



LOS ANGELES COUNTY
CONSUMER & BUSINESS AFFAIRS

Board of Supervisors

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Director

Rafael Carbajal

Chief of Staff

Joel Ayala

August 9, 2022

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**ADOPT A RESOLUTION GIVING NOTICE OF AN ELECTION TO ENACT
AN ORDINANCE PROPOSING A GENERAL TAX ON CANNABIS
BUSINESSES IN THE UNINCORPORATED AREAS OF THE COUNTY TO
BE HELD IN THE COUNTY OF LOS ANGELES ON NOVEMBER 8, 2022
(ALL DISTRICTS AFFECTED)
(4 VOTES)**

SUBJECT

The Department of Consumer and Business Affairs is seeking Board approval to adopt a resolution to place a general tax measure on the November 8, 2022 election ballot for approval by the voters, which would allow the County to tax cannabis businesses in the unincorporated areas of Los Angeles County.

IT IS RECOMMENDED THAT THE BOARD:

1. Adopt the attached resolution authorizing submission of a proposed ordinance (Attachment A) regarding a general tax levied against cannabis businesses in the unincorporated areas of Los Angeles County to be voted on Countywide.
2. Instruct the Registrar-Recorder/ County Clerk to take all necessary actions to place the general tax on the ballot for the November 8, 2022, election.
3. Find the proposed actions are not a project under the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, Section 15378.

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

20 August 9, 2022

CELIA ZAVALA
EXECUTIVE OFFICER



dcba.lacounty.gov
info@dcba.lacounty.gov

320 W. Temple St., Room G-10, Los Angeles CA, 90012-2706
(213) 974-1452 • (800) 593-8222 • Fax: (213) 687-1137

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On July 13, 2021, your Board instructed the Director of the Department of Consumer and Business Affairs (DCBA) and its Office of Cannabis Management (OCM) to revisit a 2017 [report](#) titled “Recommendations Report: Los Angeles County Advisory working Group on Cannabis Regulations”,¹ and report back with updated recommendations for cannabis retail, manufacture, distribution, growth, testing, regulation, and enforcement in unincorporated Los Angeles County (County) that were rooted in an equity framework.

On December 20, 2021, DCBA/OCM provided your Board with the requested [report back](#) titled “Updated Framework and Recommendations for Regulating Commercial Cannabis in Unincorporated Los Angeles County.”² The report back included zoning, land use, and regulatory recommendations for commercial cannabis, including a robust “Equity Program,” which would offer appropriate resources and opportunities for communities disproportionately impacted by the overcriminalization of cannabis.

On February 15, 2022, your Board [directed](#) DCBA/OCM to proceed with the implementation of an equitable commercial cannabis regulatory framework as provided in the December 2021 Report and report back with a proposed tax structure and fiscal analysis for commercial cannabis activities, including a potential measure for voter approval on the November 2022 ballot.³ (Item No. 6, Agenda of February 15, 2022).

On May 16, 2022, DCBA/OCM provided your Board with the requested [report back](#) titled “Implementing an Equitable Commercial Cannabis Regulatory Framework.”⁴ The report back advised that DCBA/OCM was working with a cannabis tax consultant and would return to the Board with findings and recommendations for a ballot resolution and proposed commercial cannabis tax ordinance noting the August 9, 2022 deadline to adopt a ballot measure for submission to the voters at the November 2022 general election.

The attached resolution (Attachment A) will place a measure on the November 2022 ballot requesting voter approval for a new general business tax for cannabis businesses operating in the unincorporated areas of the County. Cannabis businesses subject to the proposed tax include retail, cultivation, manufacturing, testing labs, distribution, microbusinesses and other commercial cannabis activities.

Your Board must determine whether to adopt the resolution (Attachment A) calling and giving notice of an election, on November 8, 2022, regarding the measure to impose a general business tax on cannabis businesses located within the unincorporated areas of the County. The ballot question to be presented to the voters is stated in the resolution and the proposed ordinance which specifies tax rates, application, methodology, and

¹ https://file.lacounty.gov/SDSInter/bos/bc/1039228_2017-06-19CannabisReceiveandFileReportSIGNEDforBOS.pdf

² <http://file.lacounty.gov/SDSInter/bos/supdocs/160074.pdf>

³ <http://file.lacounty.gov/SDSInter/bos/supdocs/166358.pdf>

⁴ <http://file.lacounty.gov/SDSInter/bos/supdocs/166488.pdf>

enforcement. The resolution calling for the election requires approval by a two-thirds (4 of the 5 Supervisors) vote of the Board to place the measure and ordinance on the ballot.⁵ A simple majority of County voters voting in the election (50% +1) must approve the measure in order to gain approval and impose the tax.⁶

If this general business tax is approved by a majority of the voters, all revenue generated from the tax will be deposited by the Treasurer and Tax Collector into the County General Fund. The projected annual revenue for this tax is \$10,360,000 as outlined in the Fiscal Revenue Analysis of the Commercial Cannabis Industry (Attachment B).

Implementation of Strategic Plan goals

Approval of the recommended actions is consistent with County Strategic Plan Goal Objective III.3.1 Maximize Revenue, implement a process to systematically leverage resources to help fund County initiatives. In fiscal year 2020-21 California State collected about \$817 million in adult-use cannabis tax revenue which has been used on drug research, treatment, and enforcement, health and safety grants addressing cannabis, youth programs, and preventing environmental damage resulting from illegal cannabis production. The revenues produced by this general tax will be directed to the County's General Fund and may be utilized on a broad array of programs and initiatives to further support economic and workforce development in the County.

Additionally, the regulation and taxation of cannabis businesses to promote a legal cannabis market aligns with County Strategic Plan Goals in the areas of Strategy II.1 Drive Economic and Workforce Development in the County and Objective II.1.1 Support 21st Century Innovative and Socially Responsible Industries in Los Angeles County. According to the attached fiscal report, many cities and counties see economic inputs from this industry in the range of \$200 million or more annually, while attracting many small independently-owned businesses. Further reinvestment of the general fund revenue could be made in DCBA OCM's Equity Programs for eligible applicants, which can help the County's Strategic Plan Goals to promote broad workforce development, job training, and economic growth in LA County.

FISCAL IMPACT/ FINANCING

The County is preparing a cannabis business permit ordinance to regulate cannabis business in the unincorporated areas. Initially, the County is planning to permit up to 25 storefront retail cannabis businesses, 25 delivery retail, 10 indoor/mixed light cultivation, 10 manufacturing, 10 distribution, and 10 testing laboratories.

If the initial cannabis tax of 4% of gross receipts for retail, 3% for manufacturing, 3% for distribution and \$4 per square foot (sf) of canopy for mixed light cultivation and \$7/sf for

⁵ [Government Code Section 53724\(b\).](#)

⁶ [Government Code Section 53723.](#)

indoor cultivation is approved, the total projected revenue from the initial number of permits is \$10,360,000. The proposed Cannabis Business Tax Ordinance grants authority for your Board to set tax rates below or equal to the maximum provided by the measure after July 1, 2026.

If the Board elects to increase the number of these cannabis business permits issued in subsequent years, and the regulated market becomes more established, the general business tax revenue deposited in the general fund may increase significantly.

Revenues generated from a general tax will be deposited into the general fund for any County services. Through the budget process, the Board may then direct these general fund monies to support key priorities, such as community benefits and reinvestment into neighborhoods that site these businesses, consumer protection and outreach, and the development and expansion of a robust Equity-led cannabis program as directed by the Board.

As the needs of our program and served communities continue to shift in this emerging and dynamic market, OCM will work with all appropriate stakeholders to highlight opportunities to promote a sustainable program, responsible market, and the Board's equity-focused priorities.

FACTS AND PROVISIONS/ LEGAL REQUIREMENTS

On November 8, 2016, the voters of the State of California approved Proposition 64, an initiative also known as the Adult Use of Marijuana Act (AUMA). AUMA legalized the personal possession of an ounce or less of cannabis and/or up to eight grams of concentrated cannabis. Retail sales of nonmedical cannabis was also legalized pursuant to a state license. Pursuant to AUMA, municipal governments may regulate the permitting and taxation of commercial cannabis business.

The enclosed Fiscal Revenue Analysis (Attachment B) sets forth the initial recommended rates and revenue projections for the proposed cannabis tax. This document includes key economic impact analysis and justifications for the recommended tax rates.

Pursuant to this analysis, OCM recommends initially setting competitive tax rates that can help regulated cannabis businesses better shift consumer demand from the unregulated market. The initial rates, which would be effective from July 1, 2023, through July 1, 2026, if approved by a majority of County voters, are as follows:

Retail: 4% of gross receipts
Manufacturing: 3% of gross receipts
Distribution: 3% of gross receipts

Testing: 1% of gross receipts
Cultivation: \$7/sf of canopy (indoor artificial light)
 \$4/sf of canopy (mixed light)
 \$4/sf of canopy (outdoor)⁷
 \$2/sf of canopy space (nursery)
Any other type of Cannabis Business: 4% of gross receipts

In addition, OCM recognizes the fast-changing nature of the cannabis regulatory and industry landscape, and the need for County to adjust the tax rates to respond to a maturing, competitive and viable legal cannabis market in Los Angeles County. Accordingly, the proposed measure, if approved by a majority of County voters, authorizes the Board to impose tax rates equal to or below the following maximum tax rates on cannabis businesses in the unincorporated areas of Los Angeles County after July 1, 2026:

Retail: 6% of gross receipts
Manufacturing: 4% of gross receipts
Distribution: 3% of gross receipts
Testing: 2% of gross receipts
Cultivation⁸: \$10/sf of canopy (indoor artificial light)
 \$7/sf of canopy (mixed light)
 \$4/sf of canopy (outdoor)
 \$2/sf of canopy space (nursery)
Any other type of Cannabis Business: 4% of gross receipts

DCBA's OCM is working with all appropriate County departments, external stakeholders, and community members to develop the County's cannabis business permitting program and will return to the Board with an additional ordinance to implement an equitable cannabis business permitting program.

ENVIRONMENTAL DOCUMENTATION

The proposed actions are not a project pursuant to the California Environmental Quality Act (CEQA) because they are activities that are excluded from the definition of a project by Section 15378 (b) of the State CEQA Guidelines. The proposed actions would create a government funding mechanism that does not involve any commitment to a specific project, which may result in a potentially significant physical impact on the environment.

⁷ LA County will not be permitting outdoor cultivation during its initial launch of cannabis business permits per its December 2021 report. However, should your Board move to permit outdoor cultivation at a later time, the appropriate rates will apply.

⁸ Tax rates on cultivation will be annually indexed to inflation starting in 2026.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There would be no negative impacts on current services.

Respectfully submitted,



Rafael Carbajal
Director

RC:JA
HS:FGN

Enclosures

c:

Executive Office, Board of Supervisors
Agricultural Commissioner/ Weights & Measures
Chief Executive Officer
County Counsel
District Attorney
Fire
Public Works
Public Health
Regional Planning
Sheriff
Treasurer and Tax Collector
Workforce Development Aging and Community Services

ATTACHMENT A

Resolution Giving Notice of an Election to Enact an Ordinance Proposing a General Tax on Cannabis
Businesses in the Unincorporated Areas of the County to be Held in The County of Los Angeles on
November 8, 2022



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

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DAWYN R. HARRISON
Acting County Counsel

August 3, 2022

Rafael Carbajal, Director
Department of Consumer and Business Affairs
300 West Temple Street, Room G-10
Los Angeles, California 90012

Agenda No. 6
02/15/2022

**Re: Resolution Giving Notice Of An Election To Enact An
Ordinance Proposing A General Tax On Cannabis Businesses
In The Unincorporated Areas Of The County To Be Held In
The County Of Los Angeles On November 8, 2022**

Dear Mr. Carbajal:

Enclosed please find the resolution calling for and giving notice of a special election to place a tax measure on the November 8, 2022 ballot, and enclosed ordinance, amending Title 4 – Revenue and Finance of the Los Angeles County Code, to establish a general tax on Cannabis Businesses in the unincorporated areas of the County of Los Angeles. The resolution requires approval by a two-thirds vote (4/5 members) of the Board of Supervisors to place the tax measure on the ballot, and the tax measure requires approval of a majority of the qualified voters voting in the election for passage.

The resolution, analysis, and ordinance may be presented to the Board of Supervisors for consideration.

Very truly yours,

DAWYN R. HARRISON
Acting County Counsel

By 
SAYUJ PANICKER
Deputy County Counsel

APPROVED AND RELEASED:



JUDY W. WHITEHURST
Acting Chief Deputy

SP:lp
Enclosures

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF LOS ANGELES PROVIDING FOR AND GIVING
NOTICE OF A GENERAL TAX ELECTION TO BE HELD IN THE
COUNTY OF LOS ANGELES ON NOVEMBER 8, 2022, AND
CONSOLIDATING THE GENERAL TAX ELECTION WITH THE
STATEWIDE GENERAL ELECTION TO BE HELD ON
NOVEMBER 8, 2022**

WHEREAS, the Board of Supervisors recognizes that it is necessary and desirable that the County of Los Angeles ("County") levy a general tax within the unincorporated areas of the County; and

WHEREAS, pursuant to section 34021.5 of the California Revenue and Taxation Code, and subject to voter approval, the County is authorized to impose a tax on businesses engaged in cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products, in the unincorporated areas of the County for general purposes; and

WHEREAS, pursuant to Article XIII C, section 2(a) of the California Constitution, a general tax may be imposed for general governmental purposes to maintain the quality of life of the people of the County by funding general County services; and

WHEREAS, beginning July 1, 2023, the County seeks to impose annual tax rates on cannabis businesses of:

- \$7 per square foot of canopy space for cultivation using exclusively artificial lighting;
- \$4 per square foot of canopy space for cultivation using combination lighting;
- \$4 per square foot of canopy space for cultivation using no artificial lighting;
- \$2 per square foot of canopy space for cultivation in any nursery;
- 4 percent of gross receipts for retail cannabis businesses;
- 3 percent of gross receipts for manufacturing and processing cannabis businesses;
- 3 percent of gross receipts for distribution cannabis businesses;
- 1 percent of gross receipts for testing laboratory cannabis businesses;
- 4 percent of gross receipts for any other type of cannabis business; and

WHEREAS, beginning July 1, 2026, the County seeks the authority to adjust the tax rates on cannabis businesses pursuant to a Board of Supervisors resolution to a rate less than or equal to maximum annual tax rates not to exceed:

- \$10 per square foot of canopy space for cultivation using exclusively artificial lighting (adjusted for inflation);
- \$7 per square foot of canopy space for cultivation using combination lighting (adjusted for inflation);
- \$4 per square foot of canopy space for cultivation using no artificial lighting (adjusted for inflation);

- \$2 per square foot of canopy space for cultivation in any nursery (adjusted for inflation);
- 6 percent of gross receipts for retail cannabis businesses;
- 4 percent of gross receipts for manufacturing and processing cannabis businesses;
- 3 percent of gross receipts for distribution cannabis businesses;
- 2 percent of gross receipts for testing laboratory cannabis businesses; and
- 4 percent of gross receipts for any other type of cannabis business.

WHEREAS, pursuant to Article XIII C, section 2(b) of the California Constitution and California Government Code ("Government Code") sections 53721 through 53724, a general tax is subject to approval by two-thirds (2/3) vote of the Board of Supervisors and by a majority vote of the voters in the County voting in an election; and

WHEREAS, pursuant to Article XIII C, section 2(b) of the California Constitution and Government Code section 53724(c), an election for the approval of a general tax must be consolidated with a regularly-scheduled general election for members of the governing body of the local government; and

WHEREAS, the County's general elections are held on the same day as the Statewide general election in each even-numbered year, and the next regularly scheduled general election for members of the Board of Supervisors and the next Statewide general election will be held on Tuesday, November 8, 2022; and

WHEREAS, the Board of Supervisors deems it necessary and essential to submit the Los Angeles County Cannabis Business Tax Measure ("Measure") to the qualified voters within the County at a general election to be held on November 8, 2022, and to consolidate such election with the other elections to be held on that date.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Los Angeles as follows:

SECTION 1. Call of the Election and Purpose. A special election shall be held and the same is hereby called and ordered to be held in the County on the 8th day of November, 2022, for the purpose of submitting to the voters of the County by ordinance the question of whether a general tax on cannabis businesses shall be imposed as provided in the attached ordinance, Attachment A, (hereinafter "Ordinance").

[REMAINDER OF PAGE LEFT BLANK]

SECTION 2. Ballot Measure. Pursuant to California Elections Code ("Elections Code") section 10403, the ballot forms shall have printed on them the following words with regard to the Measure:

Los Angeles County Cannabis Business Tax Measure	
Shall the measure enacting a tax in the unincorporated areas of Los Angeles County on cannabis businesses at annual rates not to exceed \$10 per square foot for cultivation (adjusted for inflation) and a percentage of gross receipts for various cannabis businesses, including retail (6 percent), testing laboratory (2 percent), distribution (3 percent), manufacturing and for all other cannabis businesses (4 percent), generating approximately \$10,360,000 to \$15,170,000 annually, until ended by voters, be adopted?	YES
	NO

SECTION 3. Ordinance. The attached Ordinance, Attachment A, is incorporated herein by reference.

SECTION 4. Proclamation. Pursuant to section 12001 of the Elections Code, the Board of Supervisors of the County of Los Angeles hereby PROCLAIMS that an election shall be held in the County on Tuesday, November 8, 2022, to vote upon the Measure.

SECTION 5. Consolidation. The special election called by this resolution shall be consolidated with the other elections conducted by the Registrar-Recorder/County Clerk to be held in the County of Los Angeles on November 8, 2022, and the Measure shall be placed on the same ballot as that provided for the general election. The precincts, polling places and vote centers, precinct board members, and facilities shall be the same as provided for the Statewide general election.

SECTION 6. Election Procedure. All qualified voters residing within the County shall be permitted to vote in the election and, in all particulars not recited in this resolution, the election shall be held as nearly as practicable in conformity with the Elections Code. The votes cast for and against the Measure shall be separately counted and if the Measure receives the required number of votes, a majority of the votes cast by the qualified electors voting on the Measure, the general tax in the amounts stated in the ordinance shall be effective and ratified.

SECTION 7. Sample Ballot. The Registrar-Recorder/County Clerk is instructed to print the entire proposed ordinance in the sample ballot.

SECTION 8. Authority. This resolution is adopted pursuant to sections 10403 and 12001 of the Elections Code and section 25201 of the Government Code. The Executive Officer of the Board of Supervisors is ordered to file a copy of this resolution with the Registrar-Recorder/County Clerk at least eighty-eight (88) days prior to the day of the election. The Registrar-Recorder/County Clerk is authorized, instructed, and directed to prepare any documents and take any additional actions that may be necessary in order to properly and lawfully conduct the election.

SECTION 9. California Environmental Quality Act. Based upon all of the facts before it on this matter, the Board of Supervisors finds that the submission of the Measures to the voters is not subject to, or is exempt from, the California Environmental Quality Act (CEQA). Submission of the Measure is not a project as defined by California Code of Regulations section 15378(b) because it relates to the creation of government funding mechanisms, which do not involve commitment to any specific project which may result in a potentially significant physical impact on the environment.

[REMAINDER OF PAGE LEFT BLANK]

The foregoing resolution was adopted on the 9th day of August 2022, by the Board of Supervisors of the County of Los Angeles and *ex officio* the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board so acts

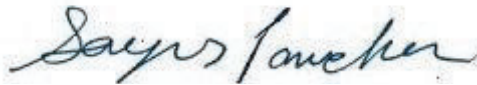


CELIA ZAVALA, Executive Officer-Clerk
of the Board of Supervisors of the
County of Los Angeles

By: 
Deputy

APPROVED AS TO FORM:

DAWN R. HARRISON,
Acting County Counsel


By: _____
SAYUJ PANICKER
Deputy County Counsel

ANALYSIS

This ordinance amends Title 4 – Revenue and Finance of the Los Angeles County Code by adding Chapter 4.71 Cannabis Business Tax to impose a tax for general governmental purposes on cannabis businesses in the unincorporated areas of the County. The ordinance imposes initial tax rates in effect from July 1, 2023 through July 1, 2026, of:

- \$7 per square foot of canopy space for cultivation using exclusively artificial lighting;
- \$4 per square foot of canopy space for cultivation using combination lighting;
- \$4 per square foot of canopy space for cultivation using no artificial lighting;
- \$2 per square foot of canopy space for cultivation in any nursery;
- 4 percent of gross receipts for retail cannabis businesses;
- 3 percent of gross receipts for manufacturing and processing cannabis businesses;
- 3 percent of gross receipts for distribution cannabis businesses;
- 1 percent of gross receipts for testing laboratory cannabis businesses; and
- 4 percent of gross receipts for any other type of cannabis business.

Beginning July 1, 2026, the Board of Supervisors may adjust the tax to a rate less than or equal to the maximum annual rates not to exceed:

- \$10 per square foot of canopy space for cultivation using exclusively artificial lighting;
- \$7 per square foot of canopy space for cultivation using combination lighting;
- \$4 per square foot of canopy space for cultivation using no artificial lighting;
- \$2 per square foot of canopy space for cultivation in any nursery;
- 6 percent of gross receipts for retail cannabis businesses;
- 4 percent of gross receipts for manufacturing and processing cannabis businesses;
- 3 percent of gross receipts for distribution cannabis businesses;
- 2 percent of gross receipts for testing laboratory cannabis businesses; and
- 4 percent of gross receipts for any other type of cannabis business.

Beginning in 2027, the maximum annual tax rates for cannabis cultivation are adjusted for inflation. The ordinance also establishes processes for the collection, enforcement, and appeals of taxes levied under this Chapter.

Revenues generated from the Cannabis Business Tax will be placed in the County of Los Angeles general fund and may be used for any County of Los Angeles services. The ordinance will become effective only after approval by a majority of the qualified voters voting in a general election on the issue.

DAWYN R. HARRISON
Acting County Counsel

By 
SAYUJ PANICKER
Deputy County Counsel
Government Services Division

SJ:EMM:MD:EC:PMB:lp

Requested: 06/09/2022
Revised: 07/27/2022

ORDINANCE NO. 2022-0067

An ordinance amending Title 4 – Revenue and Finance of the Los Angeles County Code to add Chapter 4.71 Cannabis Business Tax to tax Cannabis Businesses in the unincorporated areas of Los Angeles County. The ordinance also establishes enforcement, collection, and appeals of taxes levied under this Chapter.

The people of the County of Los Angeles ordain as follows:

SECTION 1. Chapter 4.71 is hereby added to read as follows:

CHAPTER 4.71 CANNABIS BUSINESS TAX

4.71.010 Authority and Purpose.

4.71.020 Intent.

4.71.030 Applicability.

4.71.040 Definitions.

4.71.050 No Effect on Other Taxes, Fees or Charges, or Other

Permits of Licenses.

4.71.060 Payment of Tax Does Not Authorize Unlawful Business.

4.71.070 Tax Imposed.

4.71.080 Tax Registration.

4.71.090 Payment and Tax Statement Required Monthly.

4.71.100 Payments and Communications Made by Mail—Proof of

Timely Submittal.

4.71.110 Payment—When Taxes Deemed Delinquent.

4.71.120 Notice Not Required by County.

- 4.71.130 Payment—Penalties and Interest for Delinquency.
- 4.71.140 Cancellation of Penalties and Interest.
- 4.71.150 Refunds—Procedures.
- 4.71.160 Refunds—Credits.
- 4.71.170 Exemptions—Personal Cultivation and Use.
- 4.71.180 Rules and Regulations.
- 4.71.190 Enforcement—Duties of Tax Administrator and Sheriff.
- 4.71.200 Constitutionality and Legality.
- 4.71.210 Apportionment.
- 4.71.220 Audit and Examination of Premises and Records.
- 4.71.230 Tax Deemed Debt to County—Lien Procedure.
- 4.71.240 Deficiency Determinations.
- 4.71.250 Tax Assessment—Authorized When—Nonpayment—

Fraud.

- 4.71.260 Tax Assessment—Notice Requirements.
- 4.71.270 Tax Assessment—Hearing—Application—

Determination—Appeal.

- 4.71.280 Violation Deemed Misdemeanor—Civil Penalty—

Administrative Fines.

- 4.71.290 Conviction or Civil Judgment for Chapter Violation—

Taxes Not Waived.

- 4.71.300 Severability.

4.71.310 **Effect of State and Federal Reference/Authorization.**

4.71.320 **Remedies Cumulative.**

4.71.330 **Amendment or Repeal.**

4.71.340 **Execution.**

4.71.010 **Authority and Purpose.**

This Chapter will be known as the "Cannabis Business Tax Ordinance" and is enacted to raise revenue, pursuant to sections 7284, 7284.4, and 34021.5 of the California Revenue and Taxation Code, for general governmental purposes of the County. All of the proceeds from the Tax imposed by this Chapter must be deposited to the County's general fund.

The Cannabis Business Tax is levied based upon a Business's Gross Receipts except for Commercial Cannabis Cultivation, which will be taxed based on square footage, as specified in this Chapter. The Cannabis Business Tax is not a sales and use tax, a tax upon income, or a tax upon real property and must not be calculated or assessed as such. The Cannabis Business Tax must not be separately identified or otherwise specifically assessed or charged by any person to a customer, patient, or caretaker.

4.71.020 **Intent.**

The intent of this Chapter is to levy a Tax on all Cannabis Businesses in the unincorporated areas of the County, regardless of whether such Cannabis Business would have been legal at the time this Chapter was adopted. Nothing in this Chapter will be interpreted to authorize or permit any Cannabis Business that would not

otherwise be legal or permissible under State and local laws applicable to Cannabis Business.

4.71.030 Applicability.

The provisions of this Chapter apply to the unincorporated areas of the County.

4.71.040 Definitions.

The terms below have the following meanings:

A. "Arm's Length Transaction" means a Sale entered into in good faith and for valuable consideration at a sales price that reflects the fair market value in the open market between informed and willing parties, neither under any compulsion to participate in the transaction.

B. "Board of Supervisors" means the County of Los Angeles Board of Supervisors.

C. "Business" means all activities engaged in or caused to be engaged in within the County, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, excluding services rendered by an employee to their employer.

D. "Cannabis" means:

1. All parts of the plant *cannabis sativa linnaeus*, *cannabis indica*, or *cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin; and

2. The separated resin, whether crude or purified, obtained from cannabis.

Cannabis does not include Industrial Hemp, unless otherwise specified.

E. "Cannabis Business" means any Business requiring a Commercial Cannabis Permit, including but not limited to cultivating, transporting, distributing, Manufacturing, compounding, converting, Processing, preparing, storing, packaging, transporting, delivering, testing, dispensing, retailing, or any other Business requiring a Commercial Cannabis Permit, and wholesaling of Cannabis, Cannabis Products, or of ancillary products and accessories, whether or not carried on for gain or profit.

F. "Cannabis Business Tax" means the Tax due pursuant to this Chapter for a Cannabis Business in the unincorporated areas of the County.

G. "Cannabis Product" means the same as the definition in section 11018.1 of the California Health and Safety Code, and is not limited to medicinal Cannabis Products.

H. "Canopy" means all areas occupied by any portion of a Cannabis plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane must be counted as a separate Canopy area.

I. "Chapter" means a Chapter of this Title.

J. "Code" means the Los Angeles County Code.

K. "Commercial Cannabis Cultivation" means cultivation of Cannabis undertaken in the course of conducting a Cannabis Business.

L. "Commercial Cannabis Permit" means a permit, certificate, or other approval issued by the County to a Person authorizing that Person to operate a Cannabis Business or engage in Business as a Cannabis Business within the unincorporated areas of the County.

M. "County" means the County of Los Angeles.

N. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis and includes, but is not limited to, the operation of a Nursery.

O. "Days" means calendar days, which is all days including Saturdays, Sundays, and County holidays, unless otherwise specified.

P. "Distribution" means the procurement, Sale, transport, or delivery of Cannabis and Cannabis Products between Businesses or Persons in the unincorporated areas of the County in accordance with Section 4.71.210.

Q. "Gross Receipts," except as otherwise specifically provided, means:

1. The total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for the Sale of goods, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or for employment done as part of or in connection with the Sale of goods, wares, merchandise or not) related to Cannabis Business, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever.

2. Gross Receipts include the total amount received or payable related to Cannabis Business whether designated as a sales price, royalty, rent, membership fee, automated teller machine (ATM) service fee, delivery fee, slotting fee, any other fee, vaping room service charge, commission, dividend, or other designation.

3. In the event the Business is involved in a Non-Arm's Length Transaction, the Gross Receipts will be the fair market value using a methodology approved by the Tax Administrator.

4. The following are excluded from Gross Receipts:

- a. Cash discounts where allowed and taken on Sales.
- b. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser.
- c. 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.
- d. 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.
- e. Cash value of Sales, trades or transactions between departments or units of the same Business located in the unincorporated areas of the County if authorized by the Tax Administrator in writing in accordance with Section 4.71.210.

f. Receipts of refundable deposits, except forfeited deposits calculated as income for the Business.

g. Retail Sales of non-Cannabis Products, such as t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, Cannabis accessories such as pipes, pipe screens, vape pen batteries (without Cannabis) or other personal tangible property.

h. Payments made by the Tax-reporting Cannabis Business to a Cannabis customer for the difference in the original price and subsequent renegotiated or finalized price of products or services sold. This type of transaction is referred to as a "Billback." The Tax-reporting Cannabis Business must provide supporting documentation to the Tax Administrator to substantiate the transaction in order to be eligible for a Gross Receipts exclusion.

i. Whenever there are included within the Gross Receipts amounts which reflect Sales for which credit was 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, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they must be included in the amount of Gross Receipts for the period when they are recovered.

R. "Hearing Officer" means the person qualified to conduct a fair and impartial hearing, including but not limited to the Office of the County Hearing Officer if one has been created.

S. "Industrial Hemp" means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths (3/10) of one percent (1%) tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not, the seeds of the plant, 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 produced therefrom.

T. "Lighting" means a source of light that is primarily used for promoting the biological process of plant growth. Lighting does not include sources of light that primarily exist for the safety or convenience of staff or visitors to the facility, such as emergency lighting, walkway lighting, or light admitted via small skylights, windows, or ventilation openings.

U. "Manufacturing" means the Processing, production, preparation, propagation, or compounding of Cannabis or Cannabis Products either directly or indirectly or by extraction and/or infusion and chemical synthesis methods, at a fixed location that packages or repackages Cannabis or Cannabis Products, and includes the preparing, holding, or storing of components and ingredients of Cannabis and Cannabis Products.

V. "May" means permissive.

W. "Must" means mandatory.

X. "Nursery" means a facility or part of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of Cannabis.

Y. "Non-Arm's Length Transaction" means a Sale not entered in good faith or that does not reflect fair market value in the open market.

Z. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, or Business trust, or any other entity or association conducting or representing a Business for purposes of this Chapter.

AA. "Processing" means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of Cannabis and non-manufactured Cannabis Products.

AB. "Retailer" means a Person who Sells Cannabis or Cannabis Products at their place of business or by delivery to an end user or customer for use or consumption rather than to another Person or business for resale.

AC. "Sale" or "Sell" means and includes any sale, exchange, or barter either as a retailer or wholesaler by a Person. "Sale" or "Sell" also means any transaction whereby, for any consideration, title to Cannabis or Cannabis Products are transferred from one Person to another and includes the delivery of Cannabis or Cannabis Products pursuant to an order placed for the purchase of the same, but does not include the return of Cannabis or Cannabis Products to the Commercial Cannabis permittee from whom the Cannabis or Cannabis Product was purchased.

AD. "State" means the State of California.

AE. "State License" means a license issued pursuant to California Business and Professions Code section 26050, and all other applicable State laws, required for operating a Cannabis Business.

AF. "Tax" means the Cannabis Business Tax levied under this Chapter.

AG. "Tax Administrator" means the Treasurer and Tax Collector of the County of Los Angeles or their designee(s).

AH. "Testing Laboratory" means a Cannabis Business that: (i) offers or performs tests of Cannabis or Cannabis Products, (ii) Sells no products, excepting only testing supplies and materials, (iii) is accredited by an accrediting body that is independent from all other Persons involved in the Cannabis industry in the State, and (iv) is registered with the Department of Cannabis Control or other State agency.

4.71.050 No Effect on Other Taxes, Fees or Charges, or Other Permits or Licenses.

A. The Cannabis Business Tax is additional to all other taxes. This Chapter shall not 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, any other ordinance or resolution of the County or any city within the County, or as required by law.

B. Nothing contained in this Chapter will be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any Commercial Cannabis Permit, or any other permit, license, or other certificate required by, under or by virtue of any provision of any other Title or Chapter of this Code, any other ordinance or resolution of the County or any city within the County, or as required by law.

C. A Commercial Cannabis Permit issued by the County may be revoked, suspended, or not renewed in the event that the Person holding that permit has failed to:

1. Register or renew such Tax registration with the Tax Administrator;

or

2. Timely pay all taxes, interest, penalties, and fees owed under this

Chapter.

4.71.060 Payment of Tax Does Not Authorize Unlawful Business.

A. The payment of the Cannabis Business Tax required by this Chapter, and its acceptance by the County, does not entitle any Person to carry on any Cannabis Business unless the Person has complied with all of the requirements of this Code and all other applicable State and local laws.

B. No Tax paid under the provisions of this Chapter will be construed as authorizing the conduct or continuance of any illegal or unlawful Business, or any Business in violation of any local or State law.

4.71.070 Tax Imposed.

A. Beginning July 1, 2023, there will be a Cannabis Business Tax imposed upon each Person who is engaged in Business as a Cannabis Business in the unincorporated areas of the County. Such Tax is payable regardless of whether the Person has been issued a Commercial Cannabis Permit to operate lawfully in the unincorporated areas of the County or is operating unlawfully. The County's

acceptance of a Tax payment from a Cannabis Business operating illegally does not constitute the County's approval or consent to such illegal operations.

B. The rate of the Tax will be as follows:

1. Every Person engaged in retail Sales of Cannabis and Cannabis Products, including as a retailer, dispensary, non-storefront retailer, retail delivery, or microbusiness, as defined in Government Code section 14837, must pay a Tax at the rates specified below:

a. Beginning July 1, 2023 through June 30, 2026, the Tax rate on retail Sales of Cannabis and Cannabis Products will be four percent (4%) of Gross Receipts. After June 30, 2026, the Tax rate will remain at four percent (4%) of Gross Receipts, unless the Board of Supervisors adjusts the rate.

b. Beginning July 1, 2026, the Tax rate of the Cannabis Business Tax on retail Sales of Cannabis and Cannabis Products may be adjusted by resolution of the Board of Supervisors to a rate less than or equal to the maximum rate, which is six percent (6%) of Gross Receipts.

2. Every Person engaged in Manufacturing or Processing of Cannabis and Cannabis Products must pay a Tax at the rates specified below:

a. Beginning July 1, 2023 through June 30, 2026, the Tax rate on Manufacturing or Processing of Cannabis and Cannabis Products will be three percent (3%) of Gross Receipts. After June 30, 2026, the Tax rate will remain at three percent (3%) of Gross Receipts, unless the Board of Supervisors adjusts the rate.

b. Beginning July 1, 2026, the Tax rate of the Cannabis Business Tax on Manufacturing or Processing of Cannabis and Cannabis Products may be adjusted by resolution of the Board of Supervisors to a rate less than or equal to the maximum rate, which is four percent (4%) of Gross Receipts.

3. Every Person engaged in Distribution of Cannabis and Cannabis Products must pay a Tax at the rate specified below:

a. Beginning July 1, 2023 through June 30, 2026, the Tax rate on Distribution of Cannabis and Cannabis Products will be three percent (3%) of Gross Receipts. After June 30, 2026, the Tax rate will remain at three percent (3%) of Gross Receipts, unless the Board of Supervisors adjusts the rate.

b. Beginning July 1, 2026, the Tax rate of the Cannabis Business Tax on Distribution of Cannabis and Cannabis Products may be adjusted by resolution of the Board of Supervisors to a rate less than or equal to the maximum rate, which is three percent (3%) of Gross Receipts.

4. Every Person engaged in operating a Testing Laboratory for Cannabis and Cannabis Products must pay a Tax at the rates specified below:

a. Beginning July 1, 2023 through June 30, 2026, the Tax rate on operating a Testing Laboratory for Cannabis and Cannabis Products will be one percent (1%) of Gross Receipts. After June 30, 2026, the Tax rate will remain at one percent (1%) of Gross Receipts, unless the Board of Supervisors adjusts the rate.

b. Beginning July 1, 2026, the Tax rate of the Cannabis Business Tax on operating a Testing Laboratory for Cannabis and Cannabis Products

may be adjusted by resolution of the Board of Supervisors to a rate less than or equal to the maximum rate, which is two percent (2%) of Gross Receipts.

5. Every Person engaged in Commercial Cannabis Cultivation must pay a Tax at the annual rates specified below:

a. Beginning July 1, 2023 through June 30, 2026, the Tax rate for Commercial Cannabis Cultivation will be:

i. Seven dollars (\$7) per square foot of Canopy space in a facility that uses exclusively artificial Lighting.

ii. Four dollars (\$4) per square foot of Canopy space in a facility that uses a combination of natural and artificial Lighting.

iii. Four dollars (\$4) per square foot of Canopy space in a facility that uses no artificial Lighting.

iv. Two dollars (\$2) per square foot of Canopy space for any Nursery.

b. After June 30, 2026, the Tax rates for Commercial Cannabis Cultivation will remain as specified in Section 4.71.070(B)(5)(a), unless the Board of Supervisors adjusts the rates.

c. Beginning July 1, 2026, the Tax rates of the Cannabis Business Tax on Commercial Cannabis Cultivation may be adjusted by resolution of the Board of Supervisors to rates less than or equal to the maximum annual rates, which are:

i. Ten dollars (\$10) per square foot of Canopy space in a facility that uses exclusively artificial Lighting.

ii. Seven dollars (\$7) per square foot of Canopy space in a facility that uses a combination of natural and artificial Lighting.

iii. Four dollars (\$4) per square foot of Canopy space in a facility that uses no artificial Lighting.

iv. Two dollars (\$2) per square foot of Canopy space for any Nursery.

d. Beginning July 1, 2027 and on each July 1 thereafter, the maximum annual Tax rates for Commercial Cannabis Cultivation specified in Section 4.71.070(B)(5)(c) will increase annually for inflation based on the average Consumer Price Index ("CPI") for the Los Angeles County area for the preceding year as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any Tax imposed may be made.

e. For purposes of determining the Tax imposed under this Section, the square footage of Canopy space is the maximum square footage of Canopy space allowed by the Commercial Cannabis Permit authorizing the Commercial Cannabis Cultivation. If a Person engaged in Commercial Cannabis Cultivation does not have a Commercial Cannabis Permit issued by the County, then the square footage of Canopy space is determined by the Tax Administrator.

6. Every Person engaged in any type of Cannabis Business not described in Sections 4.71.070(B)(1) through 4.71.070(B)(5) must pay a Tax at the rates specified below:

a. Beginning July 1, 2023 through June 30, 2026, the Tax rate on any type of Cannabis Business not described in Sections 4.71.070(B)(1) through 4.71.070(B)(5) will be four percent (4%) of Gross Receipts. After June 30, 2026, the Tax rate will remain at four percent (4%) of Gross Receipts, unless the Board of Supervisors adjusts the rate.

b. Beginning July 1, 2026, the Tax rate of the Cannabis Business Tax on any type of Cannabis Business not described in Sections 4.71.070(B)(1) through 4.71.070(B)(5) may be adjusted by resolution of the Board of Supervisors to a rate less than or equal to the maximum rate, which is four percent (4%) of Gross Receipts.

4.71.080 Tax Registration.

Any Person who engages in Business as a Cannabis Business, whether an existing, newly established, or acquired Business, must register with the Tax Administrator within thirty (30) Days of commencing operation or within thirty (30) Days after the effective date of the ordinance codified in this Chapter, and must annually renew such tax registration within thirty (30) Days of the Cannabis Business Tax registration anniversary date of each year thereafter. Registration requires each Person to furnish to the Tax Administrator affirmation under penalty of perjury, on a form or

electronic submission determined by the Tax Administrator that may set forth the following information:

A. General Information.

1. The name of the Business, the street address where such Business is to be carried on, and a telephone number and email address for the Business;
2. The registrant's name, address, telephone number and email address;
3. A description of the exact nature or kind of Business;
4. If a Business is conducted at a specific location, information for the property owner or lessor of record, including but not limited to, the name, address, telephone number, and email address of the property owner or lessor of record; and
5. Any additional information that the Tax Administrator may require.

B. Business Entity Information.

1. The registrant must provide the name, address, telephone number, and email address of each owner of the Business. If applicable, the registrant must also provide the following information:
 - a. Proof of the Business' active status and the entity number assigned by the California Secretary of State;
 - b. An email address, telephone number, address of corporate headquarters, and website address for the Business;
 - c. For a partnership, the name, address, telephone number, website address and email address of each partner of the Business. If one or more of

the partners is a corporation, the provisions of this Chapter as to a corporate registrant apply;

d. For a corporation, the name that appears in the articles of incorporation as filed with the California Secretary of State; the name, address, telephone number, website address, and email address of each officer; the name, address, telephone number, and email address of each shareholder owning shares equal to or greater than ten percent (10%) of the total shares issued by the corporation; and the name and address of an officer duly authorized to accept legal service of process;

e. For a limited liability company, the name, address, telephone number, and email address of each member and every Person having any right, title, or interest in the premises. If applicable, the name of each managing member, or the name, address, telephone number, website address, and email address of the manager if the limited liability company is not managed by any of its members;

f. For an estate, trust, or business trust, the name, address, telephone number, website address, and email address of the trustee(s); or

g. For any Business organizational structure not referenced in Subsections c through f above, the Tax Administrator may require additional ownership information as needed.

2. If the Business is advertised to the public and known by a name or designation other than the name on the Tax registration, the registrant must provide the

other name(s) or designation(s) for the Business, also referred to as a "Fictitious Business Name Statement."

C. The Business must notify the Tax Administrator in writing or by an electronic submission method determined by the Tax Administrator within thirty (30) Days of any changed information provided in a Tax registration. Following review of the notice of change, the Tax Administrator will determine whether a new Tax registration is required and will notify the Business. Failure to provide the required notice of change constitutes a violation of this Chapter.

D. In the event there is a change in ownership of any Cannabis Business:

1. The new owner is required to submit an updated Tax registration to the Tax Administrator with thirty (30) Days; and

2. Unless otherwise provided by law, it is the joint and several liability of both the seller and buyer to remit any taxes, interest, penalties, and fees due up until the date of Sale; otherwise, a certificate of lien may be recorded against both the seller and/or buyer in an amount determined by the Tax Administrator.

4.71.090 Payment and Tax Statement Required Monthly.

The Tax imposed by this Chapter will be due and payable as follows:

A. On or before the last day of each calendar month, every Person owing a Tax under this Chapter must provide a tax statement to the Tax Administrator of the amount of Tax owed for the preceding calendar month. Payment for the full amount of Tax owed for the preceding calendar month must be remitted to the Tax Administrator with the tax statement each calendar month.

B. All tax statements must be completed on forms or a website determined by the Tax Administrator.

C. Tax statements and payments for all outstanding taxes owed to the County are immediately due to the Tax Administrator upon cessation of a Cannabis Business for any reason.

D. The Tax Administrator may, at their discretion, establish alternative reporting and payment periods for any taxpayer as the Tax Administrator deems necessary to ensure effective collection of the Cannabis Business Tax. The Tax Administrator may require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.

4.71.100 Payments and Communications Made by Mail—Proof of Timely Submittal.

Whenever any payment, statement, report, request, or other communication received by the Tax Administrator is received after the time prescribed by this Chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this Chapter for the receipt thereof, or whenever the Tax Administrator is furnished substantial proof, as determined by the Tax Administrator, 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 Tax Administrator may regard such payment, statement, report, request, or other communication as having been timely received. If the due date is a Saturday, Sunday, or a County holiday, the due date will be the next regular business day.

4.71.110 Payment—When Taxes Deemed Delinquent.

Unless otherwise specifically provided under other provisions of this Chapter, any Tax, interest, or penalty due under the provisions of this Chapter must be deemed delinquent if not paid on or before the due date specified in Section 4.71.090.

4.71.120 Notice Not Required by County.

The Tax Administrator is not required to send a delinquency or other notice or bill to any Person subject to the provisions of this Chapter and failure to send such notice or bill will not affect the validity of any Tax, interest, or penalty due under the provisions of this Chapter.

4.71.130 Payment—Penalties and Interest for Delinquency.

A. Any Person who fails to pay any Tax required to be paid pursuant to this Chapter on or before the due date must pay penalties and interest as follows:

1. A penalty equal to ten percent (10%) of the unpaid Tax.
2. An additional penalty equal to ten percent (10%) of the unpaid Tax if the Tax remains unpaid for a period exceeding one (1) calendar month beyond the due date.

3. Interest at the rate of one and one-half percent (1.5%) per month on the amount of the unpaid Tax. Interest will be applied at the monthly rate from the date on which the remittance first became delinquent and will continue to accrue monthly on the Tax, exclusive of penalties, until the balance is paid in full.

4. Whenever a check, whether paper or electronic, is submitted to the Tax Administrator as payment of the Tax and the check is subsequently returned unpaid

by the bank upon which the check is drawn, the taxpayer is responsible for the Tax amount due plus the returned check fee, penalties, interest as provided for in this Section, and any amount allowed under State law.

4.71.140 Cancellation of Penalties and Interest.

The Tax Administrator may cancel the penalties and interest imposed upon any Person pursuant to Section 4.71.130 if the Person provides evidence satisfactory to the Tax Administrator that the delinquency 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 Tax owed the County, prior to applying to the Tax Administrator for a cancellation.

4.71.150 Refunds—Procedures.

A. Whenever the amount of any Tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously collected or received by the County under this Chapter, it may be refunded to the claimant who paid the Tax, provided that a written or electronic submission claim for Tax refund is signed under penalty of perjury and filed with the Tax Administrator within three (3) years of the date the Tax was originally due and payable.

B. The Tax Administrator or the Tax Administrator's authorized agent has the right to examine and audit all the books and business records of the claimant and any other information deemed necessary by the Tax Administrator in order to determine the eligibility of the claimant to the claimed refund. A claim for refund may not be granted if

the claimant refuses to allow such examination of claimant's books, business records, and other information after a request by the Tax Administrator.

C. In the event that the Tax was erroneously paid and it is determined by the Tax Administrator to be an error on its part, the entire amount of the Tax erroneously paid will be refunded to the claimant.

D. No refund will be made of any Tax collected pursuant to this Chapter, except as provided in Section 4.71.160.

E. No refund of any Tax collected pursuant to this Chapter will be made because of the discontinuation, dissolution, or other termination of a Business.

4.71.160 Refunds—Credits.

Any Person entitled to a refund of Taxes paid pursuant to this Chapter may elect in writing to have such refund applied as a credit against such Person's subsequent Taxes.

4.71.170 Exemption—Personal Cultivation and Use.

The provisions of this Chapter do not apply to personal Cannabis cultivation or personal use of Cannabis, to the extent those activities are authorized in the "Medicinal and Adult Use Cannabis Regulation and Safety Act," as may be amended. This Chapter does not apply to personal use of Cannabis that is specifically exempted from State licensing requirements, that meets the definition of personal use or equivalent terminology under State law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

4.71.180 Rules and Regulations.

A. The Tax Administrator has the power and duty to enforce each and all of the provisions of this Chapter.

B. The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this Chapter for the purpose of interpreting, clarifying, carrying out, and enforcing the payment, collection, and remittance of the Tax imposed by this Chapter, as well as developing rules and procedures for appeals and selecting the appropriate administrative hearing process that provides a fair and impartial hearing. A copy of such administrative rules and regulations may be on file in the Tax Administrator's office. To the extent the Tax Administrator determines that the Tax imposed under this Chapter may not be collected in full for any period of time from any particular Business, such determination is an exercise of the Tax Administrator's discretion to settle disputes and must not constitute a change in taxing methodology, nor is such determination a waiver of the County's ability to impose the Tax in full.

C. Upon a proper showing of good cause, the Tax Administrator may make administrative agreements, with appropriate conditions, to vary from the strict requirements of this Chapter and thereby (1) conform to the billing procedures of a particular Cannabis Business so long as said agreements result in the collection of the Tax in conformance with the general purpose and scope of this Chapter; or (2) to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the Tax benefit. A copy of each such agreement must be on file in the Tax Administrator's office and is voidable by the Tax Administrator at any time.

D. Upon receipt of a written or electronic submission request of a Cannabis Business, and for good cause, the Tax Administrator may extend the time for filing any Tax statement required pursuant Section 4.71.090 for a period of not to exceed forty-five (45) Days, provided that the time for filing the required Tax statement has not already passed when the request is received. No penalty for delinquent payment will accrue by reason of such extension. Interest will accrue during said extension at the rate of one and one-half percent (1.5%) per month, prorated for any portion thereof.

4.71.190 Enforcement—Duties of Tax Administrator and Sheriff.

It is the duty of the Tax Administrator to enforce each and every provision of this Chapter, and the Sheriff must render such assistance in the enforcement of this Chapter as may from time to time be required by the Tax Administrator. The Tax Administrator may also request assistance from other County departments, or from local, State, or federal authorities, for the civil or criminal enforcement of the Chapter.

4.71.200 Constitutionality and Legality.

The terms of this Chapter must 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 State or federal law. The Tax provided for by this Chapter must not be applied so as to cause an undue burden upon interstate commerce or be violative of the Equal Protection and Due Process Clauses of the Constitutions of the United States or the State of California. If a Person believes that the Tax, as applied to them, is impermissible under applicable law,

that Person may request that the Tax Administrator release them from the obligation to pay the impermissible portion of the Tax.

4.71.210 Apportionment.

A. If a Person subject to the Tax is operating both within the unincorporated areas of the County and outside the unincorporated areas of the County, it is the intent of the County to apply the Cannabis Business Tax so that the measure of the Tax fairly reflects the proportion of the taxed activity carried on in the unincorporated areas of the County.

B. To the extent a Person subject to the Tax seeks an apportionment that Person may apply to the Tax Administrator for an adjustment of the Tax. It is that Person's burden to provide the Tax Administrator a written or electronic request under penalty of perjury for an adjustment within one (1) year after the date of payment of the Tax. If that Person does not request an adjustment in writing or by an electronic submission, within one (1) year from the date of payment, then that Person must be conclusively deemed to have waived any adjustment for that Tax year and all prior Tax years.

C. The Person seeking the adjustment must, by sworn statement and supporting testimony, show the method and volume of Business, the Gross Receipts, and such other information as the Tax Administrator may deem necessary. The Tax Administrator may conduct an investigation, and may adjust the Tax for that Person to an amount that is reasonable and nondiscriminatory, or if the Tax has already been paid, may order a refund of the amount over and above the Tax adjustment. The Tax

Administrator has the authority to base the Tax on a percentage of Gross Receipts or any other measure which will assure that the Tax assessed is uniform with Businesses of like nature, so long as the amount assessed does not exceed the Tax as prescribed by this Chapter.

D. The Tax Administrator may promulgate administrative procedures for apportionment as deemed useful or necessary.

4.71.220 Audit and Examination of Premises and Records.

A. For purpose of ascertaining the amount of Cannabis Business Tax owed or verifying the representations made by any Person engaged in a Cannabis Business in support of their tax calculation, the Tax Administrator or the Tax Administrator's authorized agent has the power to inspect any location where Cannabis Business occurs. The Tax Administrator or the Tax Administrator's authorized agent has the authority to audit and examine, or cause to be audited and examined, all books and records of Persons engaged in a Cannabis Business including both State and federal income tax returns, to the extent not preempted by State and federal privacy laws, California sales tax returns, other evidence documenting the Gross Receipts, all equipment of any Person engaged in Cannabis Business in the unincorporated areas of the County, and such other information the Tax Administrator deems necessary for the purpose of ascertaining the amount of Tax, if any, required to be paid by the provisions of this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any Person pursuant to the provisions of this Chapter. If such Person, after written demand by the Tax Administrator, refuses to make available for audit,

examination or verification such books, records, equipment, or other information as the Tax Administrator requests, the Tax Administrator may, after full consideration of all information within their knowledge concerning the Cannabis Business and activities of the Person so refusing, make an assessment in the manner provided in Sections 4.71.230 through 4.71.250 of any Taxes, penalties, and interest estimated to be due.

B. It is the duty of every Person liable for the collection and payment to the County of any Tax imposed by this Chapter to keep and preserve, for a period of at least four (4) years, all records as may be necessary to determine the amount of such Tax as they may have been liable for the collection of and payment to the County, of which records the Tax Administrator has the authority to inspect.

4.71.230 Tax Deemed Debt to County—Lien Procedure.

A. The amount of any Tax, penalties, and interest imposed by the provisions of this Chapter on any Person engaged in any Business will be deemed a debt to the County. The Tax Administrator, in the name of the County, may bring suit for the recovery of any Tax, penalties, interest, and fees due to the County pursuant to this Chapter.

B. In addition to any other method of collection authorized by law, the County may collect the Tax imposed pursuant to this Chapter by way of a lien in the same manner as other liens as prescribed in sections 2191.3 through 2191.6 of the California Revenue and Taxation Code.

4.71.240 Deficiency Determinations.

If the Tax Administrator is not satisfied that a Tax statement as required under Section 4.71.090 is correct, or that the Tax payment remitted to the Tax Administrator is correctly computed, the Tax Administrator may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the Tax statement or upon the basis of any information in their possession or that may come into their possession within three (3) 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, dissolves, or terminates a Business, a deficiency determination may be made by the Tax Administrator at any time within three (3) years thereafter as to any Tax liability of such Business whether or not a deficiency determination is issued prior to the date the Tax would otherwise be due. Notice of a deficiency determination by the Tax Administrator will be given to the Person in the same manner as notices of assessment are given under Section 4.71.260.

4.71.250 Tax Assessment—Authorized When—Nonpayment— Fraud.

A. At any time under one or more of the following circumstances, the Tax Administrator may make and give notice to a Person of a Tax assessment amount due under this Chapter:

1. If the Person has not filed any Tax statement required under the provisions of this Chapter including Section 4.71.090;

2. If the Person has not paid any Tax due under the provisions of this Chapter; or

3. If the Person has not, after demand by the Tax Administrator, filed a corrected Tax statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a Tax statement already filed, or paid any additional amount of Tax due under the provisions of this Chapter.

B. If the Tax Administrator determines that the nonpayment of any Tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the Tax amount due may be added to the assessment, in addition to penalties and interest otherwise stated in this Chapter.

C. The notice of assessment must separately set forth the amount of any Tax known by the Tax Administrator to be due or estimated to be due under this Chapter, after consideration of all information within the Tax Administrator's knowledge concerning the assessment, and must include the amount of any penalties and interest accrued on each amount due or estimated to be due under this Chapter.

4.71.260 Tax Assessment—Notice Requirements.

The notice of assessment may be served upon the Person either by serving such notice personally, or by a deposit of the notice in the United States mail addressed to the Person, the Business address, or to such other address as they may file with the Tax Administrator for the purpose of receiving notices provided under this Chapter; or, should the Person have no current address registered with the Tax Administrator for

such purpose, then to such Person's last known address. For the purposes of this Section, service by mail is complete on the date of deposit in the United States mail.

**4.71.270 Tax Assessment—Hearing—Application—
Determination—Appeal.**

A. The Tax Administrator will advise in the notice of assessment that a Person or Business may appeal a Tax assessment. An appeal may be requested by a notice of appeal in writing, by an electronic submission, or other method established by the Tax Administrator, for an appeal hearing on the Tax assessment. A notice of appeal must be received by the Tax Administrator within thirty (30) Days following the date of service of the notice of assessment.

B. A notice of appeal must state all bases for an appeal, including a detailed statement of defense to the Tax assessment, any supporting evidence, and the appellant's signature under penalty of perjury.

C. If a timely notice of appeal is not received by the Tax Administrator within thirty (30) Days from the date of service of the notice of assessment, the Tax assessment by the Tax Administrator will be a final decision of the County, and any Tax, penalties, and interest imposed will be due.

D. Within thirty (30) Days of receipt of a timely and complete notice of appeal a Hearing Officer will be appointed, and once appointed the Tax Administrator will forward the notice of appeal and all relevant Tax documents to the Hearing Officer.

E. Within thirty (30) Days of receipt of an appellant's notice of appeal, the Hearing Officer may schedule the matter for hearing. The Hearing Officer must send

notice of the hearing to the appellant, Tax Administrator, and any applicable County department fifteen (15) Days prior to the hearing by registered or certified mail, or by email if requested by the appellant on the notice of appeal.

F. The Hearing Officer notice will be entitled, "Hearing Officer Notice of Cannabis Business Tax Appeal Hearing" and must include, at a minimum: the name and address of the Person or Business assessed by the Tax Administrator; the date, time and place of the hearing; and the following statement:

"Any interested individual may at any time prior to the date above named, file with the Hearing Officer written testimony and/or documentary evidence, and may appear at the time and place of the hearing to offer their testimony."

G. The Hearing Officer may consider all competent evidence if such evidence is relevant to the Tax assessment being appealed. The Hearing Officer may at their option hear and consider additional argument and points and authorities of law. At such hearing an appellant may appear, which may include a remote appearance at the discretion of the Hearing Officer, and offer oral evidence under oath to explain why the assessment by the Tax Administrator should not be confirmed and fixed as the Tax, penalties, and interest due. The burden of proof rests with the appellant to show why an amount assessed by the Tax Administrator is not due.

H. Applicable rules of evidence may be applied by the Hearing Officer to the same extent that they are now or hereafter recognized in civil actions; such as witness testimony may be subject to cross-examination, privileged information or privileged

documents may be protected from disclosure, and irrelevant and unduly repetitious evidence may be excluded.

I. At any time prior to a final decision by the Hearing Officer, a notice of assessment may be amended or supplemented by the Tax Administrator. Notice must be given by the Tax Administrator of all amended Tax assessments in the manner prescribed in Section 4.71.260 for giving notice of assessment, and the notice must disclose how to file an appeal or amend a notice of appeal previously filed.

J. The Hearing Officer will issue a notice of order containing the final decision of the County on the appeal, and send such notice to the appellant, Tax Administrator, and any applicable County department in the manner prescribed in Section 4.71.260 for giving notice of assessment. The notice of order from the Hearing Officer must contain the amount of Tax, interest, and penalties, if any, due to the County by the appellant. This order will be final and conclusive. Any amount due is immediately payable upon the service of the said notice of order.

**4.71.280 Violation Deemed Misdemeanor–Civil Penalty–
Administrative Fine.**

A. Misdemeanor. Any Person violating any of the provisions of this Chapter may be guilty of a misdemeanor in Superior Court, and upon conviction thereof may be punished by a fine of not more than five hundred dollars (\$500), imprisonment for a period of not more than six (6) months, or by both fine and imprisonment.

B. Civil Penalty. The Tax Administrator in the name of the County may bring a civil action to seek imposition of civil penalties of up to one thousand dollars (\$1,000)

per violation, including the recovery of any Tax, interest, or penalty due to the County pursuant to the provisions of this Chapter, and any other appropriate legal or equitable relief in any court of competent jurisdiction for violations of this Chapter.

C. Administrative Fine. Any Person violating any of the provisions of this Chapter will be subject to an administrative fine, issued by the Tax Administrator pursuant to Chapter 1.25 of this Code, not to exceed one thousand dollars (\$1,000) per violation.

**4.71.290 Conviction or Civil Judgment for Chapter Violation—
Taxes Not Waived.**

The conviction and punishment or civil judgment against any Person for failure to pay the required Tax will not excuse or exempt such Person from any civil action for the Tax, penalty, and interest debt unpaid at the time of such conviction. No civil action will prevent a criminal prosecution for any violation of the provisions of this Chapter or of any State law requiring the payment of all taxes.

4.71.300 Severability.

Should any provision of this Chapter, 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 will not affect any other provision of this Chapter or the application of this Chapter to any other Person or circumstance and, to that end, the provisions hereof are severable.

4.71.310 Effect of State and Federal Reference/Authorization.

A. Any reference to a State or federal statute in this Chapter means such statute as it may be amended from time to time; provided, that such reference to a statute herein may 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) will 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) will be applicable to the maximum extent possible.

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 Chapter may be required to conform the Tax to those changes, and the Tax must be imposed and collected to the full extent of the authorization up to the full amount of the Tax imposed under this Chapter.

4.71.320 Remedies Cumulative.

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

California Unfair Practices Act (California Business and Professions Code section 17070 et seq.), are cumulative. The use of one or more remedies by the County will not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

4.71.330 Amendment or Repeal.

This Chapter of the Los Angeles County Code may be repealed or amended, by resolution or ordinance, by a majority vote of the members of the Board of Supervisors and without a vote of the people. However, pursuant to California Constitution, Article XIII C, voter approval is required for any amendment provision that would expand, extend, or increase the rate of any Tax levied pursuant to this Chapter. The people of the County of Los Angeles affirm that the following actions will not constitute an increase of the rate of a Tax:

- A. The restoration of the rate of the Tax to the maximum rate that is no higher than that set by this Chapter, if the Board of Supervisors has acted to reduce the rate of the Tax;
- 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 Chapter;
- 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 Chapter); or

D. The collection of the Tax imposed by this Chapter, even if the County had, for some period of time, failed to collect the Tax.

4.71.340 Execution.

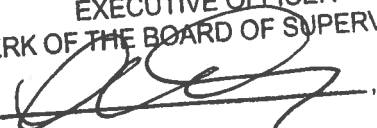
The Chair of the Board of Supervisors is authorized to attest to the adoption of this ordinance by the voters of the County at the Election.

I hereby certify that the foregoing ordinance was PASSED, APPROVED and ADOPTED by the people of the County of Los Angeles voting on the 8th day of November, 2022.



A handwritten signature in black ink, appearing to read "Hornitzke", is written over a horizontal line.

Chair of the Board of Supervisors

ATTEST: CELIA ZAVALA
EXECUTIVE OFFICER
CLERK OF THE BOARD OF SUPERVISORS
By , Deputy

[CH471SPCC]

ATTACHMENT B

Fiscal Revenue Analysis of the Commercial Cannabis Industry

(See next page)



Delivering Revenue, Insight
and Efficiency to Local Government

Fiscal Revenue Analysis of the Commercial Cannabis Industry

Prepared for
the
County of Los Angeles

June 8, 2022

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I. Introduction

The County of Los Angeles¹ currently prohibits any and all commercial cannabis business activities within the unincorporated area. In response to the passage of Proposition 64 in 2016, the Los Angeles County Board of Supervisors established the Office of Cannabis Management (OCM) within the Department of Consumer and Business Affairs. The OCM convened a working group on cannabis regulation to develop recommendations for cannabis regulation in unincorporated Los Angeles County. The Working Group conducted extensive community outreach and held eight public convenings to deliberate on the various components of cannabis legalization.

In June of 2018, the Working Group presented the Board of Supervisors with a set of 64 recommendations that included removing the ban on commercial cannabis businesses and moving forward with a process to legalize and regulate cannabis in the unincorporated areas. After discussion, the Board chose to receive and file the report, but took no action.

In July of 2021, the Board of Supervisors revisited its previous discussion and voted unanimously to direct the Office of Cannabis Management and other relevant county departments to review the 2018 report and bring back updated recommendations for cannabis retail, manufacturing, distribution, growth, testing, regulation, and enforcement in the County of Los Angeles, with a timeframe of 120 days. The Board's direction stated that the updated recommendations should be rooted in an equity framework and should review best practices to take into account lessons learned from other jurisdictions that have already legalized commercial cannabis.

Pursuant to that direction, the County is now considering a cannabis regulatory framework that would allow for 25 storefront retailers, 25 non-storefront (delivery-only) retailers, 10 cultivators, 10 manufacturers and 10 distributors in the unincorporated areas. The County is very concerned with social equity issues and wants to consider ways that its program can benefit small, locally owned businesses that may have a difficult time competing with large, well-financed chains. The County is hoping to develop a program that includes incentives, permit assistance, reduced fees or other tools to reduce barriers to entry for first-time business owners in the cannabis sector.

To assist with this, the County engaged the services of HdL Companies to conduct an economic impact analysis of the potential cannabis industry in unincorporated Los Angeles County. The County is interested in general economic development considerations that may help to guide and inform the Board's decision-making and direction, rather than focusing solely on the potential tax revenues that may be generated. The County is hopeful that this analysis will help inform development of a cannabis tax ordinance and ballot measure to be placed before the voters in November.

The County is mindful of setting realistic expectations about revenues in the initial years as businesses seek to get established and recognizes that tax rates and fee structures must not be prohibitive or

¹ This report at times refers alternately to the unincorporated area, the entire county as a whole, or the governmental entity of the County of Los Angeles. To minimize the inherent confusion, we have herein referred to both the governmental entity and the unincorporated area under its jurisdiction as "the County of Los Angeles" or "the County". When speaking of the geographic county as a whole, we have referred to it as "Los Angeles County". We have also tried to include additional context or clarification on a case-by-case basis.

otherwise serve as a disincentive to business development. The County desires to balance potential revenues with the larger goal of promoting and sustaining a viable legal market, both to provide jobs and business opportunities and to counter the continuing black market. While the County is interested in generating revenue, this interest is viewed as more of a long-term goal that is dependent upon overall business success.

HdL has prepared this economic impact analysis of the potential cannabis industry in unincorporated Los Angeles County to help inform development of a cannabis tax ordinance and associated ballot measure. The analysis considers the County's current target of 25 storefront retailers, 25 non-storefront (delivery-only) retailers, 10 cultivators, 10 manufacturers and 10 distributors, and provides estimates for the total number of each type of commercial cannabis business that may be viable in the unincorporated area based upon market conditions and general economic factors. The analysis also provides estimates for the gross receipts and tax revenue that may be generated from each type of business under a variety of tax structures and rates.

This economic impact analysis includes research regarding the number, type and size of cannabis businesses in the Los Angeles County region. The analysis also discusses cannabis tax rates and structures in nearby jurisdictions and provides benchmarks for cumulative tax rates that reflect emerging norms around the state, as well as best practices for ensuring a healthy and competitive industry. The analysis also includes a discussion of the potential fiscal impacts to the County from staffing needs and other costs associated with the permitting, regulatory monitoring and enforcement of licensed cannabis businesses.

Legalization and regulation of commercial cannabis has exposed this industry to competitive free-market forces from which it was previously shielded due to prohibition. Licensing, permitting, and regulatory costs, combined with State and local taxes, have added significantly to the operational costs of commercial cannabis businesses. The net effect of these forces is that wholesale prices have dropped significantly at the same time that regulatory costs are climbing. High tax rates may have been acceptable to the industry when it enjoyed high profit margins and few regulatory costs, but those same rates become prohibitive for what is now one of the most highly regulated, and most competitive, industries in the State.

Discussion of regulating and taxing the cannabis industry can too often overshadow the larger jobs and economic development issues that typically accompany efforts to attract new industry. Word that a new business or industry is looking to bring hundreds of new jobs to a community is more commonly met with open arms and offers of tax incentives. The cannabis industry is perhaps completely unique in that the inherent jobs and economic development benefits are welcomed more grudgingly and met with the disincentive of special taxes. While the tax revenue potential is attractive to local governments, imposing excessively high rates may reduce the number of businesses that step forward and decrease the likelihood that they will succeed in the regulated market.

Equally important to tax rates is setting clear direction for regulatory policy, which will be subject to a separate development process including review under the California Environmental Quality Act (CEQA). As with any other industry, the cannabis industry desires regulatory certainty. Clear regulations and competitive tax rates will be essential for attracting or holding on to this industry sector, and for helping these businesses to outcompete the persistent illicit market.

Summary and Recommendations

1. The County's best opportunity for developing tax revenue would come from cannabis retailers (both storefront and delivery-only), as there is both the greatest unmet consumer demand and the greatest return in terms of revenue.
2. The County should set its tax rates for cannabis retailers to be competitive with the average of the cities in the region as shown in Figure 5 on page 9. Local rates run from 2.5% up to 10% of gross receipts, with a most common range of 5.0% to 8.0%. HdL generally recommends a range of 4.0% to no more than 6.0%.
3. Some of the more remote, rural parts of the County's unincorporated areas could be attractive for outdoor or mixed-light cultivation. Should the County choose to allow these cultivation types, HdL recommends that the rates for these two activities be kept low to leverage this advantage. These low tax rates should be joined with clear zoning requirements to locate these cultivation types in remote areas, while keeping them away from populated areas. The determination of which types of cultivation activities may or may not be permitted is up to the County's discretion and would be subject to zoning and other requirements to be determined through environmental review.
4. There is a great interest in social equity issues to address the historic harms from the war on drugs, both on the part of the County and on the part of potential cannabis business applicants. Cannabis businesses qualifying for a social equity program would have to be taxed at the same rates as other similar cannabis businesses conducting the same activities.

Courts have interpreted the equal protection clause of the 14th Amendment as applying to local ordinances including taxes². As with other kinds of taxes, cannabis taxes must be levied and collected equally so as to not advantage one person or business over another conducting the same activities under the same conditions. While taxes and tax rates may distinguish between classifications on a rational basis, this generally applies to differences of business type, size, earnings, number of employees, activities being conducted, transaction methods, or other quantifiable differences. We are unaware of situations where tax rates have been applied unequally based upon the qualifications of the individual owners.

However, the County could establish a tax rebate program for qualifying social equity businesses (the businesses must first have paid their taxes before qualifying for any rebates). The County could also use cannabis tax revenues to cover permitting costs, provide loans, or offer other kinds of business assistance to help social equity applicants. Any of these actions would have to be separate from and subsequent to placing the tax measure on the ballot.

² In *Ladd v. State Board of Education* the Court held that "A tax statute or ordinance which distinguishes between parties does not violate the equal protection or due process clause if the distinction rests on a rational basis" (31 Cal. App. 3d 35, 106 Cal. Rptr. 885 (1973)). Similarly, in *Gowens v. City of Bakersfield*² the Court held that "If no reasonably justifiable subclassification is or can be made, then the operation of the tax must be such as to place liability therefor equally on all members of the class" (*Gowens v. City of Bakersfield*, 179 Cal. App. 2d 282, 285-286 (1960)).

5. The County should not anticipate any cannabis testing laboratories in the unincorporated area, as the region is already well served by 14 laboratories in the cities of Los Angeles, Long Beach, Monrovia and Pasadena.
6. HdL recommends the tax rates for all cannabis business activities be set within the ranges below. We have provided the rates for the City of Los Angeles for reference. For comparison, the square-footage rates shown for cultivation are roughly equivalent to a range of 1.67% to 2.50% of gross receipts. We believe that the County should set its rates to be competitive with other jurisdictions in the County region as shown in Figure 5 on page 9 and to keep the cumulative tax rate at or below 30% (see Appendix B; *State Tax Considerations*).

Figure 1:

Cannabis Business Type	HdL Initial Rate	HdL Maximum Rate	City of Los Angeles
Cultivation (indoors)	\$7.00/sf	\$10.00/sf	2.0%
Cultivation (mixed-light)	\$4.00/sf	\$7.00/sf	2.0%
Nurseries	\$1.00/sf	\$2.00/sf	2.0%
Manufacturing	2.5%	4.0%	2.0%
Distribution	2.0%	3.0%	1.0%
Retail	4.0%	6.0%	5.0% - 10%
Testing	1.0%	2.5%	1.0%

7. Based upon our analysis, we project that licensed cannabis businesses in the unincorporated area of the County could generate between \$10 million and \$15 million in annual cannabis tax revenue. Our projections below assume the proposed 50 retailers (25 storefront and 25 non-storefront delivery) are located appropriately to serve the majority of the population in the unincorporated area while also capturing some portion of sales from those incorporated cities that disallow cannabis retailers (See discussion in Section IV; *Cannabis Retailers*). Projections for cultivation assume 5 mixed-light cultivators and 5 indoor cultivators as described in Section VII, *Cannabis Cultivation*.

Figure 2:

Business Type	Number	Low Rate	Revenue	Med. Rate	Revenue	High Rate	Revenue
Retailers	50	4.0%	\$7,800,000	5.0%	\$9,700,000	6.0%	\$11,700,000
Manufacturer	10	2.5%	\$625,000	3.0%	\$750,000	4.0%	\$1,000,000
Distributor	10	2.0%	\$400,000	2.5%	\$500,000	3.0%	\$600,000
Cultivation	10	\$4/sf - \$7/sf	\$1,210,000	\$5.50/sf - \$8.50/sf	\$1,540,000	\$7/sf - \$10/sf	\$1,870,000
Testing	0	1.0%	\$0	1.5%	\$0	2.0%	\$0
Total			\$10,035,000		\$12,490,000		\$15,170,000

II. The Cannabis Industry in the Los Angeles County Region

Los Angeles County is the most populous county in the United States, with an overall population of over 10 million people as of the 2020 census. The County contains 88 incorporated cities with a combined population of roughly 8,918,400 people, leaving around 1,095,600 residents in the unincorporated areas. Roughly 3.9 million people live in the City of Los Angeles, making it the second-largest City in the United States after only New York City. More than 65 percent of the County is in the 2,635 square mile unincorporated area, including 125 unincorporated communities.

The amount of revenue that a city or county may be able to generate from a cannabis business tax depends upon the type, number and size of cannabis businesses that may choose to locate there. Cannabis retailers, cultivators, manufacturers, distributors and testing facilities are each interdependent upon a network of other cannabis businesses, so understanding the extent of the existing industry in the region provides some basis for estimating the number of businesses which may seek to locate in the unincorporated areas of Los Angeles County.

We generally assume that wholesale cannabis businesses such as cultivators, manufacturers and distributors would primarily interact or do business with other cannabis businesses within a one-hour radius. Being the most populous county in the United States, Los Angeles County is large enough that it can sustain a self-sufficient industry that does not depend upon supporting businesses from neighboring counties or from elsewhere in the state.

In addition, Los Angeles County merges into Orange County to the South, with a population of 3.17 million, and Riverside and San Bernardino Counties to the East, with populations of 2.4 million and 2.16 million people, respectively. Combined, the 4 counties form a massive metropolitan region of nearly 18 million people. The combined regional population is greater than the population of the Netherlands, Greece, Portugal, Sweden, the Czech Republic, Ireland, Norway, Hong Kong, Singapore or 167 other countries.

Los Angeles County is home to over a quarter of California's population and, thus, over a quarter of the state's consumers. By extension, it can be assumed that Los Angeles County is also home to over a quarter of the state's cannabis consumers. In addition, Los Angeles County is less than 2 hours from Santa Barbara County, which is home to the highest concentration of cannabis cultivation licenses in the state. The close proximity between the area of greatest supply and the area of greatest demand provides makes Los Angeles County a prime location for all other cannabis business types, as well as for other non-cannabis businesses that provide ancillary services to support the cannabis industry.

In conducting an analysis of the cannabis industry for a client city or county, we typically will look at the broader region within which that city or county is located to include businesses in other nearby communities. In the case of Los Angeles County, however, the size of the population and the number of businesses is clearly large enough to be self-sufficient. Though cannabis wholesale and retail businesses within the County undoubtedly buy product from suppliers elsewhere in the state, and sell their wholesale products elsewhere as well, we do not have to look beyond the County's borders to come up with an adequate industry cluster for purposes of our analysis.

Of the 88 incorporated cities and other agencies within Los Angeles County, the Department of Cannabis Control (DCC) lists 20 as currently having licensed cannabis businesses. These numbers are shown in Figure 3 on the next page.

Figure 3:

Active Cannabis Licenses in the Los Angeles County Region as of February 1, 2022								
City	Cultivation	Nursery	Distributor	Manufacturer	Retailer	Microbusiness	Testing Laboratory	Total
Avalon	0	0	0	0	1	0	0	1
Baldwin Park	4	0	1	6	0	0	0	11
Bell Flower	1	0	3	3	4	0	0	11
Commerce	1	0	6	0	5	3	0	15
Cudahy	3	0	1	2	0	1	0	7
Culver City	0	0	4	1	7	1	0	13
El Monte	0	0	1	2	2	0	0	5
Huntington Park	1	0	1	1	1	1	0	5
Lancaster	9	0	3	4	0	0	0	16
Long Beach	19	3	55	58	29	5	5	174
Los Angeles	249	17	247	199	207	77	1	997
Lynwood	1	2	8	6	7	0	0	24
Malibu	0	0	0	0	2	0	0	2
Maywood	1	0	3	4	4	3	0	15
Monrovia	0	0	0	0	0	0	2	2
Montebello	3	0	5	4	7	3	0	22
Pasadena	0	0	0	0	2	0	1	3
Pomona	0	0	0	0	2	0	0	2
Santa Monica	0	0	0	1	0	0	0	1
West Hollywood	0	0	1	1	10	0	0	12
Total	292	22	339	292	290	94	9	1,338
The number of licenses may not denote the number of businesses, as individual businesses may hold multiple licenses. The number of State licenses shown here also may not reflect the number of licenses or permits issued by local agencies.								

In addition to those cities listed, we are aware that numerous other cities within the County are currently in various stages of exploring, developing or permitting cannabis businesses, including Artesia, Carson, Claremont, El Segundo, Hawthorne, Pico Rivera, Redondo Beach, Signal Hill, South El Monte and others.

The total economic input provided by the cannabis industry in Los Angeles County should be viewed as more important than the tax revenues that can be generated from it. We estimate that the 1,338 cannabis businesses (See Figure 2) in Los Angeles County as a whole likely provide around 17,000 jobs³, most of which typically pay above-average wages compared with similar jobs in other industriesⁱ. We estimate total payroll to be over \$500 million. In addition, cannabis cultivators and manufacturers can be assumed to sell some portion of their product outside of the County, thus bringing revenue into the County from elsewhere.

This concentration of cannabis businesses shows that the Los Angeles County region already has a strong presence within California's commercial cannabis industry, with a large and diverse industry cluster that can both support and provide competition for additional cannabis businesses. We anticipate that the number of cannabis businesses in the region will continue to increase over time, particularly in the retail sector.

³ Assumes an average of 24 employees for each retailer, 12 for each cultivator and a conservative estimate of 7 for all other business types. Further discussion is provided in Section IV; *Jobs, Wages and General Economic Impacts*.

III. Common Cannabis Tax Rates

Cannabis tax rates have been settling and stabilizing around the State since the beginning of 2018. Many cities instituted cannabis taxes prior to the implementation of statewide regulations, with a wide range of tax structures and rates as high as \$30 per square foot (for cultivation) or 18% of gross receipts. Some of these “early adopter” cities have since reduced their rates to be more competitive with common rates that are now emerging around the State.

The State of California applies two separate taxes to cannabis: a cultivation tax of \$10.08 per ounce of dried flower (\$3.00 per ounce of dried leaf or trim) and an excise tax of 15% on the purchase of cannabis and cannabis products. These two separate State taxes can add up to 26% to consumer cannabis prices, even before any local taxes are contemplated. This leaves very little room for local jurisdictions to work within if they wish to remain under the total cumulative tax rate of 30%. This is an important benchmark to allow the local industry to compete against the illicit market and against other regulated cannabis businesses from around the State (see Attachment B; *State Tax Considerations*).

Governor Newsome’s May Budget Revises proposes significant changes to the way the state’s cannabis taxes are appliedⁱⁱ. Under the proposal, the cultivation tax rate would be reduced to zero percent, effectively eliminating the tax. The cannabis excise tax would remain at 15%, but the point of collection would be shifted to retail sales, rather than distributors, thereby simplifying the tax structure. The proposal includes an allowance to increase the rate of the excise tax through FY 2024/25 if necessary to maintain minimum levels of funding for certain programs for youth education, intervention and treatment, environmental restoration, and state and local law enforcement programs. If approved, the changes to the cultivation tax rate would be effective July 1. The changes to the method of collection would become effective January 1, 2023.

Figure 4, below, shows the cannabis tax rates or development agreement fees from those cities in Los Angeles County that allow licensed cannabis businesses a number of nearby jurisdictions, as well as the standard tax rates that HdL commonly recommends to those local agencies that we work with. The rates and structures vary greatly among these cities, though the cities of El Monte, Los Angeles and Pasadena are all generally in line with our commonly recommended rates. HdL’s recommended initial range of tax rates for cannabis businesses other than cultivation commonly runs from 2% of gross receipts for distributors, to 2.5% for manufacturers and 4% for retailers. These rates may be adjusted up to a maximum of 3%, 4% and 6%, respectively.

We note that a large number of these cities use development agreements as a means for generating revenue to provide agreed-upon community benefits. In some cases the fees are standardized for all cannabis businesses, but in other cases the fees are negotiated separately on a case by case basis. In many such cases, we were only able to find fees for those business types which currently have agreements with the host city. Where a business type is not allowed, where there is no tax or fee, or where we were unable to find any information, we have entered “N/A” for either “Not Allowed”, “Not Applicable” or “Not Available”.

Figure 4:

Cannabis Taxes in the Los Angeles County Region								
City	Tax or DA ¹	Cultivation	Nursery	Distributor	Manufacturer	Retailer	Microbusiness	Testing Laboratory
Avalon	None	N/A	N/A	N/A	N/A	None	N/A	N/A
Baldwin Park	DA ²	N/A	\$250K - \$350K	\$250K - \$350K	\$250K - \$350K	N/A	\$250K - \$350K	\$250K - \$350K
Bell Flower	Tax	\$20/sf	\$5/sf	1.0%	2.0%	8.5%	N/A	N/A
Commerce	DA	12.0% - 14.0%	12.0% - 14.0%	2.0% - 6.0%	4.0% - 6.0%	5.0% - 8.0%	By Activity	1.5% - 5.0%
Cudahy	DA	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Culver City	Tax	\$12/sf	N/A	6.0%	6.0%	8% - 10%	N/A	1.50%
El Monte	Tax	3.0%	N/A	2.0%	3.0%	5.0%	N/A	2.0%
Huntington Park	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lancaster	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Long Beach	Tax	\$13.41/sf	\$13.41/sf	1.0%	1.0%	6.0% - 8.0%	By Activity	1.0%
Los Angeles	Tax	2.0%	2.0%	1.0%	2.0%	5.0% - 10.0%	2.0%	1.0%
Lynwood	DA	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Malibu	Tax	N/A	N/A	N/A	N/A	2.5%	N/A	N/A
Maywood	Tax	6.0%	6.0%	6.0%	6.0%	10.0%	10.0%	6.0%
Monrovia	None	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Montebello	DA	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Pasadena	Tax	\$2/sf - \$7/sf	\$1/sf	2.0%	2.5%	4.0%	4.0%	1.0%
Pomona	Tax	N/A	N/A	3.0%	4.0%	6.0%	6.0%	2.5%
Santa Monica	None	N/A	N/A	N/A	N/A	N/A	N/A	N/A
West Hollywood	Tax	7.5%	7.5%	7.5%	7.5%	7.5%	7.5%	7.5%
HdL Recommended (Max)	Tax	\$7/sf - \$10/sf	\$2/sf	3.0%	4.0%	6.0%	By Activity	2.0%
<p>N/A indicates Not Applicable where there is no tax, Not Allowed where the activity is prohibited, or Not Available where we were unable to find information.</p> <p>¹ Development Agreement; also includes community benefits agreements.</p> <p>² HdL is currently working with the City of Baldwin Park to revise their community benefit fee structure.</p>								

The development and implementation of a cannabis regulatory program also carries costs for the host jurisdiction. These costs may include staff and consultant time for the development of ordinances, initial permitting for businesses, compliance monitoring, annual permit renewals and regulatory enforcement as necessary. These costs vary depending on the desired level of regulatory oversight, the use of consultants, involvement of law enforcement officers and other considerations.

Annual permit fees commonly range between \$6,000 and \$30,000, with an average around \$16,000. The County's actual costs would all be fully recoverable from the businesses through initial and annual permit fees, leaving all revenues generated by a cannabis tax available for discretionary spending through the General Fund. These permitting fees are discussed in Appendix E; *Fiscal Impacts and Fees*.

IV. Jobs, Wages and General Economic Impacts

Discussion of regulating and taxing the cannabis industry can too often overshadow the larger jobs and economic development issues that typically accompany efforts to attract new industry. Word that a new business or industry is looking to bring hundreds of new jobs to a community is more commonly met with open arms and offers of tax incentives. The cannabis industry is perhaps completely unique in that the inherent jobs and economic development benefits are welcomed more grudgingly and met with the disincentive of special taxes.

As with any other industry, the cannabis industry does not exist in a vacuum. Those businesses that actually grow, process, manufacture, distribute and sell cannabis products support a wide variety of other businesses that may never touch the actual product itself. Cultivators support garden supply stores, green house manufacturers, irrigation suppliers, soil manufacturers, and a wide variety of contractors including building and construction, lighting and electrical, HVAC, permitting, and engineering. Manufacturers support many of these same businesses, plus specialized tooling and equipment manufacturers, and product suppliers for hardware, packaging, and labeling. All of these businesses support, and are supported by, a host of ancillary businesses such as bookkeepers, accountants, tax preparers, parcel services, marketing and advertising agencies, personnel services, attorneys, mechanics, facilities maintenance, security services, and others.

In Figure 5 of this report (page 17), we show that there are 384 licensed cannabis retailers in all of Los Angeles County⁴, generating over \$1.5 billion in retail sales annually. Analysis of cannabis retailers and retail applicants in other cities shows a range of anywhere from 5 employees to over 60 per retailer, with a projected average of 13 for new retailers and 24 for established businesses⁵. Our analysis also shows that cannabis retailers commonly pay slightly higher than average wages compared with other types of retail sales⁶, and often provide employee benefits that are not always common for retail workers.

The County intends to permit up to 50 cannabis retailers (25 storefront and 25 non-storefront delivery) in the unincorporated area. Based on these figures, we anticipate that over time these businesses may create up to 1,200 full-time-equivalent retail jobs, paying up to \$48 million in annual wages.

The number of employees for a cannabis cultivation facility varies in proportion to the size and type of operation. Data collected by Marijuana Business Dailyⁱⁱⁱ shows that cultivation facilities commonly employ from 3 to 20 full-time employees and 2 to 11 part time employees, with a median of 7 full-time and 5 part-time employees. Employees working in cannabis cultivation are not considered agricultural workers^{iv}, and so are subject to the requirements of a 40-hour work week, including overtime and regular breaks.

⁴ This figure assumes that all 94 microbusinesses conduct retail sales as part of their licensed activities.

⁵ This aggregate data comes from review and analysis of confidential information presented in cannabis business applications from a number of cities HdL has worked with.

⁶ The Bureau of Labor Statistics shows retail sales workers in California earn a mean hourly wage of \$17.46 (https://www.bls.gov/oes/current/oes_ca.htm#41-0000). HdL's analysis of numerous cannabis retail applications shows wages commonly in the range of \$18-\$20 per hour, with some as high as \$24-\$26 per hour. We note that this is a general observation only, and not an established industry average. We also note that higher-than-average wages and benefits are often a condition of a competitive application process for cannabis retailers.

Cannabis cultivators are increasingly seeking to hire cultivation managers with degrees in botany, horticulture or related fields. These specialized employees can demand professional salaries that are much higher than other cultivation workers. Other full-time workers in the cannabis industry typically enjoy wages that are above that of other, similar occupations, though part-time seasonal workers such as trimmers make a much lower wage.

In Figure 5, below, we have shown a general array of positions, wages and salaries for a hypothetical 22,000 square foot greenhouse operation. These figures are based on data from Marijuana Business Daily's Marijuana Factbook 2018 but are adjusted to reflect relative wages in Los Angeles County^v. Based upon this, we estimate that an array of 10 cultivation facilities in the unincorporated County may create approximately 40 full-time and 20 part-time jobs, with total payroll of around \$2.94 million per year.

Figure 5

Estimated Employees per 22,000 Square-Foot Greenhouse					
Position	#	Rate	Hours	Salary	Combined
MGR	1	\$60	2,000	\$120,000	\$120,000
FT	3	\$24	2,000	\$48,000	\$144,000
PT	2	\$15	1,000	\$15,000	\$30,000
Total					\$294,000

The economic benefits are not limited to those in the cannabis industry, itself. Cultivators and manufacturers bring new money into the community by selling their products into a statewide market. Their profits and the salaries they pay move into the general local economy, supporting stores, restaurants, car dealerships, contractors, home sales and other businesses. Research done by HdL for other clients suggests that many cities and counties see economic inputs from this industry in the range of \$200 million dollars or more annually.

Because of the emerging nature of this industry, it still attracts many small, independently-owned businesses. Numerous studies have demonstrated that locally-owned, independent businesses recirculate a far higher percentage of every dollar back into the local community than large, corporately-owned businesses do. The same economic development arguments that are used to support other independent, locally-owned businesses apply to this industry, too. Host cities or counties should expect to see typical economic benefits from these new (or newly daylighted) businesses on par with other new businesses, separate from any tax revenue that may be generated.

A number of cities and counties have looked upon the emergence of the legal cannabis industry as an opportunity to address the historic harms from the war on drugs through development of Social Equity Programs (SEP's). These programs are designed to support equal opportunity in the cannabis industry by making legal cannabis business ownership and employment opportunities more accessible to low-income individuals and communities most impacted by the criminalization of cannabis. SEP's commonly look to assist cannabis business applicants from communities that may have been disadvantaged due to the past illegal nature of the industry within which they are now trying to compete. Such communities may have experienced higher incarceration rates, or may lack financial capacity, regulatory experience and business acumen from disproportionate application of the law towards what is now a fully-legal industry.

Cannabis businesses qualifying for a social equity program would have to be taxed at the same rates as other similar cannabis businesses conducting the same activities. Courts have interpreted the equal protection clause of the 14th Amendment as applying to local ordinances including taxes⁷. As with other kinds of taxes, cannabis taxes must be levied and collected equally so as to not advantage one person or business over another conducting the same activities under the same conditions. While taxes and tax rates may distinguish between classifications on a rational basis, this generally applies to differences of business type, size, earnings, number of employees, activities being conducted, transaction methods, or other quantifiable differences. We are unaware of situations where tax rates have been applied unequally based upon the qualifications of the individual owners.

However, the County could establish a tax rebate program for qualifying social equity businesses, or for businesses that meet certain requirements for socially-equitable business practices. The businesses must first have paid their taxes before qualifying for any rebates. The County could also use cannabis tax revenues to cover permitting costs, provide loans, or offer other kinds of business assistance to help social equity applicants. Any of these actions would have to be separate from and subsequent to placing the tax measure on the ballot.

The City of Oakland has developed a tax rebate program for Social Equity businesses that includes rebates in 4 separate categories for local hiring, utilizing other equity businesses in the supply chain, workforce quality of life (wages and benefits) and providing incubation space for other equity businesses. There are a total of 9 subcategories, each offering rebates of 0.25% up to 1.50% off the effective tax rate for the business. These rebates can be cumulative, provide that no cannabis business will pay less than a minimum tax rate of 2.5%. A business will have to have been operating and paying its taxes for a minimum period of 182 days (6 months) to be eligible for any rebates.

We have provided further information about the City of Oakland's rebate program to County staff.

⁷ In *Ladd v. State Board of Education* the Court held that "A tax statute or ordinance which distinguishes between parties does not violate the equal protection or due process clause if the distinction rests on a rational basis" (31 Cal. App. 3d 35, 106 Cal. Rptr. 885 (1973)). Similarly, in *Gowens v. City of Bakersfield*⁷ the Court held that "If no reasonably justifiable subclassification is or can be made, then the operation of the tax must be such as to place liability therefor equally on all members of the class" (*Gowens v. City of Bakersfield*, 179 Cal. App. 2d 282, 285-286 (1960)).

V. Cannabis Retailers

Retailers are the only cannabis business type that specifically serves the local community, rather than feeding into the statewide market, and so the number of retailers can be assumed to be somewhat proportional to the local population. Demand is assumed to generally be a constant regardless of its legal status or the availability of retailers, so it's reasonable to expect that more retailers would mean fewer customers for each and, thus, lower gross receipts.

Cannabis retailers address a local market demand which is generally assumed to exist within a given community regardless of whether there is any legal access. Consumer demand for cannabis has existed for many, many decades prior to legalization and evidence suggests that the percentage of the population that uses cannabis on a regular basis is no greater now than it was in the 1970's^{vi}. Given this, it is reasonable to assume that allowing licensed cannabis retailers in a community does not increase demand or create new cannabis consumers. Rather, it facilitates a shift in cannabis purchases happening through legal, regulated means rather than through the illicit market.

Eventually, though, any local cannabis market will reach saturation, at which point new licensed retailers will simply cannibalize sales from existing retailers. Essentially, both licensed and unlicensed cannabis retailers all divide the same finite pie.

Under California's regulatory program, consumers have little incentive to purchase cannabis in the medical segment rather than buying in the adult use segment. Both medical and adult use cannabis will pay the State cultivation tax and excise tax, with the only advantage being an exemption from regular sales tax for qualifying patients with a State-issued Medical Marijuana Identification Card (MMIC). Eligibility for this limited sales tax exemption costs consumers approximately \$100 per year, plus time and inconvenience, for a savings of 9.50% in unincorporated Los Angeles County. It's anticipated that this provides little or no price advantage for the majority of cannabis consumers.

Currently there are only 3,080 MMIC cardholders in all of California^{vii}, which is less than half the number of cards as in 2019. The low number of such cards makes their impact inconsequential for purposes of our revenue analysis.

The Bureau of Cannabis Control (now the Department of Cannabis Control) had projected that more than half of the adult use purchases previously in the illicit market would transition to the legal market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller^{viii}. Essentially, the easier, cheaper and more reliable it is for consumers to access quality cannabis legally, the less reason they would have to purchase it through the illicit market. That same study projected that 60% of sales in the legal, medical cannabis market would shift to the adult use market, for the reasons noted above. The availability of legal adult use cannabis was also anticipated to produce a small 9.4% increase in consumer demand.

However, this anticipated transition to the legal market was dependent upon the assumption that the majority of cities and counties in California would take steps to permit and regulate licensed cannabis businesses. This has not been the case. Some 70% of California counties and cities continue to prohibit legal access to cannabis. Not surprisingly, 70% of cannabis sales continue to be in the illicit market.

The shift from medical to adult use sales was not expected to change the overall volume of cannabis sales, only the categories into which they fall. Once the legal, adult use market was properly functioning and available throughout the state, it was anticipated to capture about 61.5% of the overall cannabis market in California. The legal medical cannabis market is projected to decline to just 9% of the overall market, though this projection may change due to the increasing popularity of CBD products. The other 29.5% was expected to remain in the illicit market^{ix}. The vast majority of retail licenses issued by the Department of Cannabis Control are for retailers who operate both medical and adult use from the same premises.

HdL generally assumes a standard market concentration of one retailer per every 18,000 to 20,000 people. Data from the Department of Cannabis Control shows 1,205 licensed retailers and around 200 retailing microbusinesses⁸ around the state, which works out to roughly one retailer for every 28,000 people based on the state's overall population. However, these retailers are not evenly distributed around the state. Some 70% of California cities do not allow legal cannabis sales, so these licensed retailers are concentrated in the 30% of cities that do.

24 of California's 58 counties have licensed cannabis retailers in the unincorporated area. An additional 23 counties do not allow cannabis businesses in the unincorporated area but contain cities that do allow them.

Figure 5, on the next page, shows the distribution of cannabis retailers throughout the state. The table lists all of the counties⁹ that currently have licensed cannabis retailers ("served" counties), whether in the unincorporated area or within cities, providing the population for each county and the number of retailers¹⁰. Dividing the population by the number of retailers gives us the population per retailer for each county.

Data from the California Department of Tax and Fee Administration (CDTFA) gives the total cannabis retail sales for each county as well as the sales per capita, derived by dividing the total sales by the population. From this, we are able to see the relationship between the retail density (population per retailer) and the sales per capita.

The average retail density for all served counties is 1 retailer per 32,148 residents. The average per capita sales for all served counties is \$171 per person per year. For counties that have fewer than 1 retailer per 40,000 residents, the per-capita sales drop to just \$84 per year. For those counties with a higher concentration of retailers, the per-capita sales increase consistent with the retail density. For counties with more than 1 retailer for every 40,000 residents, the per-capita sales go up to \$207. For counties with greater than 1 retailer per 20,000 residents, the per-capita sales go up again to \$226. For counties with greater than 1 retailer per 10,000 residents, the per-capita sales increase even further to \$283. HdL generally recommends a retail density of 1 retailer per 20,000 residents for planning purposes.

⁸ Department of Cannabis Control data does not specify what types of business activities are conducted by each microbusiness. HdL analysis indicates approximately 2 out of every 3 cannabis microbusinesses include retail sales.

⁹ The table excludes 12 counties that have licensed retailers but have not yet reported a full year of sales.

¹⁰ For purposes of this table, we have assumed that all microbusinesses include a retail component, though we know that a minority of microbusinesses do not. Unfortunately, data from the Department of Cannabis Control does not allow us to accurately determine which cannabis business activities are being conducted by each microbusiness.

Figure 5

Cannabis Retailers, Sales, and Sales per Capita by County					
County; All Agencies	Population	Number of Retailers	Population per Retailer	Total Retail Sales	Sales per Capita
Alameda	1,656,791	204	8,122	\$273,569,272	\$165
Calaveras	45,040	4	11,260	\$12,423,700	\$276
Contra Costa	1,154,158	18	64,120	\$120,344,037	\$104
El Dorado	195,380	12	16,282	\$33,003,661	\$169
Humboldt	130,859	41	3,192	\$49,077,328	\$375
Imperial	186,064	14	13,290	\$20,842,841	\$112
Kern	915,273	8	114,409	\$20,419,736	\$22
Lake	63,948	6	10,658	\$9,718,775	\$152
Los Angeles	10,045,420	384	26,160	\$1,554,227,438	\$155
Marin	257,879	8	32,235	\$14,162,740	\$55
Mendocino	86,672	30	2,889	\$28,613,877	\$330
Merced	284,857	9	31,651	\$52,402,374	\$184
Mono	13,296	5	2,659	\$5,899,438	\$444
Monterey	437,347	26	16,821	\$77,441,041	\$177
Napa	137,689	6	22,948	\$11,508,038	\$84
Orange	3,154,577	29	108,779	\$273,249,465	\$87
Riverside	2,454,741	137	17,918	\$374,176,140	\$152
Sacramento	1,561,232	101	15,458	\$304,252,948	\$195
San Bernardino	2,177,209	41	53,103	\$113,933,330	\$52
San Diego	3,316,066	62	53,485	\$464,746,668	\$140
San Francisco	875,062	74	11,825	\$231,270,261	\$264
San Joaquin	783,722	8	97,965	\$63,426,658	\$81
San Luis Obispo	271,190	21	12,914	\$55,021,831	\$203
San Mateo	765,487	17	45,029	\$31,851,931	\$42
Santa Barbara	441,224	29	15,215	\$72,488,624	\$164
Santa Clara	1,934,704	17	113,806	\$220,033,935	\$114
Santa Cruz	261,131	27	9,672	\$62,332,024	\$239
Shasta	177,810	12	14,818	\$52,694,135	\$296
Siskiyou	44,338	8	5,542	\$6,371,830	\$144
Solano	438,603	23	19,070	\$68,154,581	\$155
Sonoma	484,238	33	14,674	\$106,595,333	\$220
Stanislaus	555,985	28	19,857	\$161,463,512	\$290
Tulare	481,818	10	48,182	\$59,822,581	\$124
Ventura	835,467	19	43,972	\$58,482,685	\$70
Yolo	217,531	8	27,191	\$35,786,055	\$165
Totals:	36,842,811	1,479		\$5,099,808,823	
Average Population per Retailer:			32,148		
Average Sales per Capita:					
All counties with active cannabis retailers					\$171
Counties with fewer than 1 retailer per 40,000 residents					\$84
Counties with more than 1 retailer per 40,000 residents					\$207
Counties with more than 1 retailer per 20,000 residents					\$226
Counties with more than 1 retailer per 10,000 residents					\$283
Note: This data assumes that all microbusinesses include a retail component					

Department of Cannabis Control data shows that there are 384 licensed cannabis retailers (including microbusinesses) within Los Angeles County as a whole, serving a population of just over 10 million people. This works out to one retailer for every 26,160 people, or somewhat lower than the retail density of 1 per 20,000 that we commonly recommend for planning purposes. The sales per capita is \$155, which is below the average of \$171 for all counties, and well below the average of \$207 for counties with more than 1 retailer per 40,000 residents. This suggests that even with a reasonable retail density, cannabis retailers are having difficulty serving their market. The distribution of cannabis retailers in Los Angeles County is shown in Figure 6.

Figure 6:

Cities with Cannabis Retailers			
City	Population	Retailers	Population Per Retailer
Avalon	3,738	1	3,738
Bellflower	77,886	4	19,472
Commerce	13,035	8	1,629
Cudahy	22,811	1	22,811
Culver City	39,528	8	4,941
El Monte	115,356	2	57,678
Huntington Park	59,079	2	29,540
Long Beach	469,893	34	13,820
Los Angeles	3,855,122	284	13,574
Lynwood	70,908	7	10,130
Malibu	12,854	2	6,427
Maywood	27,850	7	3,979
Montebello	63,538	10	6,354
Pasadena	139,382	2	69,691
Pomona	151,511	2	75,756
West Hollywood	34,971	10	3,497
Total Served Cities	5,157,462	384	13,431
Total Unserved Cities	3,792,358	0	
Unincorporated Area	1,095,600	0	
Total County	10,045,420	384	26,160
Figures assume all microbusinesses conduct retail sales			

The 384 existing retailers are located in just 16 of the 88 cities in the County, which combined hold roughly half of the total County population. These “served” cities have a retail density of 1 retailer per 13,431 residents, which is higher than our planning density. This suggests that the retailers located in these cities are also serving other neighboring or nearby “unserved” cities and unincorporated communities.

Figure 7, on the next page, shows the number of retailers that we would generally expect to see at our standard assumed retail density of 1 retailer per 20,000 residents. The 384 retailers in the served cities is 126 more than we would commonly expect based on the population of only those cities. Of course, retailers in these cities are also serving consumers in the unserved cities and unincorporated communities. We estimate that the combined population of these unserved areas could support 244 retailers. Combining the number of existing retailers in the served cities with the vacancy in the unserved areas leaves an unmet capacity of 118 additional retailers.

Figure 7:

Cannabis Retailer Capacity by Population					
City/County	Population	Total Retailers	Population per Retailer	Capacity at 1 per 20,000	Over/Under Capacity
Served cities	5,157,462	384	13,431	258	126
Unserved cities	3,792,358	0	N/A	190	-190
Unincorporated area	1,095,600	0	N/A	55	-55
Total unserved area	4,887,958	0	N/A	244	-244
Total County	10,045,420	384	N/A	502	-118
Figures assume all microbusinesses conduct retail sales					
Projections assume an area is well-served when there is one retailer per every 20,000 residents					

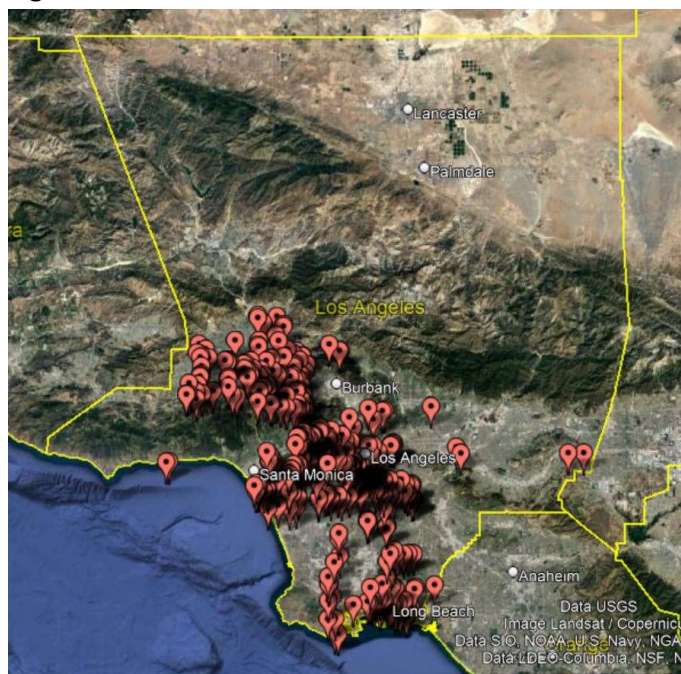
The unincorporated area covers 2,635 square miles, or more than 65 percent of the County. Some 1,268 square miles of this is federal lands, including the Santa Monica Mountains and the Angeles National Forest. While much of it is densely populated, other areas are more isolated and rural in nature, particularly those communities north of the San Gabriel Mountains near Lancaster. Locating cannabis retailers to serve the unincorporated area will need to balance proximity to the most populated areas, including unserved cities, with locations to serve these more remote communities.

Retail studies show that 93% of consumers are willing to travel 15 to 20 minutes to make most routine purchases^x. This distance is likely somewhat higher in more rural areas. The most populated communities in the unincorporated area of the County are all generally within this distance from cities with existing cannabis retailers, which suggests that the vast majority of the County's population already has some amount of access to legal cannabis, though perhaps not convenient. These travel times may also be exacerbated by traffic.

Figure 8 shows the general locations of the 384 existing cannabis retailers in Los Angeles County. The heavy concentration of retailers in central Los Angeles and the San Fernando Valley is clearly evident, as is the lack of retailers in Antelope Valley north of the San Gabriel Mountains. There also appears to be a lack of retailers in the San Gabriel Valley, South Bay, Santa Clarita Valley and Gateway Communities regions.

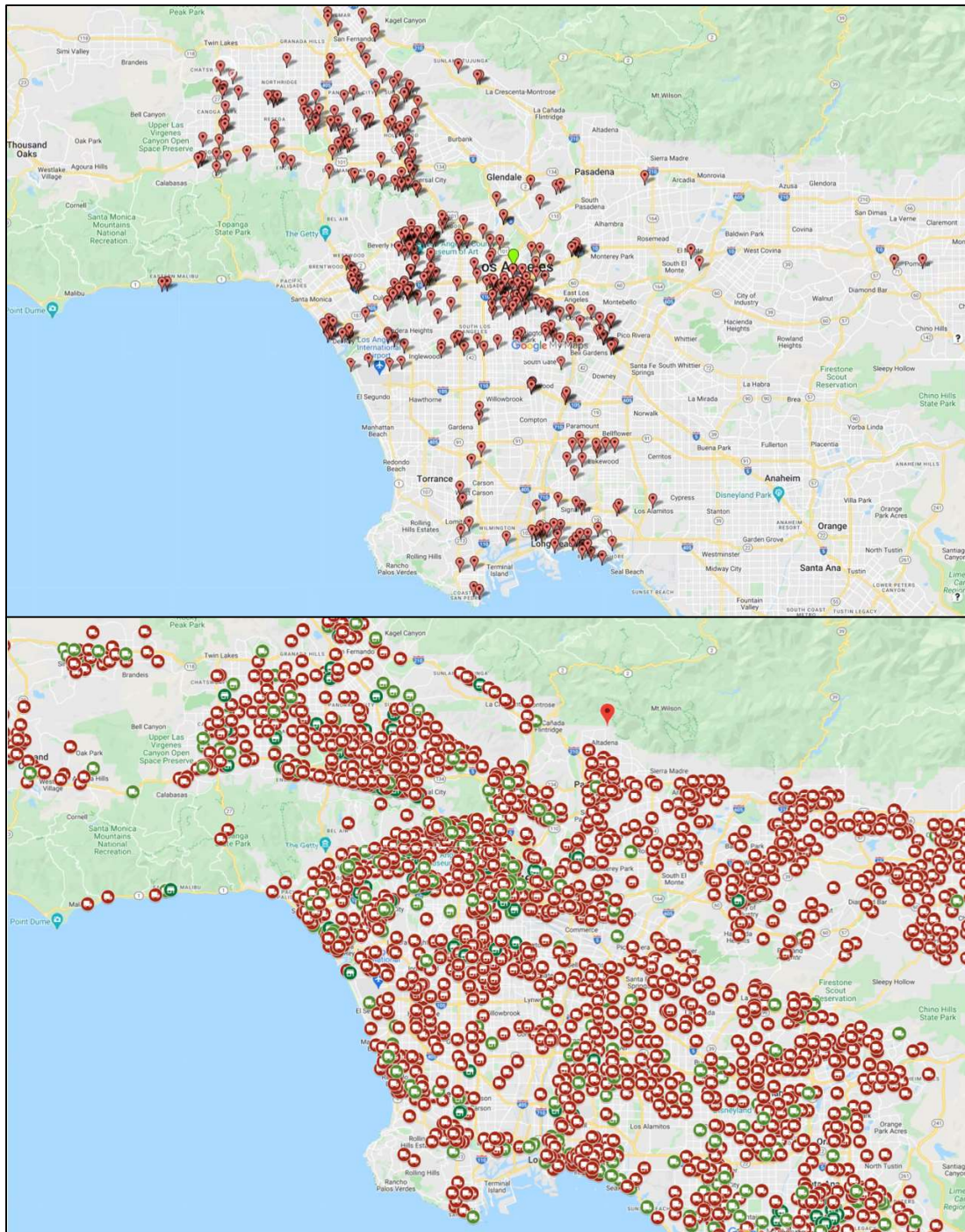
While all of these areas other than Antelope Valley are generally within 20 minutes of existing retailers, consumers in these locations would likely have to plan a special trip to their nearest cannabis retailer, rather than stopping in on their way to or from the grocery store.

Figure 8



Though Los Angeles County is reasonably well served by licensed retailers, they are still far outnumbered by unlicensed cannabis delivery services. The map at the top of Figure 9 displays the licensed retailers in the County, shown in red. The map at the bottom shows an estimated 1,000 or more unlicensed delivery services¹¹, shown in red, which far outnumber the licensed retailers in green.

Figure 9



¹¹ Data derived from Weedmaps. Unlicensed delivery services are shown based on the areas they deliver to, rather than their 'home' location, so a single delivery service may be represented many times on this map.

Figure 10 shows the area and population range of the cities and unincorporated communities in the County^{xi}. Figure 11 shows the retail density of those cities that have cannabis retailers, and also shows those cities and the unincorporated area that have no cannabis retailers. As can be seen, the vast majority of the County and its cities are unserved, though most have reasonable access in nearby cities.

Figure 10:

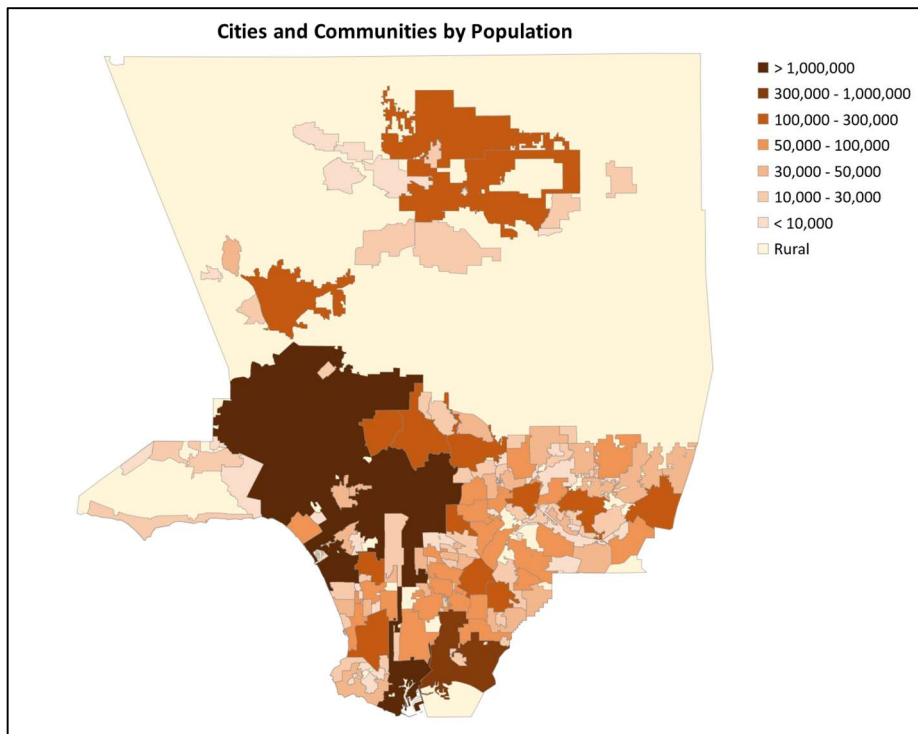
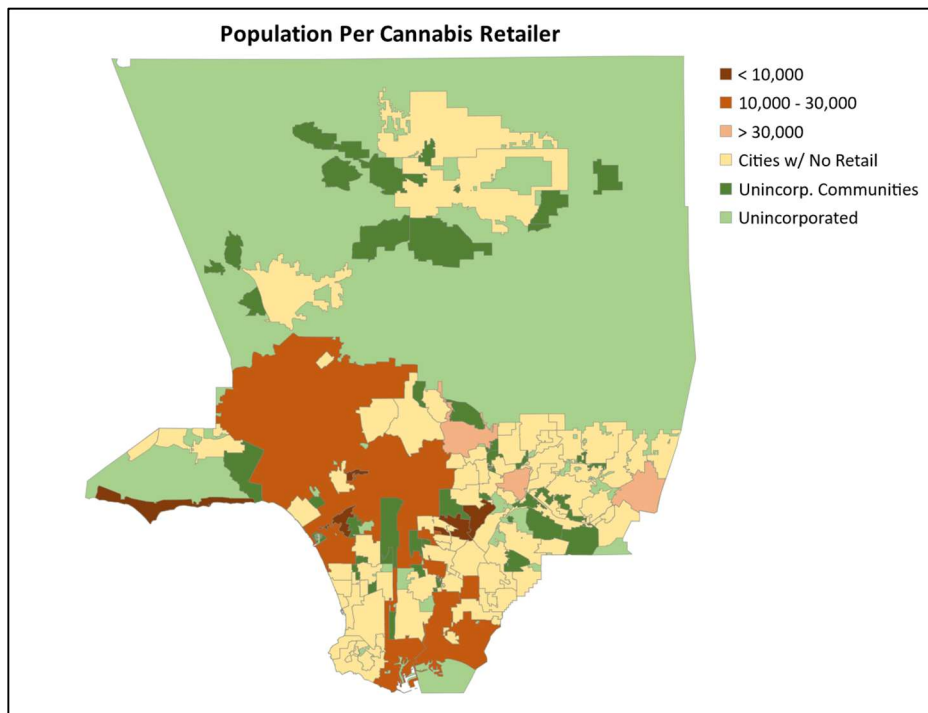


Figure 11:



In Figure 11, on the next page, we have provided a general scenario to estimate a reasonable range of cannabis tax revenues that the County may be able to generate from 50 licensed cannabis retailers (25 storefront and 25 non-storefront delivery) in the unincorporated area. Our analysis here is based on the size of the unserved market, not the number of retailers. However, we have adjusted our estimates to reflect the fact that the 50 retail licenses anticipated by the County is less than one half of the market capacity. Our estimates assume that these 50 retailers are located in a way that allows them to serve both the unincorporated area and unserved cities.

Starting with the overall County population of 10,045,420 people, we then back out the population of those cities already served by licensed retailers. This leaves us with the population of the unserved cities (3,792,358) and the unincorporated area (1,095,600), for a total unserved population of 4,887,958. However, we note that the number of retailers in the incorporated cities is high enough to also serve nearly half of the market in the unincorporated areas. For this reason, we have reduced our estimate of the unserved population by 50%, down to 2,443,979.

Figure 7 (page 15) showed that there is an unmet capacity of 118 additional retailers in the unincorporated area. The County anticipates an initial launch of 50 retail licenses and will potentially increase the number over the following years based on data and impacts of the initial launch. Due to the physical size of the County's unincorporated area, we do not believe that these 50 retailers would be adequate for serving this entire geographic area. For this reason, we have provided an additional 50% reduction to the size of the resident market that we believe will be served by this limited number of retailers. This brings our consumer base down to 1,221,990.

To this figure we apply a range of assumptions for the percentage of the population that uses cannabis on a regular basis. These estimates vary from around 10% to 13%^{xii}, up to as high as 22%^{xiii}. This percentage is influenced by social acceptance of cannabis within the local community. Applying these estimates to our estimated population base of 1,221,990 people in the unincorporated area yields between roughly 122,000 and 269,000 potential cannabis consumers.

Cannabis retailers typically average around 120 customers per day^{xiv}. Data shows that a typical cannabis consumer makes a purchase of \$73 with an average frequency of twice a month^{xv}. Applying this to our range of cannabis consumers yields monthly sales of between \$18 million and \$39 million, which works out to annual gross receipts of between \$214 million and \$471 million.

However, as with much of California, the County is still home to a thriving illicit market, with an unknown but significant number of unlicensed cannabis delivery services operating throughout the County. To account for this, we have assumed an additional 30% leakage to these unlicensed retailers. This brings our estimate of total gross receipts down to a range of \$150 million to \$330 million.

Applying our recommended retail cannabis tax rates to this range of total gross receipts yields a range of revenue projections. Applying HdL's recommended "low" rate of 4.0% would yield between \$6 million and \$13.2 million in annual cannabis tax revenue for the County, with a best estimate of \$7.8 million. Applying a rate of 5.0% would yield between \$7.5 million and \$16.5 million, with a best estimate of \$9.7 million in annual revenue. Applying HdL's recommended "maximum" rate of 6.0% would yield between \$9 million and \$19.8 million, with a best estimate of \$11.7 million in annual cannabis tax revenue for the County.

In addition, retail cannabis sales would also generate between \$1.5 million and \$3.3 million in Bradley-Burns sales tax revenue for the County. These estimates are all shown in Figure 12, below.

Figure 12:

Revenue Projections for Cannabis Retailers			
	Low Estimate	"Best" Estimate	High Estimate
Total County	10,045,420	10,045,420	10,045,420
Population of served cities	5,157,462	5,157,462	5,157,462
Population of unserved cities	3,792,358	3,792,358	3,792,358
Population of unincorporated area	1,095,600	1,095,600	1,095,600
Total unserved population	4,887,958	4,887,958	4,887,958
Leakage to retailers in incorporated cities	50%	50%	50%
Resident population adjusted for leakage	2,443,979	2,443,979	2,443,979
Reduction for limited number of retailers	50%	50%	50%
Resident population adjusted for number of retailers	1,221,990	1,221,990	1,221,990
Percentage of population that uses cannabis	10%	13%	22%
Number of cannabis users	122,199	158,859	268,838
Average transaction amount	\$73	\$73	\$73
Transaction frequency (per month)	2	2	2
Monthly gross receipts	\$17,841,047	\$23,193,361	\$39,250,303
Annual gross receipts	\$214,092,560	\$278,320,329	\$471,003,633
Leakage to black market (30%)	\$64,227,768	\$83,496,099	\$141,301,090
Adjusted annual gross receipts	\$149,864,792	\$194,824,230	\$329,702,543
Cannabis business tax rate:			
4.00%	\$5,994,592	\$7,792,969	\$13,188,102
5.00%	\$7,493,240	\$9,741,211	\$16,485,127
6.00%	\$8,991,888	\$11,689,454	\$19,782,153
Bradley-Burns 1.0% Local Sales Tax	\$1,498,648	\$1,948,242	\$3,297,025

VI. Cannabis Manufacturers

The manufacturing sector is still evolving and expanding, which presents significant opportunities for innovation, business development and job growth. The range of products being produced includes an ever-increasing variety of edibles such as candies, cookies, dressings, and infused (non-alcoholic) drinks. Manufacturers may produce their own extract on site, or they may buy extract from other Type 6 or Type 7 licensees.

Much like any other industry, cannabis manufacturers often depend upon other businesses to supply them with the various materials or components that go into their final product. These suppliers do not have to be located in or even near the same jurisdiction as the final manufacturer, and may be located anywhere throughout the state. In addition, the non-cannabis components of their products, such as papers, cartridges, packaging and non-cannabis food ingredients can be sourced from other states or even other countries.

Some manufacturers may handle all steps from extraction to packaging the end product in the form of vape pens or other such devices. Others may handle only discrete steps, such as making the raw cannabis concentrate, which is then sold either directly to retailers or to a Type N manufacturer who will package it into vapor cartridges or other end consumer products. Manufacturers also produce a wide variety of tinctures, as well as topicals such as cannabis infused lotions, salves, sprays, balms, and oils.

As of February 1, 2022, the Department of Cannabis Control shows 915 cannabis manufacturing licenses statewide. This is down from 1,029 in 2020, suggesting that the number of such businesses has likely plateaued somewhat. Of these, 476 are for non-volatile extraction, 198 are for volatile extraction, 161 are for non-extraction manufacturing, 36 are for packaging and labeling, and 41 are for manufacturers using a shared-use facility¹². These 915 businesses are owned by 888 separate companies.

In its 2017 regulatory impact analysis^{xvi}, the Manufactured Cannabis Safety Branch (MCSB; now absorbed in the Department of Cannabis Control) estimated that there may ultimately be as many as 1,000 cannabis manufacturing businesses in California, employing around 4,140 people. This would indicate an average of 4 new jobs per manufacturer, though this figure likely varies significantly depending on the size and nature of each business.

Though the actual number of cannabis manufacturers in California has generally hovered around this number for the past few years, we believe these figures for both the potential number of cannabis manufacturing businesses and for the average number of employees are both on the low side. HdL is aware of individual manufacturers which have over 100 employees. While this may not be the norm, it demonstrates that individual cannabis manufacturers have the potential to far exceed the MCSB's early predictions.

In addition, some 70% of cities and counties in California continue to ban cannabis businesses outright^{xvii}, which greatly limits the size of the overall market available to legal businesses. As more jurisdictions allow and permit commercial cannabis businesses, the number of cultivators, manufacturers, distributors and retailers should increase accordingly to supply this growing market. We believe that the number of

¹² These manufacturing license types are all defined in Appendix A; Legal and Regulatory Background for California.

cannabis products manufacturers will continue to grow in parallel and proportion to the size of California's legal and licensed cannabis market.

HdL has reviewed pro-formas for numerous cannabis manufacturers seeking permits in counties and cities throughout California. From our review we have seen a range of gross receipts from around \$1 million to well over \$20 million, with an average in the range of \$2 million to \$3 million.

Figure 12, below, shows the range of cannabis tax revenues that could be generated by licensed cannabis manufacturers in the unincorporated area of the County applying HdL's recommended rates of 2.5% to 4.0% of gross receipts. We have provided a scenario that assumes the County allows and permits 10 cannabis manufacturers, each with average gross receipts of \$2.5 million. Again, we emphasize that this is an average based on a huge range, with some individual manufacturers showing gross receipts of well over \$20 million. We believe the conservative estimates below are more reliable for purposes of revenue projections.

At HdL's recommended initial rate of 2.5%, 2 manufacturers could generate \$625,000 in cannabis tax revenue for the County. Applying a tax rate of 3.0%, would generate \$750,000 in revenue for the County, and a tax rate of 4.0% would generate \$1,000,000 in annual cannabis tax revenue for the County.

Figure 12:

Cannabis Manufacturers; HdL Recommended Rates						
Type 6/7/N/P Manufacturer	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 2.5% Tax Rate	Revenue @ 3.0% Tax Rate	Revenue @ 4.0% Tax Rate
Scenario 1	10	\$2,500,000	\$25,000,000	\$625,000	\$750,000	\$1,000,000

VII. Cannabis Distributors

Perhaps more than any other part of the cannabis supply chain, distributors are greatly dependent upon the number and variety of other cannabis business types within their service area. Essentially, distributors need a certain “critical mass” of other cannabis businesses for them to serve. Because of this, distributors tend to be located in cities or regions which have an appropriate base of cultivation or manufacturing businesses to work with, as well as a large surrounding customer base.

As a very general figure, the number of cannabis distributors statewide is roughly 20% of the number of all other cannabis businesses, combined, or 1 distributor for every 4 other cannabis businesses. In addition, virtually all licensed microbusinesses in California include distribution as one of their licensed activities¹³. We can reasonably extrapolate from this to assume that a similar ratio of distributors to other businesses is necessary within any defined region.

The business model for distributors is based on a percentage markup on the price paid to their suppliers. This markup commonly averages 20% to 30%, though this depends upon the actual services being provided. However, it is important to note that the distributor category may include a variety of services, not all of which are provided by all licensed distributors. Just over 12% of distributors hold Type 13 licenses that allow self-distribution or transport only. A distributor which is only buying and reselling cannabis at wholesale may make as little as 10% on a transaction, while a distributor which is purchasing raw flower and packaging it as pre-rolls for retail sale may make 50% or more on such a value-added transaction.

Distributors may have annual revenues ranging from less than \$1 million to over \$70 million. The vast majority of distributors would fall at the lower end of that range, with those at the high end qualifying as outliers. While there is not yet an abundance of data to determine the average gross receipts for distributors, HdL has reviewed a number of pro-formas for distributors seeking licenses in other jurisdictions. These indicate anticipated gross receipts commonly in the range of \$2 million to \$3 million per year, with an average of \$2.5 million.

Data from the Department of Cannabis Control shows that there are currently 339 licensed distributors in the Los Angeles County region and 999 other cannabis businesses, or roughly 1 distributor for every 3 other cannabis businesses, which is significantly higher than the 1-to-4 ratio we commonly see. This suggests that the region is already well served with cannabis distributors, and that there may not be immediate demand for additional such businesses. However, as the County and additional cities begin permitting cannabis businesses in their jurisdictions, we would expect that the number of cannabis distributors would likely increase over time in proportion to the increase other cannabis business types.

Some portion of these new distributors would likely hold a distribution license as an ancillary activity to reduce operating costs for their primary business as a cultivator, manufacturer or retailer and to provide a secondary revenue stream. This would be particularly true in the more remote rural areas of the County, where allowing a mix of business activities may be the key to business viability.

¹³ Data as of April 2021. The Department of Cannabis Control has recently changed how it reports this data, which prevents us from being able to determine the specific types of activities being conducted by microbusinesses.

Figure 13, below, shows the range of cannabis tax revenues that could be generated by cannabis distributors in the unincorporated area of the County applying HdL's recommended rates of 2.0% to 3.0% of gross receipts. The County has provided direction to allow up to 10 cannabis distributors in the unincorporated area, which we believe is a reasonable and attainable number. We have estimated average gross receipts of \$2.5 million. Again, we emphasize that this is an average based on a huge range, with some outliers showing gross receipts in the tens of millions of dollars. While it is certainly possible such a business may wish to establish itself in the unincorporated area of the County, we believe conservative estimates below are more reliable.

At HdL's recommended initial rate of 2.0%, 10 distributors located in the unincorporated area could generate \$600,000 in cannabis tax revenue for the County. As with our projections for other license types, we caution that this the number of businesses and the gross receipts for each will likely take time to develop. The County should not look at this as a first- or second-year projection.

Figure 13:

Cannabis Distributors; HdL Recommended Rates						
Distributors	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 2.0% Tax Rate	Revenue @ 2.5% Tax Rate	Revenue @ 3.0% Tax Rate
Scenario 1	10	\$2,000,000	\$20,000,000	\$400,000	\$500,000	\$600,000

VIII. Cultivation

The State of California has been issuing licenses for cannabis cultivation since January 1, 2018. These licenses were initially issued by the CalCannabis Division of the California Department of Food and Agriculture (CDFA) but have since transitioned to the newly-formed Department of Cannabis Control (DCC). The Standardized Regulatory Impact Assessment prepared for CDFA as a part of its rule-making process estimated that Californians consume approximately 2.5 million pounds of cannabis per year^{xviii}.

As of February 1, 2022, data from the DCC shows 8,494 active cultivation licenses statewide, held by 3,392 distinct businesses¹⁴. These licenses cover nearly 2,000 acres of canopy and are capable of producing over 16 million pounds of cannabis per year. Of these, there are 41 businesses that each hold 20 cultivation licenses or more, and 10 of which hold more than 100 licenses each. The largest of these holds 271 cultivation licenses. Combined, these large cultivators hold 2,840 cultivation licenses, with 657 acres of canopy capable of producing nearly 3.6 million pounds of cannabis per year. These 41 large cultivators alone could supply far more cannabis than is consumed by all Californians, combined.

Despite this cultivation capacity, reporting from the California Department of Tax and Fee Administration (CDTFA) shows that only 2,350,000 pounds of cannabis entered the commercial market in 2020^{xix} (the last year for which data is available), which is very close to the CDFA's early estimate. The huge difference between cultivation capacity and the size of the licensed market is difficult to explain. It is believed that some portion of legally cultivated cannabis is being diverted into the illicit market both within California and across the country, but the amount and the mechanism for how it is being diverted are unknown.

The cannabis cultivation market in California has far exceeded its saturation point, which suggests that there is not enough room for those growers already licensed, much less new entrants into the market. More than any other part of the cannabis industry, entry into the highly competitive cultivation sector can be filled with risk and requires ample capitalization and a clear strategy to win shelf space. It is not uncommon for small, independent cannabis producers and manufacturers to have to pay for retail shelf space just to get their product in front of consumers.

Cannabis cultivation taxes are most commonly assessed on a square-footage basis. As with other cannabis business types, HdL recommends the County consider tax rates for cultivation that are consistent with those discussed in Section III; *Common Cannabis Tax Rates*, as shown in Figure 4. Cannabis cultivation taxes may also be assessed on gross receipts or by weight. Any of these methods can be accommodated, and each can be adjusted to generate an equivalent amount of revenue. Each method also has its advantages and disadvantages.

A tax based on square footage can be seen essentially as a tax on area of impact, under the assumption that the greater the size of the operation, the higher the impact on the surrounding neighborhood and County services. The tax is on the privilege of being allowed to cultivate a certain square footage, not upon the amount of cannabis produced or the value of that cannabis.

¹⁴ The actual number of distinct businesses is likely somewhat lower, as minor typos or inconsistencies in how a name is written appear as separate business names in the DCC database.

A square footage tax has the advantage that the amount of annual tax liability is generally known in advance by both the County and the tax-paying business, as it is keyed to the permitted amount of cultivation area. This allows both parties to budget accordingly. Variances in the actual amount of cultivation area being planted per cycle can be accommodated through advance notification, monitoring and regular inspections or audits. The amount of tax paid does not automatically increase with inflation, making it necessary to include a mechanism to adjust the tax rate annually in accordance with the Consumer Price Index (CPI).

Taxing cannabis cultivation by weight is essentially a tax on production. The tax is on the volume of product, rather than on the size of the operation or the profits generated. This method assumes that the volume of cannabis being produced creates a commensurate impact on the community. The State tax rate for cultivation is set by weight at \$10.08 per ounce of dried flower or \$3.00 per ounce of dried leaf. Because these rates are set by weight, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$300 per pound or top-grade cannabis at \$2,000 per pound. Reporting and remittance for a weight-based tax can be tied to the figures being reported to the State. As with the square-footage tax, it is necessary to annually adjust the tax rate to reflect changes in the CPI.

A tax on gross receipts taxes the gross income of the business, not the actual profits. As such, a gross receipts tax is effectively a tax on conducting business, regardless of the physical size of the operation, the volume of cannabis being produced, or the profitability of the business. A gross receipts tax has the advantage of increasing or decreasing in accordance with income and automatically adjusting for inflation. Because the cannabis industry largely operates on a cash basis, annual financial audits are highly recommended to ensure that all receipts have been properly reported and all taxes fairly remitted.

Each of these tax methods has advantages and disadvantages for the operator, depending upon the cultivation methods being used and the price point for the cannabis being produced. Indoor and mixed-light cultivation are both able to produce multiple harvests per year, while outdoor cultivation only produces one, so the square footage rates must be adjusted for each. In addition, cannabis grown indoors tends to demand a higher market price than mixed-light, with outdoor cannabis getting the lowest prices of the three. This is a factor that should be adjusted for both square footage rates and per-pound rates.

HdL has developed a methodology for comparing tax rates by square footage, gross receipts and by weight. Though there are numerous variables that can only be determined on a case-by-case basis, this methodology allows us to determine rates that are generally equivalent regardless of the tax basis being used. This allows the host jurisdiction to ensure that their cultivation tax rates are generally consistent with the rates applied by other nearby jurisdictions, even when they are using different taxing methods.

Cultivation yield is generally assumed to average one pound of cannabis flower for every 10 square feet of cultivation area. This metric is drawn from a 2010 study by the Rand Corporation^{xx}. Though the study is fairly old for such a young industry, its findings remain generally consistent with more recent studies. Some cultivation facilities can yield one pound for every eight square feet, and others cite yields that are much lower (more square feet per pound), but 10 square feet remains a convenient and commonly used metric which provides for conservative estimates. Using this figure, a 10,000 square foot cultivation facility operating 4 cycles would produce around 4,000 pounds of cannabis per year.

The price per pound is conservatively assumed to be \$1,000. This figure is somewhat lower than the current average for indoor-grown cannabis, but there is still great variability in the market and, over the long term we anticipate that wholesale prices for raw cannabis will continue to decline. Applying this figure, our 10,000 square foot facility would generate \$4 million in gross receipts.

Figure 14 (below) shows how these assumptions can be applied to generate an equivalent tax rate based on square footage, weight or gross receipts, and the total annual tax that would be paid for a hypothetical 10,000 square feet of cultivation. We have used a base rate of 1.00% of gross receipts for illustration purposes. The County does not intend to permit outdoor cultivation at this time, so our analysis here is limited to indoor and mixed-light cultivation, only.

As can be seen, both methods pay the same percentage of gross receipts and the same price per pound, but the effective tax rate per square foot and the total annual tax paid varies greatly due to the different number of harvest cycles possible with each method.

Figure 14:

Cultivation Tax Rates Assuming Constant Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate % Gross Receipts	Tax Rate per SF	Tax Rate per Pound	Total Annual Tax Paid
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	1.00%	\$4.00	\$10.00	\$40,000
Mixed Light	3	10,000	3,000	\$1,000	\$3,000,000	1.00%	\$3.00	\$10.00	\$30,000

As discussed above, the market has generally been awarding a higher price for cannabis grown indoors than for cannabis grown in mixed-light. Though prices can vary widely, we assume a conservative market price differential of \$1,000 per pound for indoors and \$800 for mixed light. When we adjust for this price differential, the equivalent rates per square foot and per pound both change significantly, as does the total annual tax paid. This is shown in Figure 15.

Figure 15:

Cultivation Tax Rates Assuming Variable Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate % Gross Receipts	Tax Rate per SF	Tax Rate per Pound	Total Annual Tax Paid
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	1.00%	\$4.00	\$10.00	\$40,000
Mixed Light	3	10,000	3,000	\$800	\$2,400,000	1.00%	\$2.40	\$8.00	\$24,000

HdL generally recommends that tax rates for indoor cultivation be set at an initial rate of \$7 per square foot (sf) up to a maximum rate of \$10 per square foot, with mixed-light cultivation ranging from \$4/sf to \$7/sf. We would recommend that square footage taxes be set at initial rates of \$7/sf for indoor cultivation and \$4/sf for mixed light. These rates would give an approximate equivalent rate of 1.67% to 1.75% of gross receipts, as shown in Figure 16, below. We note that these rates do not all result in nice, round

numbers, but we encourage readers of this report not to dwell upon that detail. As discussed above, there are many variables in cultivation and it is unlikely that any two cultivators will have exactly the same yield per square foot or receive exactly the same price per pound for their product.

Figure 16:

Initial Cultivation Tax Rates Assuming Variable Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate % Gross Receipts	Tax Rate per SF	Tax Rate per Pound	Total Annual Tax Paid
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	1.75%	\$7.00	\$17.50	\$70,000
Mixed Light	3	10,000	3,000	\$800	\$2,400,000	1.67%	\$4.00	\$13.33	\$40,000

Figure 17, below, shows rates based upon \$10 per square foot for indoor cultivation and \$6 per square foot for mixed-light. These would give an equivalent rate of approximately 2.50% of gross receipts.

Figure 17:

Maximum Cultivation Tax Rates Assuming Variable Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate % Gross Receipts	Tax Rate per SF	Tax Rate per Pound	Total Annual Tax Paid
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	2.50%	\$10.00	\$25.00	\$100,000
Mixed Light	3	10,000	3,000	\$800	\$2,400,000	2.50%	\$6.00	\$20.00	\$60,000

Maximum rates exist primarily to provide an upper limit for the purposes of the cannabis tax ballot measure and are not intended as a target to be achieved. The maximum rates are provided to allow for future scenarios where the higher rates may be appropriate based upon changes in the marketplace. For this reason, we recommend that the maximum rate be based upon the constant market price scenario where all cultivation types receive the same price for their product. Essentially, the initial rates should be set to reflect current market conditions, while the maximum rates should be adequate to allow for unforeseeable future market conditions. We recommend that the maximum square footage rates for cultivation be set at \$10/sf for indoor and \$7/sf for mixed light as shown in Figure 18.

Figure 18:

Maximum Cultivation Tax Rates Assuming Constant Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate % Gross Receipts	Tax Rate per SF	Tax Rate per Pound	Total Annual Tax Paid
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	2.50%	\$10.00	\$25.00	\$100,000
Mixed Light	3	10,000	3,000	\$1,000	\$3,000,000	2.33%	\$7.00	\$23.33	\$70,000

For purposes of revenue projections, we have provided a scenario where the 10 permits to be issued by the County are divided between 5 licenses for medium indoor cultivation (Type 3A) and 5 licenses for medium mixed-light cultivation (Type 3B). The Type 3A indoor and Type 3B mixed-light cultivation licenses are allowed to cultivate up to 22,000 square feet of canopy.

Multiplying by the number of licenses gives a total cultivation area of 110,000 square feet of canopy each for mixed-light and indoor cultivation, for a total of 220,000 square feet. Applying HdL's recommended initial tax rates of \$4.00/sf for mixed light and \$7.00/sf for indoor would yield a total of \$1,210,000 in annual cannabis tax revenue for the County. Applying medium rates of \$5.50/sf and \$8.50/sf, respectively, would generate up to \$1,540,000, and HdL's maximum rates of \$7.00/sf and \$10/sf would generate up to \$1,870,000 in annual revenue for the County. These revenues are shown in Figures 19, 20 and 21, below.

Figure 19:

Cannabis Cultivation; HdL Initial Rate					
Cultivation Type	# of Sites	Avg. Square Footage	Total Square Footage	Tax Rate per Square Foot	Total Tax Revenue
Indoor	5	22,000	110,000	\$7.00	\$770,000
Mixed Light	5	22,000	110,000	\$4.00	\$440,000
Total	10		220,000		\$1,210,000

Figure 20:

Cannabis Cultivation; HdL Medium Rate					
Cultivation Type	# of Sites	Avg. Square Footage	Total Square Footage	Tax Rate per Square Foot	Total Tax Revenue
Indoor	5	22,000	110,000	\$8.50	\$935,000
Mixed Light	5	22,000	110,000	\$5.50	\$605,000
Total	10		220,000		\$1,540,000

Figure 21:

Cannabis Cultivation; HdL Maximum Rate					
Cultivation Type	# of Sites	Avg. Square Footage	Total Square Footage	Tax Rate per Square Foot	Total Tax Revenue
Indoor	5	22,000	110,000	\$10.00	\$1,100,000
Mixed Light	5	22,000	110,000	\$7.00	\$770,000
Total	10		220,000		\$1,870,000

IX. Testing Laboratories

As of February 1, 2022, the Department of Cannabis Control has issued 43 licenses for cannabis testing laboratories in California. These laboratories tend to be located in areas with a large amount of commercial cannabis activity. Data from the DCC shows 6 testing laboratories located in the City of Los Angeles, 5 in Long Beach, 2 in Monrovia and 1 in Pasadena. Nearby, there are 5 testing labs in Orange County (3 in Irvine and 2 in Santa Ana) and 2 in Cathedral City in Riverside County.

The Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) requires that all dried cannabis flower or leaf must be tested for tetrahydrocannabinol (THC) and cannabidiol (CBD) content, contaminants, impurities and other factors before it can be sold to a manufacturer, distributor, dispensary or end user. Batch testing for raw cannabis requires a 2.3 gram sample per pound, which works out to a loss of 0.5% of the volume (the sample must be destroyed after testing). DCC regulations limit the maximum batch size to no more than 10 pounds. The costs for all of the tests as required under MAUCRSA have not yet settled into a clear norm, but an online survey of a number of cannabis testing facilities in California suggest an average of \$750 per 10-pound batch, or \$75 per pound, which equals 7.5% of the \$1,000 per pound price. The cost and loss of product amount to an additional 8% cost to the product which, when added to the cultivation tax, excise tax and any local taxes, helps push the cumulative tax rate towards 30%.

Testing is a semi-regulatory function mandated by the State to protect consumer health and safety, and which amounts to a State-imposed cost on the product. Unlike cultivation or manufacturing, testing does not create product or add value to the product, and unlike distributors or retailers, the testing laboratory is prohibited from having any ownership interest in the product. MAUCRSA requires that testing laboratories be completely independent from any other cannabis business, and prevents them from benefitting from, or having any interest in, the results of the test or the value of the product. In this way, testing laboratories are categorically different from any other cannabis business type. An analogy might be an independent auto shop that does State mandated smog tests for used car dealerships. They perform the test to State standards for a given price, but they don't benefit in any way from the sale of the car, or from its sale price.

HdL generally recommends that cannabis testing laboratories be taxed at a rate of 1% up to 2% of gross receipts. However, given the semi-regulatory function they provide, some cities and counties have chosen not to apply a tax to testing facilities.

Pro formas reviewed by HdL suggest average gross receipts of \$2,000,000 for testing laboratories. Below we have shown the amount of revenue that could potentially be generated from 1 facility, though we would recommend that the County should not anticipate any testing laboratories for purposes of revenue projections, as there are already 14 located in various cities within the County.

Figure 22:

Cannabis Testing Laboratories; HdL Recommended Rates						
Testing Laboratories	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 1.0% Tax Rate	Revenue @ 1.5% Tax Rate	Revenue @ 2.0% Tax Rate
Scenario 1	1	\$2,000,000	\$2,000,000	\$20,000	\$30,000	\$40,000

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A. Legal and Regulatory Background for California

The legal and regulatory status of cannabis in the State of California has been continually evolving ever since the passage of Proposition 215, the Compassionate Use Act of 1996 (CUA), which de-criminalized the use, possession and cultivation of cannabis for qualifying patients and their primary caregivers when such use has been recommended by a physician. The CUA did not create any regulatory program to guide implementation, nor did it provide any guidelines for local jurisdictions to establish their own regulations. The lack of legal and regulatory certainty for medical marijuana (or cannabis) continued for nearly 20 years, until the passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in October of 2015. MCRSA created a State licensing program for commercial medical cannabis activities, while allowing counties and cities to maintain local regulatory authority. MCRSA required that the State would not issue a license without first receiving authorization by the applicable local jurisdiction.

On November 8, 2016, the voters of the State of California approved Proposition 64, the Adult Use of Marijuana Act (AUMA), which allows adults 21 years of age or older to legally grow, possess, and use marijuana for personal, non-medical “adult use” purposes, with certain restrictions. AUMA requires the State to regulate non-medical marijuana businesses and tax the growing and selling of medical and non-medical marijuana. Cities and counties may also regulate non-medical marijuana businesses by requiring them to obtain local permits or restricting where they may be located. Cities and counties may also completely ban marijuana related businesses if they so choose. However, cities and counties cannot ban transport of cannabis products through their jurisdictions, nor can they ban delivery of cannabis by licensed retailers to addresses within their jurisdiction (added later through regulations).

On June 27, 2017, the Legislature enacted SB 94, which repealed MCRSA and incorporated certain provisions of MCRSA into the licensing provisions of AUMA. These consolidated provisions are now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA revised references to “marijuana” or “medical marijuana” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively. MAUCRSA generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with certain exceptions. MAUCRSA also made a fundamental change to the local control provisions. Under MCRSA, an applicant could not obtain a State license until they had a local permit. Under MAUCRSA, an applicant for a State license does not have to first obtain a local permit, but they cannot be in violation of any local ordinance or regulations. The State licensing agency shall contact the local jurisdiction to see whether the applicant has a permit or is in violation of local regulations, but if the local jurisdiction does not respond within 60 days, then the applicant will be presumed to be in compliance and the State license will be issued.

MAUCRSA authorizes a person to apply for and be issued more than one license only if the licensed premises are separate and distinct. With the passage of AB 133 in 2017, a person or business may co-locate multiple license types on the same premises, allowing a cultivator to process, manufacture or distribute their own product from a single location. This includes the allowance to cultivate, manufacture, distribute or sell cannabis for both medical and adult use from a single location. Licensees of cannabis testing operations may not hold any other type of license. However, these allowances are still subject to local land use authority, so anyone seeking to operate two or more license types from a single location would be prohibited from doing so unless local regulations allow both within the same zone.

The table below provides a detailed overview of the license types available under California's cannabis regulations:

State Cannabis Business License Types				
Type	Activity	Description	Details	Notes
1	Cultivation	Outdoor; Specialty, Small	Up to 5,000 sf, or 50 plants on non-contiguous plots	A, B
1A	Cultivation	Indoor; Specialty, Small	501 sf - 5,000 sf	A, B
1B	Cultivation	Mixed-Light; Specialty, Small	2,501 sf - 5,000 sf	A, B
1C	Cultivation	Outdoor/indoor/mixed; Specialty Cottage, Small	Up to 25 plants outdoor; up to 2,500 sf mixed light; up to 500 sf indoor	A, B
2	Cultivation	Outdoor; Small	5,001 sf - 10,000 sf	A, B
2A	Cultivation	Indoor; Small	5,001 sf - 10,000 sf	A, B
2B	Cultivation	Mixed Light, Small	5,001 sf - 10,000 sf	A, B
3	Cultivation	Outdoor; Medium	10,001 sf - one acre	A, B, C
3A	Cultivation	Indoor; Medium	10,001 sf - 22,000 sf	A, B, C
3B	Cultivation	Mixed-Light; Medium	10,001 sf - 22,000 sf	A, B, C
4	Cultivation	Nursery		A, B
-	Cultivation	Processor	Conducts only trimming, drying, curing, grading and packaging of cannabis	A, B, E
5	Cultivation	Outdoor; Large	Greater than 22,000 sf	A, B, D
5A	Cultivation	Indoor; Large	Greater than 22,000 sf	A, B, D
5B	Cultivation	Mixed-Light; Large	Greater than 22,000 sf	A, B, D
6	Manufacturer 1	Extraction; Non-volatile	Allows infusion, packaging and labeling	A, B
7	Manufacturer 2	Extraction; Volatile	Allows infusion, packaging and labeling, plus non-volatile extraction	A, B
N	Manufacturer	Infusion for Edibles, Topicals	No extraction allowed	A, B, E
P	Manufacturer	Packaging and Labeling	No extraction allowed	A, B, E
S	Manufacturer	Shared-use manufacturer	Manufacturing in a shared-use facility	A, B, E
8	Testing		Shall not hold any other license type	A
9	Retailer	Non-storefront retail delivery	Retail delivery without a storefront	A, F
10	Retailer	Retail sale and delivery		A, B
11	Distributor			A, B
12	Microbusiness	Cultivation, Manufacturer 1, Distributor and Retailer	< 10,000 sf of cultivation; must meet requirements for all license types	A, B
A	All license types valid for 12 months and must be renewed annually			
B	All license types except Type 8 Testing must be designated "A" (Adult Use), "M" (Medical) or "A/M"			
C	CDFA shall limit the number of licenses allowed of this type			
D	No Type 5 licenses shall be issued before January 1, 2023			
E	Established through rulemaking process			

AUMA, and its successor MAUCRSA, required three state agencies, the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health, to permit commercial cannabis licensees and to adopt regulations for the cannabis industry. On January 16, 2019, all three agencies announced that the state's Office of Administrative Law officially approved state regulations, which took immediate effect and replaced emergency regulations that had been in effect since 2017. The final regulations were largely similar to the emergency regulations, but somewhat controversially, Section 5416(d) of the Bureau of Cannabis Control regulations authorizes deliveries of cannabis products into any city or county in the state, even if a city or county has banned commercial deliveries.

On July 12, 2021, Governor Gavin Newsom signed AB 141 into law, which consolidated the Bureau of Cannabis Control, the California Department of Food and Agriculture's CalCannabis Division, and the California Department of Public Health's Manufactured Cannabis Safety Branch into a single agency, now called the Department of Cannabis Control.

B. State Tax Considerations

To determine what local tax rates might be most appropriate, they must be considered in the context of other taxes imposed by the State. Any local taxes will be in addition to those taxes applied through the Adult Use of Marijuana Act (AUMA), which imposes both a 15% excise tax on purchases of cannabis or cannabis products and a separate cultivation tax on harvested cannabis that enters the commercial market, as well as sales tax. Taxes are most commonly expressed as a percent of price or value, so some method of conversion is necessary to allow development of an appropriate cultivation tax based on square footage.

The State tax rate for cultivation is set at \$10.08 per ounce of dried flower or \$3.00 per ounce of dried leaf. Because these rates are set per ounce, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$500 per pound or top-grade cannabis at \$2,500 per pound. The cultivator is generally responsible for payment of the tax, though that responsibility may be passed along to either a manufacturer or distributor via invoice at the time the product is first sold or transferred. The distributor is responsible for collecting the tax from the cultivator upon entry into the commercial market, and remitting it to the California Department of Tax and Fee Administration.

Cumulative Cannabis Taxes			
Category	Amount	Increase	Cumulative Price
Producer Price	\$1,000	\$1,000	\$1,000
State Cultivation Tax, per oz.	\$10.08	\$161	\$1,161
Local Tax	2.50%	\$25	\$1,186
Batch Testing	\$75/lb, + 0.75%	\$75	\$1,261
Wholesale Price w/ Taxes		\$1,261	
Total Tax at Wholesale		\$261	
Tax as %		26.13%	
Distributor Markup	20.00%	\$252	\$1,514
Local Tax	2.00%	\$30	\$1,544
Total Distributor Price		\$1,544	
Total Taxes at Distributor		\$292	
Total Tax as %		18.89%	
Retailer Markup	100.00%	\$1,544	\$3,088
Local Tax	4.00%	\$124	\$3,211
State Excise Tax	15.00%	\$463	\$3,674
Total Retailer Price		\$3,674	
Total Taxes at Retail		\$878	
Total Tax as %		23.90%	
CA Sales Tax (non-medical)	6.25%	\$230	\$3,904
Local Sales Taxes	3.25%	\$119	\$4,023
Total Taxes at Retail		\$1,227	
Total Tax as %		30.50%	
Total Local Tax		7.41%	\$298.19

The cultivation tax of \$10.08 per ounce of dried flower is equivalent to \$161 per pound. Just 2 years ago, HdL would have assumed an average wholesale market price for dried flower of around \$1,500 per pound, which would make that \$161 equal to roughly 11% of value. Since then, however, prices have plummeted.

Competitive market forces enabled by legalization have brought the average price for indoor cannabis down to around \$1,000 per pound, or even less (cannabis prices vary greatly based on product quality).

Conversations with cannabis industry trade groups suggest that the cumulative tax rate on the end product should remain at or below 30%. Higher rates create too much price disparity between legal and illegal cannabis, making it harder for the regulated industry to compete with the illicit market. Higher local tax rates can also make a county or city less attractive to the industry, especially for manufacturers and distributors, which have greater flexibility in choosing where to locate. We believe that setting rates that adhere to this 30% rule will help keep the local cannabis industry competitive with other cultivators across California, thus encouraging the transition to a legal industry.

The above table shows how the cumulative tax rate on adult-use cannabis builds as the product moves towards market. The value of the product increases as it moves through the supply chain towards market, with manufacturers, distributors and retailers each adding their own markup. Testing laboratories do not add a direct markup to the product, but the cost of testing and the loss of a small test sample can add around \$75 per pound. Any or all of these activities may be taxed.

This model assumes a hypothetical case where cultivation, manufacturing, testing, distribution and retail sale all happen within the same jurisdiction and are thus all subject to that jurisdiction's tax rates. In actuality, this is unlikely to be the case. Manufacturers may work with product purchased from anywhere in California, and may sell their product to retailers elsewhere, as well. The cumulative tax burden for any product at retail sale will almost always include a variety of tax rates from numerous jurisdictions.

C. State and Local Tax/Fee Burden on Cannabis Cultivation

There has been much public discussion over the past six months or so regarding high cannabis cultivation tax rates imposed by local jurisdictions across the state. HdL has examined the issue to determine the degree to which the setting or adjusting of local cultivation tax rates can provide meaningful and equitable tax relief to cannabis cultivators.

The 3 scenarios below are provided to show how State and local taxes and fees combine to create an overall tax burden on cannabis cultivation and to illustrate the portion of the overall tax/fee burden that is within the control of the local jurisdiction. These scenarios both consider a hypothetical 10,000 square feet of cultivation area using our standard assumptions for the number of harvests per year, product yield and price. We assume that outdoor cultivation will achieve 1 harvest cycle per year, mixed-light cultivation will achieve 3 harvests, and indoor cultivation will achieve 4. Yield assumes that all cultivation types will yield 1 pound of dried flower for every 10 square feet of canopy. We note that these are all general assumptions, provided only for purposes of comparison.

Scenario 1; High Tax Rates with a Constant Market Price

Scenario 1, below, assumes that all cultivation types will achieve the same \$1,000 per pound wholesale market price (“constant market price”). This is shown in Column D. Under this scenario, 10,000 square feet of indoor cultivation would generate gross receipts of \$4 million, 10,000 square feet of mixed-light cultivation would generate \$3 million, and 10,000 square feet of outdoor cultivation would generate \$1 million (Column E).

In Column F we have applied separate square-footage tax rates for each cultivation type (\$3/sf for outdoor, \$9/sf for mixed-light, and \$12/sf for indoor) that are simple multiples of the number of harvests we have allowed for each. These rates give a total tax paid of \$30,000 for outdoor cultivation, \$90,000 for mixed-light and \$120,000 for indoor (Column G). Assuming a constant market price of \$1,000 per pound, the equivalent gross receipts tax rate would be 3.0% for all cultivation types (Column I).

Scenario 1; High Rates w/ Constant Market Price									
Cultivation Type	A Harvest Cycles /Year	B Sample Area (sq ft)	C Yield @ 1 lb/10 sf /cycle	D Price per pound	E Gross Receipts	F Tax Rate per SF	G Total Annual Tax Paid	H Tax Rate per Pound	I Tax Rate % Gross Receipts
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	\$12.00	\$120,000	\$30.00	3.00%
Mixed Light	3	10,000	3,000	\$1,000	\$3,000,000	\$9.00	\$90,000	\$30.00	3.00%
Outdoors	1	10,000	1,000	\$1,000	\$1,000,000	\$3.00	\$30,000	\$30.00	3.00%

In the second table, below, we have calculated the total state and local taxes and annual license fees for each cultivation type. The State’s cultivation tax of \$10.08 per pound of dried flower equals \$161.28 per pound. We have applied this to our assumed yield in the upper table to show the State tax paid for each cultivation type (Column J). In Column K we have added the Department of Cannabis Control’s annual license fees, which produces a total State tax/fee burden of \$166,100 for outdoor, \$495,640, for mixed-light and \$680,530 for indoor, as shown in Column L.

In Column N we have assumed a general average of \$22,000 for the annual permit fees from the local jurisdiction. Annual permit fees vary greatly from jurisdiction to jurisdiction, with a range from under \$3,000 to nearly \$150,000, but the most common range is between \$15,000 and \$30,000. Removing the outliers gives an average of \$22,000. Combined with the annual tax paid (from Column G in the first table), the total local tax/fee burden ranges from \$52,000 to \$142,000, as shown in Column O.

Scenario 1; Combined State and Local Tax/Fee Burden												
Cultivation Type	J State Cultivation Tax Paid @ \$10.08/oz	K State Annual License Fee	L State Taxes and Fees; Total	M Local Cultivation Tax (Column G)	N Local Annual License Fee	O Local Taxes and Fees; Total	P Total Taxes and Fees	Q Total Gross Receipts (Column E)	R Total Taxes/Fees as % Gross Receipts	S State Taxes/Fees as % Gross Receipts	T Local Taxes/Fees as % Gross Receipts	U Local % of Total Tax/Fee Burden
Indoors	\$645,120	\$35,410	\$680,530	\$120,000	\$22,000	\$142,000	\$822,530	\$4,000,000	20.56%	17.01%	3.55%	17.26%
Mixed Light	\$483,840	\$11,800	\$495,640	\$90,000	\$22,000	\$112,000	\$607,640	\$3,000,000	20.25%	16.52%	3.73%	18.43%
Outdoors	\$161,280	\$4,820	\$166,100	\$30,000	\$22,000	\$52,000	\$218,100	\$1,000,000	21.81%	16.61%	5.20%	23.84%

The total State and local tax/fee burden ranges from \$218,100 for outdoor cultivation up to \$607,640 for mixed-light and \$822,530 for indoors (Column P). Expressed as a percentage of gross receipts (from Column E in the first table), the total State and local tax/fee burden runs from 20.25% for mixed-light, to 20.56% for indoor and 21.81% for outdoor (Column R).

From this overall tax/fee burden, we can determine the portion of that burden that is due to local taxes and fees and, thus, the portion that the local jurisdiction has the ability to control or reduce in an effort to provide relief for cannabis cultivators. For outdoor cultivation, State taxes and fees total 16.61% of gross receipts (Column S) while local taxes and fees equal just 5.20% (Column T). Expressed another way, local taxes and fees make up 23.84% of the total tax fee burden (Column U), with State taxes and fees accounting for the rest.

For mixed-light cultivation, State taxes and fees total 16.52% of gross receipts while local taxes and fees equal 3.73%, accounting for 18.43% of the total State/local tax fee burden. For indoor cultivation, State taxes and fees equal 17.01% of gross receipts, while local taxes and fees make up just 3.55%, or just 17.26% of the overall tax/fee burden. In short, even with a relatively high square footage tax rates as used in this scenario, the local jurisdiction only has influence over roughly 17% to 24% of the total tax/fee burden. Up to 83% of the total tax/fee burden is imposed by the State and is thus beyond the control of the local jurisdiction.

Scenario 2; High Tax Rates with a Varying Market Price

Scenario 2 maintains the same assumptions for number of harvests and yield, and the same square-footage tax rates as in Scenario 1. The only variable we have changed is the market price per-pound of cannabis produced by each cultivation method (Column D). Outdoor cannabis achieves the same \$1,000 per-pound rate as in Scenario 1, while mixed-light achieves \$800 per pound and outdoor fetches just \$600 per-pound (“varying market price”). This is a very general price spread that more accurately reflects current market conditions, though we note that actual prices can vary widely depending on THC content, quality, consistency and numerous other factors. All other inputs for taxes and fees remain the same.

As can be seen in the table below, this difference in market price has no change on the annual tax paid under a square footage tax rate. However, the equivalent rate as a percentage of gross receipts changes dramatically, as both mixed-light and outdoor are now paying the same amount of tax on a lower amount

of gross receipts (Column E). The equivalent gross receipts rate for indoor remains the same at 3.00%, while the equivalent rate for mixed-light climbs to 3.75% and the equivalent rate for outdoor moves up to 5.00% (Column I).

Scenario 2; High Rates w/ Varying Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate per SF	Total Annual Tax Paid	Tax Rate per Pound	Tax Rate % Gross Receipts
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	\$12.00	\$120,000	\$30.00	3.00%
Mixed Light	3	10,000	3,000	\$800	\$2,400,000	\$9.00	\$90,000	\$30.00	3.75%
Outdoors	1	10,000	1,000	\$600	\$600,000	\$3.00	\$30,000	\$30.00	5.00%

All State and local taxes and fees remain the same, as these are not tied to the business' gross receipts. Since the price per pound for indoor cultivation has not changed in this scenario, there is no change to the tax/fee burden. For mixed-light and outdoor cultivation, however, the impact of those taxes and fees as an equivalent percentage of gross receipts changes significantly. The total tax/fee burden as a percentage of gross receipts rises to 25.32% for mixed-light and to 36.35% for outdoor cultivation (Column R). The State tax/fee burden rises to 20.65% for mixed-light cultivation and 27.68% for outdoor (Column S), while the local tax/fee burden rises to 4.67% for mixed-light and 8.67% for outdoor (Column T). The percentage of the total tax/fee burden that is due to local taxes and fees (Column U) remains unchanged, as the rates have not changed in this scenario, only the relative price per pound.

Scenario 2; Combined State and Local Tax/Fee Burden												
	L	M	N	O	P	Q	P	Q	R	S	T	U
Cultivation Type	State Cultivation Tax Paid @ \$10.08/oz	State Annual License Fee	State Taxes and Fees; Total	Local Cultivation Tax (Column G)	Local Annual License Fee	Local Taxes and Fees; Total	Total Taxes and Fees	Total Gross Receipts (Column E)	Total Taxes/Fees as % Gross Receipts	State Taxes/Fees as % Gross Receipts	Local Taxes/Fees as % Gross Receipts	Local % of Total Tax/Fee Burden
Indoors	\$645,120	\$35,410	\$680,530	\$120,000	\$22,000	\$142,000	\$822,530	\$4,000,000	20.56%	17.01%	3.55%	17.26%
Mixed Light	\$483,840	\$11,800	\$495,640	\$90,000	\$22,000	\$112,000	\$607,640	\$2,400,000	25.32%	20.65%	4.67%	18.43%
Outdoors	\$161,280	\$4,820	\$166,100	\$30,000	\$22,000	\$52,000	\$218,100	\$600,000	36.35%	27.68%	8.67%	23.84%

Scenario 3; Low Tax Rates with a Varying Market Price

Scenario 3 maintains the same assumptions for number of harvests and yield, and the same varying market prices as described in Scenario 2 but applies a much lower range of square footage tax rates (Column F). We have reduced the rates to \$4/sf for indoor cultivation, \$3/sf for mixed-light and \$1/sf for outdoor. These rates cleanly match the average number of harvest cycles per year for each cultivation type. As shown in the table below, the total annual tax paid (Column G) drops to \$40,000 for 10,000sf of indoor cultivation, \$30,000 for mixed-light, and \$10,000 for outdoor. The equivalent gross receipts tax rate drops to 1.00% for indoor, \$1.25 for mixed-light and \$1.67 for outdoor (Column I).

Scenario 3; Low Rates w/ Varying Market Price									
	A	B	C	D	E	F	G	H	I
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate per SF	Total Annual Tax Paid	Tax Rate per Pound	Tax Rate % Gross Receipts
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	\$4.00	\$40,000	\$10.00	1.00%
Mixed Light	3	10,000	3,000	\$800	\$2,400,000	\$3.00	\$30,000	\$10.00	1.25%
Outdoors	1	10,000	1,000	\$600	\$600,000	\$1.00	\$10,000	\$10.00	1.67%

These lower rates bring the overall tax/fee burden down by around 2% to 3%, compared to Scenario 2. For indoor cultivation, the total tax fee burden drops to 18.56%, for mixed-light, the burden drops to 22.82% and for outdoor it drops to 33.02% (Column R). Even with the local rates being based on the number of harvests per year, the tax burden still has an unequal impact, particularly on outdoor cultivation. This is due to portion of that burden that comes from State taxes and fees, which remains at 17.01%, 20.65% and 27.68% for indoor, mixed-light and outdoor, respectively (Column S). The total local tax/fee burden as a percentage of gross receipts drops to just 1.55% for indoor cultivation, 2.17% for mixed-light and 5.33% for outdoor. The uneven burden across the cultivation types is due to the annual fees, which in these scenarios remain constant regardless of cultivation type. Local taxes and fees make up 8.35% of the total tax/fee burden for indoor cultivation, 9.50% for mixed-light and 16.15% for outdoor. From 84% to 92% of the total tax/fee burden is due to taxes and fees imposed by the State of California.

Scenario 3; Combined State and Local Tax/Fee Burden												
	L	M	N	O	P	Q	P	Q	R	S	T	U
Cultivation Type	State Cultivation Tax Paid @ \$10.08/oz	State Annual License Fee	State Taxes and Fees; Total	Local Cultivation Tax (Column G)	Local Annual License Fee	Local Taxes and Fees; Total	Total Taxes and Fees	Total Gross Receipts (Column E)	Total Taxes/Fees as % Gross Receipts	State Taxes/Fees as % Gross Receipts	Local Taxes/Fees as % Gross Receipts	Local % of Total Tax/Fee Burden
Indoors	\$645,120	\$35,410	\$680,530	\$40,000	\$22,000	\$62,000	\$742,530	\$4,000,000	18.56%	17.01%	1.55%	8.35%
Mixed Light	\$483,840	\$11,800	\$495,640	\$30,000	\$22,000	\$52,000	\$547,640	\$2,400,000	22.82%	20.65%	2.17%	9.50%
Outdoors	\$161,280	\$4,820	\$166,100	\$10,000	\$22,000	\$32,000	\$198,100	\$600,000	33.02%	27.68%	5.33%	16.15%

Conclusion

This analysis was provided to show how State and local taxes and fees combine to create an overall tax burden on cannabis cultivation and to illustrate the portion of the overall tax/fee burden that is within the control of the local jurisdiction. We have provided 3 scenarios employing only 2 variables: tax rates per square foot and the market price per pound. These scenarios demonstrate that the taxes and fees imposed by the State of California account for as much as 92% of the overall tax/fee burden for cannabis cultivators. Even when the local jurisdiction imposes relatively high taxes, the State's portion of the overall tax/fee burden on cannabis cultivators still exceeds 75%. Given this, the amount of tax relief that can be offered by a city or county is limited.

In addition, fees must be set to accurately reflect the actual cost to the local government of regulating the cannabis business. A reduction in fees must be accompanied by a commensurate reduction in staff time or other county/city costs, which generally means less regulatory oversight of the business. Otherwise, any reduction in fees would result in regulatory costs being paid out of the general fund and, thus, borne by the taxpayers, generally, rather than by the business that benefits from the service provided. Given this, the local jurisdiction's ability to provide relief is limited further still, to only that portion of the overall State and local tax/fee burden that is comprised of local cannabis taxes.

This analysis also shows the importance of setting cultivation tax rates that are equitable for the various cultivation types. Outdoor cultivation, in particular, is limited to only a single harvest per year and generally receives a significantly lower wholesale price per pound. Both of these factors must be considered when setting square footage tax rates to keep the equivalent rates as a percentage of gross receipts similar.

D. Fiscal Impacts and Fees

HdL has prepared this fiscal impact study to provide a general discussion of the County costs that may be associated with the permitting, regulatory monitoring and enforcement of cannabis businesses. This study is intended to inform the County's decision making regarding the development of a cannabis regulatory and tax program by giving an overview of the types of costs that may be incurred, including those costs from exploration and development of the cannabis regulatory program, costs from a review and selection process for cannabis business applicants, land use entitlements and building permits, environmental review where necessary, regulatory monitoring, permit renewals, and any enforcement actions or appeals.

Along with generating revenues through a cannabis business tax, commercial cannabis businesses also bring certain costs to the host jurisdiction due to the staff time and other expenses associated with the permitting, regulation and enforcement of those businesses. In developing a cannabis regulatory program, the County should anticipate these costs and develop cost recovery fees adequate to cover all direct County costs.

The County of Los Angeles is still in the exploratory phase of developing its cannabis regulatory and tax program. It is currently unknown which (if any) commercial cannabis business types will be allowed, or how many, or in what locations, or with what level of regulatory restrictions and oversight. It is also unknown the level to which the County may want to provide relief from certain regulatory costs for social equity applicants. Given this, it is not yet possible to know the details of the County's application review and selection process, the array of businesses that may need to be permitted and regulated, the level of regulatory oversight desired by the County and other important factors necessary for determining the actual permitting and regulatory fees that will be needed.

Recoverable costs may include, but are not limited to, any or all of the following:

- Costs associated with the development of a commercial cannabis regulatory program:
 - Initial outreach and exploration
 - Ordinance development
 - Environmental review
 - Meeting costs and development of staff reports and other materials
 - Consultant costs
 - Development of application procedures and guidelines
 - Development of appropriate fees
 - Development of regulatory protocols and administrative procedures
- Costs associated with the review and permitting of individual cannabis businesses:
 - Development of an RFP for cannabis businesses (if utilized)
 - Conducting application reviews and applicant interviews
 - Background checks
 - Land use permitting and entitlements, including CUP hearings if needed
 - Processing building permits
 - Pre-license inspections
 - Consultant costs associated with any of the above

- Costs associated with ongoing monitoring and permit renewals:
 - Regulatory compliance inspections (may be conducted annually or semi-annually)
 - Other routine inspections that may be required (environmental health, fire department, etc.)
 - Annual revenue audits to ensure proper reporting and remittance of taxes
 - Permit renewal processing
 - Program administration
- Costs associated with mitigating external impacts to the community or the environment:
 - Traffic impacts
 - Odor, noise or lighting impacts
 - Social or public health impacts, *where a clear nexus can be established*
- Costs associated with enforcement and appeals:
 - Regulatory enforcement of any findings of non-compliance
 - Processing and conducting any appeals of enforcement actions
 - Law enforcement actions where necessary

These various costs may be recovered through a variety of fees. In general, costs are assigned to the person or business entity that benefits from the service being provided by the County. The beneficiary varies among the many policy development and regulatory activities described above. Development of the regulatory program benefits those who are allowed to operate a business that would otherwise be prohibited. Processing of applications and land use permits benefits the applicant or proposed business. The cost of monitoring existing businesses for compliance and processing permit renewals benefits the business as it allows them to continue to operate.

Fees are generally divided into a number of categories including initial application fees, permitting and land use entitlement fees, and annual permit renewal fees which may include costs for compliance inspections and annual revenue audits to ensure the business is reporting and remitting the proper portion of gross receipts. Each of these general categories may include a number of individual fees to cover distinct costs or services, not all of which would be applied in every case. These costs all vary from jurisdiction to jurisdiction, depending upon a variety of factors specific to each city or county.

Initial application fees can vary greatly depending upon the details of the application process required by the jurisdiction. Some cities or counties choose not to limit the number of cannabis businesses or to process applications on a “first-come, first-served” basis. Others may solicit applications for a limited number of permits, which will then be reviewed on either a quality assurance (pass/fail) basis or merit-based (high-low score) basis. Final selection of permittees may be done through either a discretionary process or via lottery, where permittees are chosen at random from a pool of all qualifying applicants.

Once applicants have been selected to move forward into the permitting process, the land use entitlement and building permit process is no different than it would be for other, similar businesses. The amount of County staff time (and thus the cost) may vary greatly depending upon the specific location, needed construction or tenant improvements and other building requirements.

Annual permit fees vary greatly from jurisdiction to jurisdiction, based upon the desired level of regulatory oversight and administration. Jurisdictions may require that businesses submit to one or more regulatory

compliance inspections per year, as well as annual cannabis revenue audits to ensure the business is reporting and remitting the proper portion of gross receipts to the host city or county. In addition, some jurisdictions choose to place certain regulatory roles within law enforcement, which may include POST certified officers. This can greatly increase the cost for these regulatory services.

In the table below we have provided the annual permit fees for 27 cities and counties from around California^{xxi}. The fees range from a high of \$14,645 for the City of San Jose to a low of just \$2,606 for Calaveras County. We note that the permit fees for some jurisdictions may vary depending upon the specific type of cannabis business. In such cases, the table displays the highest cost.

Among this sample set, the average annual permit fee is \$20,789 per year. However, this range is heavily skewed by the fees for the City of San Jose, which are more than three-times higher than the next highest fees. We regard this as an outlier as it is not otherwise representative of the overall range.

When we exclude the fees from the City of San Jose, the average annual permit fee among our sample set of California cities and counties comes down to \$16,076. We believe this lower figure is more representative.

Agency	Annual Permit Fee
San Jose	\$147,645
Davis	\$42,359
San Luis Obispo (City)	\$39,634
Chula Vista	\$31,275
Redwood City	\$29,530
Culver City	\$27,771
Placerville	\$22,841
Modesto	\$21,740
Sacramento (City)	\$20,800
San Diego (City)	\$20,803
Grover Beach	\$20,000
Vista	\$19,967
Oakland	\$16,676
Santa Ana	\$12,529
Goleta	\$11,879
Palm Springs	\$10,984
Salinas	\$9,854
Oceanside	\$8,511
Los Angeles (City)	\$9,735
Vallejo	\$8,288
Santa Barbara (County)	\$6,945
San Luis Obispo (County)	\$6,836
San Francisco	\$4,354
Monterey (County)	\$4,355
Santa Cruz (County)	\$4,000
Watsonville	\$3,700
Calaveras County	\$2,606
Average Annual Permit Fee:	\$20,789
Excluding San Jose as an Outlier:	\$16,076

These annual permit costs reflect the direct per-business cost for each jurisdiction to provide its desired level of regulatory oversight for permitted cannabis businesses, including regulatory monitoring and inspections, revenue audits, annual permit renewals and overall administration of its cannabis business regulatory and tax program.

E. References

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