strict enforcement of non-compliant activities.
- No county permit required.
- No caregiver production.

Cost

- Staff Salaries - $480,000
    - Staff – Minimum 4 FTE
    - Supervising Code Enforcement Officer - 1
    - Code Enforcement Officer II - 3

Alternative A (continued)

Personal Use Indoor Cultivation Only

- Vehicles - $120,000 startup, and $30,000 ongoing
- Equipment - $50,000 startup, and $12,500 ongoing
- PCSO Helicopter/Overtime - $75,000
- Contract Hearing Officer - $50,000
- Admin/Support – $194,000 startup and $162,000 ongoing

Total – $969,000 – 809,000

Revenue Offsets

- Fees - $0
- Taxes - $0

Total - $0

Strengths:

- Eliminates conflicts related to odor and visibility associated with outdoor cultivation
- Reduces total production within County
- Consistent with approach taken by many of the cities within Placer County
- Allows patient access consistent with Prop 215

Challenges:

- Difficult to effectively regulate indoor cultivation – ease of concealing illegal cultivation
- Environmental impact of increased electrical use
- Potential health and fire risks associated with cultivation in residential structures
- No legal option for patients unwilling or unable to cultivate for themselves
- May not meet the medical needs of certain patients or conditions
- Increased costs to growers for grow-room infrastructure and operating expenses
- No fee revenue associated to offset cost of enforcement
- Does not provide a legal path to compliance for those currently operating in the existing unregulated commercial market
- Reduces economic activity and sales tax revenue associated with existing marijuana and support industries

Alternative B

Personal Use Indoor and Outdoor Cultivation (Consistent with MMRSA)

- Regulate personal use cultivation in compliance with the Compassionate Use Act of 1996.
- Allow a maximum of 100 square feet or 6 plants, whichever is less, indoors or outdoors depending on parcel size and zoning
- Declare all other marijuana cultivation and related activities a public nuisance.
- Enact land use regulations and penalty structure to ensure strict enforcement of non-compliant or illegal activities.
- No county permit required.
- No caregiver production.

Alternative B (continued)
Personal Use Indoor and Outdoor Cultivation (Consistent with MMRSA)
Staff – Minimum 4 FTE

- Supervising Code Enforcement Officer - 1
- Code Enforcement Officer II - 3

Cost

- Staff Salaries - $480,000
- Vehicles - $120,000 startup and $30,000 ongoing
- Equipment - $50,000 startup and $12,500 ongoing
- PCSO Helicopter/Overtime - $75,000
- Contract Hearing Officer - $50,000
- Admin/Support – $194,000 startup and $162,000 ongoing

Total – $969,000 – 809,000

Revenue

- Fees - $0
- Taxes - $0

Total - $0

Strengths:

- Consistent with approach taken by many of the cities, but accounts for differences in land use dynamics between urban cities and rural areas of the county
- Allows less-expensive outdoor patient grows where appropriate
- Limits conflicts related to odor and visibility associated with outdoor cultivation in more urban areas
- Allows patient access consistent with Prop 215

Challenges:

- Increased costs to growers for grow-room infrastructure and operating expenses
- No legal option for patients unwilling or unable to cultivate for themselves
- Difficult to regulate indoors – ease of concealing illegal cultivation
- Environmental impact of increased electrical use
- Potential health and fire risks associated with cultivation in residential structures
- No fee revenue associated with this approach. No offset for cost of additional staff
- Does not provide a legal path forward to full compliance for those who currently operate in existing unregulated commercial market
- Reduces economic activity and sales tax revenue associated with existing industry

Alternative C
Limited Pilot Program

- Adopt Alternative A or B to regulate personal use cultivation in compliance with the Compassionate Use Act of 1996. Prohibit caregiver grows.

Alternative C (continued)

Limited Pilot Program

- Limit up to a total of 30 commercial permits for a combination of the following: 5 "Type 1C Cottage", 10 "Type 1", 10 "Type 2" (indoor or greenhouse cultivation) and 5 "Type 4 - Nursery" cultivation permits.
- Award permits based on a competitive merit-based selection process.
- Adopt an ordinance with a sunset provision that requires the Board to rescind, modify, or continue the program by December, 2019.
- Create an Advisory committee consisting of representatives including concerned citizens, law enforcement, the health care industry, the cannabis industry, etc. Require the Agricultural Commissioner to provide regular reports to the committee on such topics as enforcement activities, financial updates, difficulties encountered, and other relevant information.
- Require the Advisory committee to provide the Board of Supervisors with a report and recommendations regarding the pilot program prior to the sunset date of the program.
- Consider placing an initiative on the November, 2016 ballot to tax commercial cannabis activities.
- Enact land use regulations and a penalty structure to ensure strict enforcement of non-compliant or illegal activities.

Staff – Minimum 6 FTE

- Deputy Agricultural Commissioner and Sealer of Weights and Measures - 1
- Agricultural and Standards Inspector II – 2
- Account Tech - .5
- Code Enforcement Officer II or Deputy Sheriff II – 2
- Senior Planner - .5

Cost

- Staff Salaries - $707,000
- Vehicles - $120,000 startup and $30,000 ongoing
- Equipment - $60,000 startup and $15,000 ongoing
- PCSO Helicopter/Overtime - $75,000
- Contract Hearing Officer - $50,000
- Admin/Support – $253,000 startup and $219,000 ongoing

Total – $1,265,000 – 1,096,000

Revenue

- Fees - $1,021,000 – if fees are adopted by Board and tax measure is approved by voters
- Cannabis Taxes - $2,125,000 - $4,250,000

Total - $3,146,000 – 5,271,000

Strengths:

- Allows patient access consistent with Prop 215
- Limits conflicts related to odor and visibility associated with large-scale outdoor cultivation in residential neighborhoods

Alternative C (continued)
Limited Pilot Program

- Provides a revenue stream to offset program costs
- Allows county to learn from and study the regulation of a new industry
- Allows those who have existing operations commercial-scale cultivation to potentially operate within a legal, regulated framework

Challenges:

- Fails to provide a legal option to locally access medicine for patients unwilling or unable to cultivate for themselves (without dispensaries)
- Costs to growers for indoor or greenhouse infrastructure and operating costs
- Difficult to regulate personal use/non-permitted indoor cultivation
- Environmental impact of increased electrical use for indoor cultivation

Alternative D
Expanded Pilot Program – Closed Commercial Distribution Model

- Adopt Alternative A or B to regulate personal use cultivation in compliance with the Compassionate Use Act of 1996. Prohibit caregiver grows.
- Allow permits for commercial cannabis activities including:
  - ✓ Up to 30 cultivation permits consistent with Option C
  - ✓ Up to 2 permits for "Type 10 – Dispensary"
  - ✓ Up to 2 permits for "Type 11 – Distribution/Type 12 – Transporter" as defined in Chapter 8 of county code per land use and business regulation requirements.
  - ✓ Up to 2 permits for "Type 6 – Non-volatile Manufacturing" as defined in Chapter 8 of county code per land use and business regulation requirements.
  - ✓ Up to 2 permits for "Type 8 – Testing" as defined in Chapter 8 of county code per land use and business regulation requirements.
- Award permits based on a competitive merit-based selection process.
- Adopt an ordinance with a sunset provision that requires the Board to rescind, modify, or continue the program by December, 2019.
- Create an Advisory committee consisting of representatives including concerned citizens, law enforcement, the health care industry, the cannabis industry, etc. Require the Agricultural Commissioner to provide regular reports to the committee on such topics as enforcement activities, financial updates, difficulties encountered, and other relevant information.
- Require the Advisory committee to provide the Board of Supervisors with a report and recommendations regarding the pilot program prior to the sunset date of the program.
- Consider placing an initiative on the November, 2016 ballot to tax commercial cannabis activities.
- Enact land use regulations and a penalty structure to ensure strict enforcement of non-compliant or illegal activities.

Alternative D (continued)
Expanded Pilot Program – Closed Commercial Distribution Model

Staff – Minimum 6.5 FTE

- Deputy Agricultural Commissioner and Sealer of Weights and Measures - 1
- Agricultural and Standards Inspector – 2
- Account Tech - 1
- Code Enforcement Officer II - 2
- Senior Planner - 1

Cost

- Staff Salaries - $828,000
- Vehicles – $120,000 startup and $30,000 ongoing
- Equipment - $60,000 startup and $15,000 ongoing
- Contract Hearing Officer - $50,000
- PCSO Helicopter/Overtime - $75,000
- Admin/Support – $283,600 startup and $249,000 ongoing
- Outside Auditor Contract - $48,000

Total – $1,416,000 startup to $1,247,000 ongoing

Revenue – If fees are imposed by Board and tax measure is approved by voters

- Fees - $1,172,000
- Sales Taxes - $50,000
- Cannabis Taxes - $2,995,000 - $5,970,000

Total - $4,229,000– 7,204,000

Strengths:

- Allows patient access consistent with Prop 215 via personal cultivation and through retail purchase
- Limits conflicts related to odor and visibility complaints associated with large-scale outdoor cultivation via prohibition on commercial outdoor cultivation
- Provides a revenue stream to offset costs of program
- Allows those who have existing operations to operate within a legal, regulated framework
- Reduces commercial-scale cultivation and ensures legal distribution outlets
- Provides a complete “seed to sale” distribution model, reducing the incentive to illegally direct-sell product from cultivation sites

Challenges:

- Costs to growers for indoor or greenhouse infrastructure and operating costs
- Difficult to regulate personal use/non-permitted indoor cultivation
- Environmental impact of increased electrical use for indoor cultivation
- Potential negative public perception related to allowing regulated retail sales
- Based on the Medical Marijuana Regulation and Safety Act of 2015

Alternative E

Comprehensive Regulatory Program

- Allow and regulate personal and "Primary Caregiver" cultivation.
- Allow permits for commercial cannabis activities as defined in Chapter 8.10.110 of the Placer County Code.
- Award permits based the applicant's ability to comply with land use, business license, and environmental protection requirements of county code and state law and regulations.
- Create an Advisory committee consisting of representatives including concerned citizens, law enforcement, the health care industry, the cannabis industry, etc. Require the Agricultural Commissioner to provide regular reports to the committee on such topics as enforcement activities, financial updates, difficulties encountered, and other relevant information.
- Require the Advisory committee to regularly, but not less than annually; provide the Board of Supervisors with a report and recommendations.
- Consider placing an initiative on the November, 2016 ballot to tax commercial cannabis activities.
- Enact land use regulations and a penalty structure to ensure strict enforcement of non-compliant or illegal activities.

Staff – Minimum 10 FTE

- Deputy Agricultural Commissioner and Sealer of Weights and Measures - 1
- Agricultural and Standards Inspector II – 4
- Accounting Technician - 1
- Senior Planner – 1
- Code Enforcement Officer II - 2
- Deputy County Counsel III - 1

Cost

- Staff Salaries and benefits - $1,232,000
- Vehicles - $180,000 start up and $75,000 ongoing
- Equipment - $100,000 start up and $25, 000 ongoing
- Contract Hearing Officer - $50,000
- PCSO Helicopter/Overtime - $75,000
- Outside Auditor - $60,000
- Admin/Support – $424,000 - $379,000

Total – $2,121,000 – 1,896,000

Revenue

- Fees - $1,821,000
- Sales Tax - $Variable
- Taxes - $ (Potential to exceed $15million)

Total - $ (Potential to exceed $15million)

Alternative E (continued)
Comprehensive Regulatory Program

Strengths:

- Allows patient access consistent with Prop 215 via personal cultivation, caregiver cultivation, and through retail purchase
- Limits conflicts related to odor and visibility complaints associated with large-scale outdoor cultivation via strong land use regulations
- Provides a revenue stream to offset costs of program
- Allows those who have existing operations to operate within a legal, regulated framework
- Provides a complete "seed to sale" distribution model, reducing the incentive to illegally direct-sale product from cultivation sites

Challenges:

- Difficult to identify and regulate non-permitted indoor cultivation
- Environmental impact of increased electrical use for indoor cultivation
- Potential negative public perception related to allowing retail sales of medical cannabis in Placer County
- Scale of initial program may lead to unforeseen negative consequences
- Debate over impact of program on rural real-estate values

TAX INITIATIVE
Under MMRSA, the state has largely delegated to local entities the responsibility for addressing public health and safety concerns beyond those associated with product quality, product tracking and illegal production. Local governments retain their authority to impose taxes and fees on the medical marijuana activities of licensees to cover oversight, enforcement and associated program implementation costs, and to fund other public priorities as local authorities deem worthy. Any of the following activities would be eligible for taxation under MMRSA: cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, and distributing medical marijuana. However, a local tax is subject to voter approval.

One of the more prominent arguments put forth for a tax-and-regulate approach is the ability to provide a revenue stream to promote and fund various forms of harm reduction associated with marijuana activities; such as enforcing state and local regulations, monitoring industry activities, and funding effective prevention, treatment and educational programs.

Should your Board opt to allow commercial medical marijuana cultivation or other activities, the uses of tax revenue, experiences of other jurisdictions and on efforts taken to counter the negative impacts of tobacco and alcohol use may be informative. Colorado earmarks marijuana funds for public schools, capital construction and enforcement of the marijuana industry regulations. Washington earmarks funds for campaigns to discourage use by minors, public education and public health, along with program impact evaluations.

Staff have developed a tax ordinance for your consideration, should your Board wish to take this option to the voters in November 2016.

Attachment 5 is a proposed ordinance imposing a general tax on cultivation or sale of commercial cannabis for introduction should your Board choose to do so. The ordinance is presented at this time to allow its adoption and placement on the ballot within time constraints required by the Elections Code.

FISCAL IMPACT

Staff have developed cost and revenue estimates based on five potential models for your consideration. Revenue estimates were developed by HDL Consulting, a firm specializing in tax revenue estimates for local jurisdictions. HDL has retained staff with specific expertise on this subject who have assisted county staff in developing these estimates for tax rate and annual revenue. The following rates are set at or below those commonly found in other jurisdictions that permit commercial marijuana activities:

- Cultivation - $10, but not to exceed $20 per square foot of permitted cultivation area. For example, the 25 production/cultivation licenses outlined in the pilot program alternatives would yield between $1.6M and $3.2M if all licenses were issued at the maximum square footage allowed.
- Nursery Stock Production - $6 per square foot of permitted cultivation area. For example, if Placer County had five permitted nurseries at 10,000 square feet each, that would yield $300K.
- Manufacturing – 4%, but not to exceed 8% of gross sales. The estimated annual sales for a manufacturing facility in Placer County is approximately $3.5M, which would yield between $140K and $280K per facility
- Testing – 4%, but not to exceed 8% of gross sales. The estimated annual sales for a testing facility in Placer County is approximately $500K, which would yield between $40K and $80K per facility
- Dispensary – 4%, but not to exceed 8% of gross sales. The estimated annual sales for a dispensary in Placer County is approximately $2.5M, which would yield between $100K and $200K per facility
- Distribution/Transportation– 4%, but not to exceed 8% of gross sales. The estimated annual sales for a distributor in Placer County is approximately $2.5M, which would yield between $100K and $200K per facility

Please note these are estimates based on a number of assumptions. Depending on the direction received, staff is prepared to return to your Board in the future to provide additional fiscal information with subsequent reports.

ATTACHMENTS

1 - City of Lincoln Letter (March 22, 2016)
2 - City of Rocklin Letter (March 24, 2016)
3 - City of Roseville Letter (April 20, 2016)
4 - Public Outreach Survey Summary Results
5 - Proposed Commercial Cannabis Activity Tax Ordinance

City of
Lincoln
Live. Life. Lincoln

RECEIVED
BOARD OF SUPERVISORS
5BOS TI ALL AIDES LK
(mail person)
APR 22 2016
SUP COB Corr CoCo
AIDE CEO Other

March 22, 2016

Honorable Robert Weygandt, Chairman
Placer County Board of Supervisors
175 Fulweiler Ave, Auburn, CA 95603
Phone: (530) 889-4010

RE: Medical Marijuana Dispensaries Opposition

Dear Chairman Weygandt:

It has come to the attention of the Lincoln City Council that the Placer County Board of Supervisors (BOS) heard formal presentations on the California Medical Marijuana Regulation and Safety Act (MMRSA) as provided by County staff on December 8, 2015. As you are aware, the MMRSA makes clear that local jurisdictions shall retain their right to regulate or ban cultivation of medical marijuana, and that local jurisdictions may regulate or ban commercial marijuana dispensaries, cultivation, manufacturing, testing, dispensing, distribution and transportation for purposes of medical marijuana use as legalized through the Compassionate Use Act of 1996. The Lincoln City Council strongly supports retaining such authority at the local level so as to maintain the highest quality of life possible for our residents.

It has also been noted that the Placer BOS heard from County staff at a subsequent formal hearing on January 5, 2016 for purposes of establishing "next steps" in developing a comprehensive regulatory framework for medical marijuana dispensaries (Placer BOS Jan. 5th, 2016 Agenda Item 6, C) [i]. The January 5th, 2016 Placer County staff report indicates that *"Over the next several months,* [County] *staff will convene public meetings to solicit community and stakeholder input on effectively regulating medical marijuana…"* (Staff Report/Jan 5, 2016). Our Council is aware that these "next steps" have been occurring and have included formal meetings with County Municipal Advisory Councils (MAC's), as well as other stakeholders throughout Placer County. However, we are unaware of any "next steps" efforts having included representatives of the Lincoln City Council or its city staff.

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Please know that the Lincoln City Council fully recognizes the need for local jurisdictions within California to adopt ordinances that relate specifically to medical marijuana or otherwise accept that they may be subject to State rules. As such, the city of Lincoln, not unlike neighboring municipalities, has chosen to ban marijuana dispensaries, cultivation, manufacturing, and transportation in their entirety. Accordingly, we strongly request that the Placer BOS move to enact a matching ordinance for the unincorporated expanses of the county to align with the municipalities.

The Lincoln City Council believes that any decision to allow and regulate medical marijuana dispensaries in any jurisdiction within Placer County should be made with strong regard to stakeholders of all other local jurisdictions within the County. Any authorized medical marijuana dispensary within Placer County can, and would, have an adverse effect on other jurisdictions that may have prohibited such activity. The Lincoln City Council believes strongly that local cities are major stakeholders on the topic of medical marijuana dispensaries in any jurisdiction within Placer County; including the unincorporated areas. Once again, neither the Lincoln City Council nor its staff have been consulted as a part of the County's "next steps" on this important topic.

As to the specific issue of allowing indoor and outdoor cultivation, dispensaries, or transportation for commercial applications, the City of Lincoln believes this will negatively impact Placer County's ability to maintain the desired quality of life that currently supports quality schools, safe roads, and a thriving economy. Moreover, the intended purpose of these activities are most often construed as profitable opportunities to promote recreational misuse and distribution that may well advance the risk of public and environmental safety on a larger scale. In order to prevent these potential risks, it is imperative that the Placer BOS join with local municipalities as partners to enact an ordinance that preserves Placer County's core principles of ensuring for the safety of our community.

If the Placer BOS is taking steps to ensure adequate County land use regulations are in place that honor and support local bans on medical marijuana dispensaries and cultivation by cities such as the City of Lincoln, then the City of Lincoln may find the County's efforts tolerable. The current City of Lincoln zoning ordinances already specifically prohibit marijuana dispensaries in the City of Lincoln as

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defined under LMC Chapter 18.34.120 – [banning dispensaries] and LMC Chapter 18.34.210 – [banning cultivation]. The Lincoln City Council has expressed our opposition to medical marijuana dispensaries, cultivation, manufacturing, and transportation by the prohibition of them within our city limits. Furthermore, without debating the merits for or against medical marijuana, the Lincoln City Council is confident that any jurisdiction authorizing medical marijuana dispensaries, cultivation, manufacturing, or transportation immediately surrounding Lincoln would have a negative impact on public safety and quality of life for our residents, thereby subjugating our desire to prohibit medical marijuana dispensaries in our city.

Therefore, on behalf of the Lincoln City Council I submit our formal opposition to Placer County and any other jurisdiction within Placer County that may consider authorizing medical marijuana dispensaries; more specifically, those in proximity to the City of Lincoln. Should Placer County ultimately decide to allow and regulate medical marijuana dispensaries, the Lincoln City Council would respectfully appeal to the BOS that at a minimum, a buffer zone of several miles away from the city limits of Lincoln be created to establish a barrier from our jurisdiction so as not to cause a negative impact on our community or infringe upon our desire to prohibit medical marijuana dispensaries.

The Lincoln City Council has proven itself to be a collaborative regional partner and will welcome the opportunity for dialogue on this issue before any decisive actions are taken.

On behalf of the Lincoln City Council,

Spencer Short
Mayor, City of Lincoln

Attachment: Placer CO staff report, dated Jan 5, 2016 (BOS 1/5/16 agenda item 6,C)

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March 24, 2016

Honorable Robert Weygandt, Chairman
Honorable Jim Holmes
Placer County Board of Supervisors
175 Fulweiler Ave, Auburn, CA 95603
Phone: (530) 889-4010

RE: <u>Medical Marijuana Dispensaries</u>

NOTICE OF OPPOSITION

Dear Chairman Weygandt and Supervisor Holmes:

It has come to the attention of the Rocklin City Council that the Placer County Board of Supervisors (BOS) heard formal presentations about the California Medical Marijuana Regulation and Safety Act (MMRSA) from County staff on December 8, 2015. MMRSA makes clear that local jurisdictions retain their right to regulate or ban cultivation for purposes of medical marijuana, and that local jurisdictions may regulate or outright ban commercial marijuana dispensaries, cultivation, manufacturing, testing, dispensing, distribution and transportation for purposes of medical marijuana use as legalized through the Compassionate Use Act of 1996.

It is the understanding of the Rocklin City Council that the Placer BOS heard from County staff at a subsequent formal hearing on January 5, 2016, establishing "next steps" in developing a comprehensive regulatory framework for medical marijuana dispensaries (Placer BOS Jan. 5th, 2016 Agenda Item 6, C)[i]. The January 5th, 2016 Placer County staff report indicates that *"Over the next several months,* [County] *staff will convene public meetings to solicit community and stakeholder input on effectively regulating medical marijuana…"* (Staff Report/Jan 5, 2016). The Rocklin City Council is aware that these "next steps" have been occurring and have included formal meetings with County Municipal Advisory Councils (MAC's), as well as other stakeholders throughout Placer County, but have not included individual City Councils thus far.

It is believed that the Placer County Board of Supervisors will be hearing from County staff on their findings at a pending April 5th BOS meeting, and may take action on this issue at a subsequent meeting scheduled for May 17th, 2016.

The Rocklin City Council recognizes the need for local jurisdictions in California to establish ordinances related to medical marijuana, and absent any ordinance in place,

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the default may be subject to State guidelines. The alternative that municipal jurisdictions in Placer County have chosen is to outright ban marijuana dispensaries (stationary and mobile), cultivation, manufacturing, testing, dispensing, distribution and transportation of medical marijuana. We formally encourage the Placer BOS to do the same for the unincorporated areas of our county. Not banning commercial cultivation, transportation, and marijuana dispensaries in the unincorporated areas of Placer County would be inconsistent with municipal jurisdictions in Placer County.

The Rocklin City Council believes that any decision to allow and regulate medical marijuana dispensaries, indoor or outdoor commercial cultivation, manufacturing, or transportation in any jurisdiction within Placer County should be made with strong regard to stakeholders of all other local jurisdictions within the County. Any authorized regulation of medical marijuana commercial cultivation, dispensaries, or transportation within Placer County can, and would, have an adverse effect on other jurisdictions that have prohibited such activity. The Rocklin City Council believes strongly that local cities are major stakeholders on the topic of medical marijuana regulation in any jurisdiction within Placer County, and this includes unincorporated areas. As of this date, the Rocklin City Council has not been consulted as a part of the County's "next steps" on this important topic.

If the Placer BOS is taking steps to ensure adequate land use regulations are in place in an effort to ban commercial marijuana dispensaries, cultivation, manufacturing, testing, dispensing, distribution and transportation of medical marijuana that might otherwise be allowed under State law absent local regulation, then that would be consistent with the City of Rocklin stance on this issue. Further, this would be consistent with other local municipal jurisdictions throughout Placer County as well. The current City of Rocklin zoning ordinances specifically prohibits marijuana dispensaries, commercial cultivation, manufacturing, testing, dispensing, distribution and transportation of medical marijuana in the City of Rocklin. The Rocklin City Council has expressed our position on medical marijuana regulation by the prohibition within the City of Rocklin. Furthermore, without debating the merits for or against medical marijuana, the Rocklin City Council believes that any jurisdiction authorizing commercial medical marijuana dispensaries, cultivation, manufacturing, testing, dispensing, distribution and transportation of marijuana immediately surrounding Rocklin would have a negative impact on public safety and quality of life for the citizens of Rocklin, subjugating our desire to prohibit medical marijuana dispensaries in our city.

Allowing large indoor or outdoor commercial cultivation, dispensaries, and transportation of marijuana in unincorporated Placer County significantly undermines Placer County's three most economic competitive advantages; safe streets, great schools, and quality of life. We believe by allowing commercial or outdoor marijuana grows, transportation of, and marijuana dispensaries would be a detriment to the very core principles that make Placer County a safe and special place. Enacting an ordinance in unincorporated Placer County to allow commercial marijuana cultivation, transportation, and dispensaries would not be a benefit to those individuals in need of medical marijuana, but rather, large-scale outdoor commercial cultivation and dispensaries are seen to be intended as a money generating industry aimed at

recreational misuse, abuse and distribution to a larger regional, state and even national market.

Therefore, on behalf of the Rocklin City Council, this letter is to express our formal opposition to Placer County and any other jurisdiction within Placer County, to authorize commercial marijuana dispensaries, cultivation, manufacturing, testing, dispensing, distribution and transportation for purposes of medical marijuana use as legalized through the Compassionate Use Act of 1996 in Placer County, and specifically near the City of Rocklin. Should Placer County ultimately decide to allow and regulate medical marijuana, the Rocklin City Council would respectfully appeal to the BOS that at a minimum, a buffer zone of several miles away from the city limits of Rocklin be created to establish a barrier from our jurisdiction so as not cause a negative impact on our community or infringe upon our local jurisdiction's desire to prohibit medical marijuana dispensaries.

The Rocklin City Council has proven to be a collaborative regional partner, and we welcome a dialogue on this issue before any decisions are voted upon. To ensure our Rocklin residents are fully informed on this matter, the Rocklin City Council is making this issue a top priority and have scheduled a special meeting of the Rocklin City Council on Friday, April 29th, from 10:30am to 12:30pm to discuss the potential impacts the City may endure if the Placer BOS decides to allow commercial marijuana dispensaries, cultivation, manufacturing, testing, dispensing, distribution and transportation for purposes of medical marijuana. Please consider this a formal invitation to the Placer BOS, particularly our representatives from District 2, the Honorable Supervisor Robert Weygandt, and District 3, the Honorable Supervisor Jim Holmes, to attend this important meeting to allow a collaborative dialogue with your Rocklin constituents.

Sincerely,

Greg Janda
Mayor

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i Attachment: Placer CO staff report (BOS 1/5/16 agenda item 6,C)

City Council
311 Vernon Street
Roseville, California 95678

April 20, 2016

Honorable Robert Weygandt, Chairman, and
Placer County Supervisors
Placer County Board of Supervisors
175 Fulweiler Ave.
Auburn, CA 95603

SENT: Via E-Mail

RE: Regulation of Medical Marijuana

Dear Chairman Weygandt and Supervisors:

The Roseville City Council has learned that the County may be considering a shift in its current policies with regard to regulation of medical marijuana in Placer County. It appears the County may be exploring allowing dispensaries, distribution, delivery, and processing of marijuana in the unincorporated areas of Placer County, as well as outdoor commercial cultivation of marijuana. As the largest city in Placer County, the City of Roseville is deeply concerned with the ultimate direction that will be taken by the County. A path towards allowing commercialization and distribution could have irreversible implications for the entire County, not just the unincorporated areas.

The State's adoption of the Medical Marijuana Regulation and Safety Act of 2015 ("MMRSA") tasks various State departments with establishing a regulatory structure for the medical marijuana industry, however it is anticipated that these regulations will not be in place for several years. It is a common fact that marijuana availability has a direct correlation to increased crime rates, increased youth crimes due to access to marijuana, and negative impacts on the surrounding environment. This is supported by information obtained from markets in the States of Washington and Colorado, both that have legalized recreational marijuana use.[1]

MMRSA has required many jurisdictions, including the City of Roseville, to address their existing regulation of medical marijuana. The City of Roseville has conducted outreach and held multiple public meetings within the City to determine the impacts and shape the direction of its current medical marijuana ordinances. The resounding conclusion is that the commercial aspects of medical marijuana, including the unintended consequences that inevitably follow, are not something our citizens want to see within the City of Roseville.

The untested structure of MMRSA and unintended consequences of the commercial marijuana industry mandate caution and continued prohibition in our County. The Roseville City Council appreciates the outreach and information gathering process that the County is presently engaged in and the County's willingness to provide outreach to the Roseville Coalition of Neighborhood Associations (RCONA) and the Roseville City Council, however we respectfully urge the County

[1] Based on data from the March 2016 Northwest HIDTA Washington State Marijuana Impact Report, Vol. 1.

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to not adopt any ordinance or policy that would allow dispensaries, distribution, delivery, processing, and outdoor commercial cultivation of marijuana in Placer County.

The City of Roseville welcomes an open and continued dialogue with the County on the issue of medical marijuana and its proposed direction.

On Behalf of the Roseville City Council,

Carol Garcia,
Mayor, City of Roseville

CC: Senator Jim Nielsen
Assembly Member Beth Gaines
David Boesch, Placer County Executive Officer

Public Outreach Survey Results on Medical Marijuana Regulation

1. Should Placer County allow medical cannabis:
   - Commercial Cultivation
     Yes = 73% No = 21% Not sure = 6%
     Where: Indoor = 95% Outdoor = 92%
     Zones: Residential = 44% Commercial = 80% Agricultural = 97%
   - Manufacturing
     Yes = 67% No = 25% Not sure =8%
     Where: Residential = 31% Commercial = 99% Agricultural = 73%
   - Dispensing of Medical Cannabis
     Yes = 77% No = 21% Not sure =2%
     Where: Residential = 27% Commercial = 99% Agricultural = 49%

2. Should Placer County adopt its own licensing and land use regulation
   Yes = 51% No = 39% Not sure = 10%

3. Should Placer County cap the number of businesses and facilities related to medical marijuana?
   Yes = 49% No = 43% Not sure = 7%

4. Your understanding of the different types of business licenses by the State?
   43% = Very Familiar 36% = Slightly Familiar
   16% = No Familiarity 5% = Only know what is in newspapers and on TV

5. State allows up to 100 sq. ft. for personal cultivation of medical cannabis. Is this:
   69% = An Acceptable allowance
   31% = Not an acceptable allowance (it should be less)

6. Should personal use cultivation of medical cannabis be allowed in Placer County?
   Indoor = 41% Outdoor = 4% Both = 71% Neither = 11%

7. Should the commercial medical cannabis industry bear the cost of regulation through fees and taxes?
   Yes = 82% No = 7% Not sure = 11%

8. Did you find the medical cannabis presentation fair and balanced?
   Yes = 69% No = 17% Not sure = 14%

Before the Board of Supervisors
County of Placer, State of California

In the matter of:

AN ORDINANCE AMENDING PLACER COUNTY CODE CHAPTER 4, REVENUE AND FINANCE, BY ADDING ARTICLE 4.18, COMMERCIAL CANNABIS ACTIVITY TAX

Ordinance No.: _____
First Reading: _____

The following **ORDINANCE** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

_____
Robert Weygandt

Attest:
Clerk of said Board

_____
Clerk of the Board Signature

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA HEREBY FINDS AND DECLARES THE FOLLOWING:

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996"); and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere"; and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes; and

WHEREAS, Health and Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420; and

WHEREAS, on October 9, 2015 Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA is a package of three separate bills (AB 243, AB 266 and SB 643), enacted by the legislature on September 11, 2015 that established a comprehensive regulatory framework for the cultivation, production, transportation, testing, sale and taxation of medical marijuana in California; and

WHEREAS, unregulated marijuana cultivation in the unincorporated areas of Placer County can adversely affect the health, safety and well-being of the County, its residents and environment. The regulating of the cultivation of marijuana is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, offensive odor, and fire hazards that may result from unregulated medicinal marijuana cultivation.

WHEREAS, taxing commercial cannabis activity will provide revenue to promote youth drug prevention and education programs, provide for mental health and community based drug abuse programs, support further efforts to reduce crime associated with the unregulated marijuana industry and allow for further beneficial programs to be determined by the Board or Supervisors;

WHEREAS, on January 26, 2016, the Board of Supervisors adopted a placeholder ordinance [Placer County Code Sections 8.10.010 to 8.10.120] to assert and preserve the County's local regulatory authority over the cultivation of medicinal marijuana by

choosing to administer a conditional permit program pursuant to Health and Safety Code § 11362.777 (c)(4) prior to March 1, 2016; and

NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:

Section 1. Chapter 4, Revenue and Finance of the Placer County Code is hereby amended to add Article 4.18, which shall read as follows:

Article 4.18
COMMERCIAL CANNABIS ACTIVITY TAX

SEC. 4.18.010 Short title.

This article shall be known as the "Commercial Cannabis Activity Tax ordinance of the County of Placer."

SEC. 4.18.020 Purpose of chapter.

This article is enacted solely to raise revenue for the general governmental purposes for the County and not for purposes of regulation or of raising revenues for regulatory purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the County's general fund and used for the purposes consistent with general fund expenditures of the County.

SEC. 4.18.030 Tax imposed.

There is established and imposed, a commercial cannabis activity tax at the rate set forth in this article.

SEC. 4.18.040 Definitions.

The definitions set forth in this part shall govern the application and interpretation of 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 L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

(c) "Cannabis business" or "medical marijuana business" or "non-medical marijuana business" means any commercial business activity not limited to, cultivation, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and/or retail sales of Cannabis and any ancillary products in the unincorporated area of the county, whether or not carried on for gain or profit which is permitted by both State and local law.

(d) “Commercial cannabis activity tax", "Business tax" or "Cannabis tax" means the tax due for engaging in Commercial Cannabis business activity in the unincorporated area of the county.

(e) “Canopy” shall mean the diameter of a plant, a straight line passing through the center of the cannabis plant in its mature state. All plants will be measured or presumed to be in their full growth state regardless if they are “clones”, infants in the vegetative cycle, or full mature plants in the flowering stage of their life cycle unless they are classified only under a Type 4 Nursery Permit. The plant canopy does not need to be continuous on any premise in determining the total square footage which will be subject to tax.

(f) “Cultivation Facility” or “Grow Site” shall mean the square footage of any place or location where cannabis or any of its derivatives is cultivated, grown, harvested, packaged processed or stored.

(g) “Distributor” or “Distribution” or “Distribution Facility” shall mean a person or facility licensed by the State to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(h) “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.

(i) “Engaged in business” means the commencing, conducting, operating, managing or carrying on of any Cannabis business activity and the exercise of corporate or franchise powers, 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 unincorporated area of the county from an outside location to engage in such activities. A person shall be deemed engaged in business within the County if:

(1) Such person or person's employee maintains a fixed place of business within 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 County for business purposes;

(3) Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of County for sale in the ordinary course of business;

(4) Such person or person's employee regularly conducts solicitation of business within the unincorporated area of County;

(5) Such person or person's employee performs work or renders services in the unincorporated area of County on a regular and continuous basis involving more than five working days per year;

(6) Such person or person's employee utilizes the streets within the unincorporated area of County in connection with the operation of motor vehicles for business purposes. The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(j) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or represents to a government agency or to the public that such person is engaged in a Cannabis business activity in the unincorporated area of County, then these facts may be used as evidence that such person is engaged in business in the unincorporated area of County.

(k) "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 or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction there from on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded there from:

(1) Cash discounts allowed and taken on sales;

(2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;

(3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

(4) 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;

(5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

(6) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

(7) Cash value of sales, trades or transactions between departments or units of the same business;

(8) 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, it they 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;

(9) Transactions between a partnership and its partners;

(10) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

(A) The voting and non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or;

(B) Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or

(C) At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

(11) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;

(12) 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;

(13) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

(l) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid state license and that holds a valid local license or permit.

(m) "Person" means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(n) "Sale" means and includes any sale, exchange, or barter.

(o) "Square Foot" or "Square Footage" shall mean the canopy space permitted by permit type by the local agency and/or the State and shall be the basis for the tax base for cultivation.

(p) "Tax Administrator" or "administrator" means the Division Manager of the Placer County Revenue Services Division or such other designated person by the County Administrator to administer this article.

(q) "Transporter" means a person issued a state license and local license to transport medical cannabis or medical and non-medical cannabis products in an amount above the threshold determined by the state permitting agency between facilities that have been issued a state license.

SEC. 4.18.050 Other licenses, permits, taxes, fees or charges.

Nothing contained in this article shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the county, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the county. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

SEC. 4.18.060 Payment of tax does not authorize unlawful business.

(a) The payment of a cannabis tax required by this article, and its acceptance by the county, shall not entitle any person to carry on any Cannabis business activity unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any Cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such Cannabis business activity is in violation of any law.

(b) No tax paid under the provisions of this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the county.

SEC. 4.18.070 Payment - location.

The tax imposed under this article shall be paid to the administrator in the Placer County Revenue Services Division on or before the prescribed date during regular county business hours.

SEC. 4.18.080 Amount of cannabis tax owed.

(a) Every person whether it is a "not for profit", "a nonprofit" or "a non-profit organization" or a for-profit entity who is engaged in a commercial cannabis business as a cultivator in the unincorporated area of county shall pay an annual cannabis tax on medical marijuana and non-medical marijuana where it is permissible by both state and local law. The initial tax shall be set at a rate of ten dollars ($10) per Square Foot of canopy space utilized in connection with cultivation of marijuana. In addition, after three (3) years the County Board of supervisors may by ordinance increase any such tax rate from time to time, not to exceed the maximum tax rate of twenty dollars ($20) per Square Foot. Any cultivation conducted as a nursery (Type 4 license) shall be taxed at a rate of six ($6) dollars per square foot of canopy space utilized in connection with the cultivation of marijuana for both medical and non-medical use where permissible by both State and local law. Beginning on January 1, 2020 and on January 1, of each succeeding year thereafter, the amount of each tax imposed by this Section shall be adjusted up to the equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics; if the County Board of Supervisors by ordinance increases any such tax however related to the "CPI", no adjustment shall decrease any tax imposed by this Section. For the purpose of determining the taxable square footage it

shall be determined by the maximum square footage allowed by permit type issued by the County and/or State. In no case shall the canopy square footage not utilized for the permit type be deducted for the purpose of determining the tax.

(b) Every person whether it is a "not for profit", "a nonprofit" or "a non-profit organization" or a for-profit entity who is engaged in commercial cannabis business as a Dispensary, Manufacturer, Testing Labs, Transporter or Distribution Facility of Commercial Cannabis in the unincorporated area of the county shall pay an annual cannabis tax on medical marijuana and non-medical marijuana where permissible by both state and local law. The initial tax shall be set at four percent (4%) of the gross receipts annually for the first three years. Thereafter, the County Board of Supervisors may by ordinance increase any such tax rate from time to time, not to exceed the maximum tax rate of eight percent (8%) on gross receipts.

SEC. 4.18.090 Payment – time limits.

The cannabis tax imposed by this chapter shall be due and payable as follows:

(a) Each person owing a Commercial Cannabis Activity Tax as a Cultivation Facility under this article shall, on or before the last day of the month following the close of each calendar quarter, prepare a tax statement and remit to the administrator the tax due on the total square footage of canopy space subject to the tax. The square footage tax due shall be paid based on the type of cultivation permits issued by the state and/or issued by the County. The tax will not be prorated or adjusted for reduction in the square footage utilized by the business. Each business shall pay on or before the last day of the month following the close of each calendar quarter four equal installments of the annual tax due. The County may at its discretion determine other methodologies in determining the payment of such tax in order to promulgate collection of said tax in order to reduce the burden of collection which may also include the form of payment in which the county may except for such tax.

(b) Each person owing a Commercial Cannabis Activity Tax as a Dispensary, Manufacturer, Test Lab, Transporter or Distribution Facility under this article shall on or before the last day of the month following the close of each calendar quarter, prepare a tax statement and remit to the administrator the amount of tax owed as determined by this article or as adopted by ordinance by the Board of Supervisors. Each business shall pay on or before the last day of the month following the close of each calendar quarter four equal installments of the annual tax due. The County may at its discretion determine other methodologies in determining the payment of such tax in order to promulgate collection of said tax in order to reduce the burden of collection which may also include the form of payment in which the county may except for such tax.

(c) All tax statements shall be completed on forms authorized by the administrator.

(d) Tax statements and payments for all outstanding taxes owed the County are immediately due to the administrator upon cessation of business for any reason.

(e) A person who intends to transfer, sell or terminate its commercial cannabis activity shall notify the administrator in writing of such sale, transfer or termination and the name and address of the purchaser or transferee at least thirty (30) days in advance of the date of transfer, sale or termination, unless the decision to sell, transfer or terminate was made within less than a thirty (30) day period.

(f) Each person upon cessation of operations for any reason shall, on or before the same day of the next month following the cessation of operations or on the last day of that month if no corresponding day exists, file a return with the administrator on approved forms of the commercial cannabis proceeds received, the amount of tax owed for the reporting period, remittances made, if any, and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due, if any, shall be remitted to the administrator. Returns filed and tax remitted and actually received by the administrator on or before the same day of the next month following the cessation of business or on the last day of that month if no corresponding calendar day exists shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by this article.

SEC. 4.18.100 Payments and communications made by mail – Proof of timely submittal.

Whenever any payment, statement, report, request or other communication received by the administrator is received after the time prescribed by this article for the receipt thereof, but there is an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this article for the receipt thereof, or whenever the administrator is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the administrator may regard such payment, statement, report, request or other communication as having been timely received. If the due day falls on Saturday, Sunday or a holiday, the due day shall be the next regular business day on which the county is open to the public.

SEC. 4.18.110 Payment – when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid on or before the due date specified in Section 4.18.090.

SEC. 4.18.120 Notice not required by county.

The administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this article and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this article.

SEC. 4.18.130 Payment-Penalty for delinquency.

(a) Any person who fails or refuses to pay any cannabis tax required to be paid pursuant to this article on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to twenty-five percent 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 a rate established by resolution of the Board of Supervisors; and

(2) An additional penalty equal to twenty-five percent of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties, calculated at the rate established by resolution of the Board of Supervisors.

(3) Interest shall be applied at the monthly rate on the first day 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 is submitted in payment of a cannabis tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(c) The cannabis tax due shall be that amount due and payable from the first date on which the person was engaged in Cannabis business activity in the county, together with applicable penalties and interest calculated in accordance with Subsection (a) above.

SEC. 4.18.140 Waiver of penalties.

The administrator may waive the first and second penalties of twenty-five percent each imposed upon any person if:

(a) The person provides evidence satisfactory to the administrator 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 tax and accrued interest owed the county prior to applying to the administrator for a waiver.

(b) 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 any twenty-four-month period.

SEC. 4.18.150 Refunds-Credits.

(a) No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 4.18.160.

(b) No refund of any tax collected pursuant to this article shall be made because of the discontinuation, dissolution or other termination of a business.

(c) Any person entitled to a refund of taxes paid pursuant to this article may elect in writing to have such refund applied as a credit against such person's cannabis taxes for the next calendar quarter.

SEC. 4.18.160 Refunds and procedures.

(a) Whenever the amount of any cannabis tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the county under this article, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the administrator within one year of the date the tax was originally due and payable.

(b) The administrator or the administrators authorized agent 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 administrator to do so.

(c) In the event that the cannabis 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 year from when the error was identified.

SEC. 4.18.170 Exemptions – Application – Issuance conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this article shall make application upon forms prescribed by the administrator and shall furnish such information and make such affidavits as may be required by the administrator.

SEC. 4.18.180 Exemptions – General.

Except as may be otherwise specifically provided in this article, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the State of California or preemptive federal or state law.

SEC. 4.18.190 Exemptions – Occasional transactions.

(a) The provisions of this article shall not apply to persons having no fixed place of business within the unincorporated area of the county who come into the unincorporated area of county for the purpose of transacting a specific item of business at the request of a specific patient, client or customer, provided that such person does not come into the unincorporated area of County for the purpose of transacting business on more than five days during any calendar year.

(b) For any person not having a fixed place of business within the unincorporated area of county who comes into the unincorporated area of county for the purpose of transacting business and who is not exempt as provided in Subsection (a) of this section, the cannabis tax payable by such person may be apportioned by the administrator in accordance with Section 4.18.220

SEC. 4.18.200 Enforcement – Duties of tax administrator and sheriff's office.

(a) It shall be the duty of the administrator to collect the taxes, penalties, fees, and perform the duties required by this article and the sheriff shall render such assistance in the enforcement of this article as may from time to time be required by the administrator pursuant to local ordinance and State law. The administrator may adopt such rules and regulations consistent with the purpose, intent, and express terms of this article as he/she deems necessary to supplement or clarify such provisions or aid in their enforcement.

(b) Any taxes, penalties and/or fees required to be paid by any cannabis business under the provisions of this article shall be deemed a debt owed by the individual or business to the County. Any individual or business owing money to the County under the provisions of this article shall be liable to an action brought in the name of the County of Placer for the recovery of such amount.

(c) Recording Certificate of Lien: If any amount required to be paid to the County under this article is not paid when due, the administrator may, within three (3) years after the amount is due file for recording in the Office of the Placer County Recorder 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 administrator. The lien shall also specify that the administrator has complied with all provisions of this article 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/business or subsequently acquired by the individual/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 of filing of the certificate unless sooner released or otherwise discharged.

(d) Warrant for Collection of Tax: 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 (c) of this section, the administrator 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 article. The warrant shall be directed to any sheriff, marshal or constable 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 administrator may pay or advance to the sheriff, marshal, or constable, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The administrator shall approve the fees for publication in the newspaper.

(e) Seizure and Sale: 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 administrator 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 article shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

(f) Any condition caused or allowed to exist in violation of any of the provisions of this article shall be deemed a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the county.

SEC. 4.18.210 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this article generally, the administrator, with the concurrence of the county counsel, may from time to time promulgate administrative rules and regulations.

SEC. 4.18.220 Apportionment.

(a) None of the tax provided for by this article shall be applied so as to occasion an undue burden upon interstate commerce or be in violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California.

(b) If any case where a cannabis tax is believed by a taxpayer to place an undue burden upon interstate commerce or be in violation of such constitutional clauses, the taxpayer may

apply to the administrator for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(c) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this article.

(d) Should the administrator determine that the gross receipt measure of tax to be the proper basis, the administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the administrator.

SEC. 4.18.230 Audit and examination of records and equipment.

(a) The administrator shall have the power to audit and examine all books and records of persons engaged in Cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in Cannabis business, and, where necessary, all equipment, of any person engaged in Cannabis business in the county, for the purpose of ascertaining the amount of cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant 4.18.260 through 4.18.280 of any taxes estimated to be due.

(b) It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this article to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and payment to the County, which records the administrator or his/her designee shall have the right to inspect at all reasonable times.

SEC. 4.18.240 Tax deemed debt to county.

The amount of any tax, penalties and interest imposed by the provisions of this article shall be deemed a debt to the county and any person carrying on any Cannabis business activity without first having paid such tax shall be liable in an action in the name of the county in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

SEC. 4.18.250 Deficiency determinations.

If the administrator is not satisfied that any statement filed as required under the provisions of this article is correct, or that the amount of tax is correctly computed, he/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/her

possession or that may come into his/her possession within three years of the date the tax was originally due and payable. One 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 business, a deficiency determination may be made at any time within three 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 Sections 4.18.260 through 4.18.280.

SEC. 4.18.260 Tax assessment – Authorized when – Nonpayment - Fraud.

(a) Under any of the following circumstances, the administrator may make and give notice of an assessment of the amount of tax owed by a person under this article at any time:

(1) If the person has not filed any statement required under the provisions of this article;

(2) If the person has not paid any tax due under the provisions of this article;

(3) If the person has not, after demand by the administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this article;

(4) If the administrator determines that the nonpayment of any business tax due under this article is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this article.

(b) The notice of assessment shall separately set forth the amount of any tax known by the administrator to be due or estimated by the administrator, after consideration of all information within the administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this article, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

SEC. 4.18.270 Tax assessment – Notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, 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 administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the administrator 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.

SEC. 4.18.280 Tax assessment – Hearing – Application and determination.

Within ten days after the date of service the person may apply in writing to the administrator 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 administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the administrator shall cause the matter to be set for hearing before him or her not

later than thirty-five days after the receipt of the application, unless a later date is agreed to by the administrator and the person requesting the hearing. Notice of such hearing shall be given by the administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the administrator should not be confirmed and fixed as the tax due. After such hearing the administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 4.18.270 for giving notice of assessment.

SEC. 4.18.290 Severability.

Should any provision of this article, or its application to any person or circumstance, be 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 article or the application of this article to any other person or circumstance and, to that end, the provisions hereof are severable.

SEC. 4.18.300 Effect of state and federal reference/authorization.

(a) Unless specifically provided otherwise, any reference to a state or federal statute in this article shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

(b) To the extent that the county's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in state or federal law, no amendment or modification of this article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this article.

SEC. 4.18.310 Remedies cumulative.

All remedies and penalties prescribed by this article or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), 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 article.

SEC. 4.18.320 Amendment or repeal.

Article 4.18 of the Placer County Code may be repealed or amended by the Board of Supervisors without a vote of the people. However, as required by Chapter XIIIC of the California Constitution, voter approval is required for any amendment provision that would

increase the rate of any tax levied pursuant to this article. The people of the County of Placer affirm that the following actions shall not constitute an increase of the rate of a tax:

(a) The restoration of the rate of the tax to a rate that is no higher than that set by this article, if the Board of Supervisors has acted to reduce the rate of the tax;

(b) 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 article;

(c) The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this article); or

(d) The collection of the tax imposed by this article, even if the county had, for some period of time, failed to collect the tax.

SEC. 4.18.330 Payment of tax does not authorize activity.

The payment of the tax required pursuant to this article shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this article implies or authorizes that commercial cannabis activity is legal unless otherwise authorized and allowed in strict and full conformance to the provisions of this Article, Chapter 17 Zoning and applicable state law. Nothing in this article, shall be applied or construed as authorizing the sale of marijuana not in conformance with state or federal law.

SEC. 4.18.340 Not a sales tax.

The commercial cannabis activity tax provided under the provisions of this article is not a Sales or Use Tax and shall not be calculated or assessed as such. The tax shall not be separately identified or otherwise specifically assessed or charged to any qualified patient or primary caregiver, as defined in Section 11362.7 of the Health and Safety Code.

SEC. 4.18.350 Violations.

Any violation of the provisions of this article may be punishable as provided by Article 1.24 of the Placer County Code, or as required by Penal Code Section 424.

Section 2. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and after the vote is declared by the Board of Supervisors. The effective date of this Ordinance shall be January 1, 2017.

Section 3. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code Section 21000et seq., including without limitations. Public Resources Code Section 21605, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

Section 4. The Board of Supervisors of the County of Placer is hereby authorized to amend article 4.18 of the Placer County Code as adopted by this Ordinance in any manner that does not increase the tax rate, above the maximum rate specified for each category of business or otherwise constitutes a tax increase for which voter approval is required by Article XIII C of the California Constitution.

Section 5. Should any provision of this Ordinance, or its application to any person or circumstance, be 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 Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.