

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA
AMENDING CHAPTER 7.100 OF THE MONTEREY COUNTY CODE TO REDUCE
THE BUSINESS TAX RATE IMPOSED ON COMMERCIAL MANUFACTURING
ACTIVITIES.**

County Counsel Summary

This ordinance amends Chapter 7.100 of the Monterey County Code to lower the business tax rate imposed on manufacturing activities.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Findings and purpose.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Pursuant to California Revenue and Taxation Code sections 7284 and 34021.5, Monterey County is permitted to impose taxes on cannabis.

C. On July 12, 2016, the Monterey County Board of Supervisors adopted inland zoning regulations establishing criteria for issuing local land use permits (Ordinance Number 5270, amending sections of Title 21 and adding Chapter 21.67 to the Monterey County Code). On July 19, 2016, the Board of Supervisors adopted regulations establishing criteria for issuing local business permits (Ordinance Numbers 5272 and 5273, codified at Monterey County Code Chapters 7.90 and 7.95). All these ordinances were to become operative only if the Board of Supervisors submitted a County tax on commercial cannabis activities to the voters, the voters approved the tax, and the tax was certified by the County pursuant to California Elections Code section 15372.

D. On November 8, 2016, the voters approved the commercial cannabis business tax (Measure Y, codified at Monterey County Code Chapter 7.100). On December 13, 2016, the tax was certified pursuant to Elections Code section 15372. Specifically, the voters approved a tax on commercial cannabis activities in the unincorporated area of Monterey County up to a maximum of: \$25.00 per square foot on cultivation with an annual adjustment by Consumer Price Index (CPI) thereafter; \$5.00 per square foot on nurseries with annual CPI adjustment thereafter; and 10% of gross receipts on other cannabis business activities with no CPI adjustment.

E. On July 24, 2018, the Board of Supervisors adopted Ordinance Number 5305,

which amended Monterey County Code Chapter 7.100 to reduce the commercial cannabis tax rates. The ordinance established the following tax rates effective July 1, 2018: for indoor cultivation, the tax rate is \$8.00 per fiscal year per square foot of authorized canopy through June 30, 2020, to increase by \$1.00 per fiscal year until a maximum rate of \$15.00 per square foot is reached, and to increase thereafter based on the CPI; for mixed light cultivation, the tax rate is \$5.00 per fiscal year per square foot of authorized canopy through June 30, 2020, to increase by \$1.00 per fiscal year until a maximum rate of \$15.00 per square foot is reached, and to increase thereafter based on the CPI; for nursery cultivation, the tax rate is \$1.00 per square foot of authorized canopy through June 30, 2020, to increase by \$1 per square foot per fiscal year until a maximum rate of \$5.00 per square foot is reached, and to increase thereafter based on the CPI; for manufacturers, the tax rate is 2.5% of gross receipts per fiscal year through June 30, 2019, to increase thereafter by 1% per fiscal year, not to exceed a maximum rate of 10% of gross receipts per fiscal year; for distributors, the tax rate is 2% of gross receipts per fiscal year through June 30, 2019, to increase thereafter by 1% per fiscal year, not to exceed a maximum rate of 10% of gross receipts per fiscal year; for dispensaries, the tax rate is 4% of gross receipts per fiscal year through June 30, 2019, to increase thereafter by 0.5% per fiscal year, not to exceed a maximum rate of 10% of gross receipts per fiscal year; and for testers, the tax rate is 1% of gross receipts per fiscal year with no increase.

F. On April 21, 2020, the Board of Supervisors adopted Urgency Ordinance Number 5326 to waive penalties and interest on the County's commercial cannabis business taxes for the third quarter of Fiscal Year 2019-2020.

G. On May 19, 2020, the Board of Supervisors adopted Ordinance Number 5330, which amended Monterey County Code Chapter 7.100 to suspend the automatic increases on the County's commercial cannabis business tax rates in Fiscal Year 2020-2021.

H. On May 25, 2021, the Board of Supervisors adopted Ordinance Number 5349, which amended Monterey County Code Chapter 7.100 to suspend the automatic increases on the County's commercial cannabis business tax rates in Fiscal Year 2021-2022.

I. On July 13, 2021, the Board of Supervisors adopted Ordinance Number 5355, which amended Monterey County Code Chapter 7.100 to establish the County's commercial cannabis business tax rate for outdoor cannabis cultivation.

J. On March 1, 2022, the Board of Supervisors adopted Ordinance Number 5371, which amended Monterey County Code Chapter 7.100 to reduce certain commercial cannabis business tax rates for cultivation, remove automatic increases, and waive penalties and interest for cultivation activities in the second and third quarters of Fiscal Year 2021-2022.

K. The Monterey County Board of Supervisors directed preparation of this ordinance after evaluating information provided by staff and the public concerning commercial cannabis business tax rates and revenues for manufacturing activities.

L. The Board of Supervisors reserves its right to later restore higher tax rates up to the maximum amounts approved by the voters in Measure Y (2016) and to tax any commercial cannabis activity approved by the voters in Measure Y. Such restoration of tax rates would not constitute an increase in tax rates that would require voter approval.

SECTION 2. Subsection (F) of Section 7.100.050 of the Monterey County Code is amended to read as follows:

F. There shall be a tax on commercial cannabis manufacturers. Every person who is engaged in business as a manufacturer of commercial cannabis in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The tax rate shall be ~~three and one-half~~ one and one-half percent (~~3.5%~~ 1.5%) of the gross receipts per fiscal year.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. Effective Date. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of December 2022, by the following vote:

AYES:
NOES:
ABSENT:

Mary Adams, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

KELLY L. DONLON
Assistant County Counsel