



Legislation Text

File #: 2025-0350, **Version:** 1

To: Board of Supervisors
Department or Agency Name(s): County Administrator's Office
Staff Name and Phone Number: McCall Miller, 707-565-2431
Vote Requirement: Majority
Supervisorial District(s): Countywide

Title:
Cannabis Business Tax Ordinance Amendment - First Reading

Recommended Action:

- A) Consider an Ordinance amending Chapter 35 of the Sonoma County Code, the Cannabis Business Tax Ordinance, to establish new tax rates for cannabis cultivation, effective July 1, 2025; and
- B) Adopt a Resolution introducing, reading the title of, and waiving further reading of a proposed ordinance amending Chapter 35 of the Sonoma County Code.

Executive Summary:

On April 30, 2024, the Board adopted Ordinance 6471, amending Sonoma County Code Chapter 35 (Chapter 35), to set the cannabis business tax rates as follows, effective July 1, 2024:

- Outdoor cultivation, rate of \$0.69/sq. ft.
- Mixed-Light cultivation, rate of \$2.51/sq. ft.
- Indoor cultivation, rate of \$7.58/sq. ft.
- Retail (Dispensary), rate of 3.0%
- Manufacturing, rate of 1.5%

Consistent with prior Board direction, the current tax rates are based on maintaining the square footage taxation model using outside consultant HdL Companies' tax rate convertor model, which assigns a square-footage rate that approximates to an established 2.5% of gross receipts. The Board has also previously directed staff to conduct an annual review of the cannabis cultivation tax rates in an effort to be responsive to market changes. HdL Companies conducted the annual review of cannabis cultivation tax rates in March 2025, using limited operator reported data covering for 2024. With this item, staff presents the findings from the annual review and recommends a 25% rate decrease for cannabis cultivation tax rates, effective July 1, 2025.

Staff's recommendation of a 25% reduction from current rates rather than an average of 45% reduction when applying a 2.5% factor of **reported** gross receipts is primarily based on the limited operator data received and to ensure the Cannabis Fund remains solvent through FY 26-27. This report also discusses alternatives to Staff's recommendation.

Discussion:

History

The Cannabis Business Tax (Measure A) was passed by voters in the March 7, 2017 special election with 71% voter approval. Measure A provided a framework for taxation, set maximum allowable rates for all operator types, and granted authority to the County to, among other things, set lower rates, tax certain operator types, and establish various tax administration policies. Since Measure A was approved, numerous changes have been made to the Cannabis Business Tax Ordinance:

- On December 13, 2016, Ordinance 6188 imposed a cannabis business tax on commercial cannabis businesses, which established Chapter 35.
- On June 13, 2017, Ordinance 6203 amended Chapter 35, setting cannabis business tax rates within the voter-approved maximum rates, and establishing certain regulations.
- On August 28, 2018, Ordinance 6241 amended Chapter 35, to make administrative changes.
- On April 19, 2022, Ordinance 6374 amended Chapter 35, to temporarily reduce the cultivation tax rates by 45 percent and make administrative changes.
- On May 23, 2023, Ordinance 6433 amended Chapter 35, setting cannabis cultivation tax rates, using the tax rate convertor model (2.5% gross receipts converted to square footage tax), effective July 1, 2023.

On April 30, 2024, Ordinance 6471 amended Chapter 35, setting the current cannabis business tax rates using the tax rate convertor model for cannabis cultivation tax rates (2.5% gross receipts converted to square footage tax), effective July 1, 2024. The current cannabis tax rates are:

Permit Type	Rate
Outdoor cultivation	\$ 0.69 / sq. ft.
Mixed-Light cultivation	\$ 2.51 / sq. ft.
Indoor cultivation	\$ 7.58 / sq. ft.
Retail (Dispensary)	3.0% of gross receipts
Manufacturing	1.5% of gross receipts

March 2025 HdL Companies Annual Cultivation Tax Analysis

To gather relevant cannabis cultivation data for HdL Companies (HdL) to conduct the annual cannabis tax rate review, County staff sent a Cannabis Cultivation Questionnaire (Questionnaire) to all permitted cannabis cultivation operators via email addresses included in the cannabis permit applications (66 operations, some of which include multiple types of cultivation). Participation in and completion of the Questionnaire was voluntary. Staff emailed operators a total of three times over a period of one month to encourage participation and completion of the Questionnaire. A total of 13 responses (20% of total operators) were received (see table below). In comparison, the County received seven responses (6% of total operations) and 11 responses (15% of total operations) for the February 2023 and March 2024 analyses, respectively. Data from the 2025 Questionnaire responses are as follows:

Cultivation Type	Number of permitted operations	Number of operator responses	Percent of responses compared to permitted operators
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Outdoor	53	10	19%
Mixed-Light	2	1*	50%
Indoor	16	2	12.5%

*Note: The one mixed-light operator response did not include pricing information, making their input unusable.

County staff provided the Questionnaire data to HdL for its annual tax rate analysis, in which HdL includes a discussion of general market trends and wholesale prices to determine how they affect the County’s square-footage tax as a percentage of gross receipts. The HdL report is included as Attachment G. Highlights from the HdL review include:

- The County of Sonoma has a robust cannabis industry.
- The reported average size of outdoor cultivation operation increased by 72% to 28,300 square feet whereas the reported average size of indoor cultivation operation decreased by 17% to 1,425 square feet compared to 2024.
- The average price per pound for indoor cannabis saleable product decreased from \$606 in 2024 to \$240 as reported for this analysis; the average price for outdoor cannabis products has also decreased from \$277 to \$143 (there was no mixed-light sales information recorded for 2024).
- One product price increased - that of outdoor whole fresh plant - from \$49 to \$67. This product accounts for a small subset of saleable product.

It is important to note that these figures are indicative of those operators and businesses who chose to participate in the analysis. Those businesses represent a small percentage (20%) of the total number of businesses in the county cannabis industry, which is approximately 66 licensed operations. It should be assumed that operators’ participation is likely because of the incentive to encourage the County to adjust the cultivation tax rates.

Based on information provided by HdL in both 2023 and 2024, the Board has previously reduced cannabis cultivation tax rates to be in line with 2.5% gross receipts converted to square footage. The 2025 analysis presents a variety of prospective tax rates based on sales data as reported by operators, which has not been validated. The HdL report, due to the data not being validated, coupled with historically low response rates, does not provide a complete picture of the cannabis industry as a whole in the county nor does it account for program operations.

Chapter 35, Cannabis Business Tax Ordinance

The Cannabis Business Tax Ordinance includes a provision for an annual adjustment to the square-footage based cannabis cultivation tax rates on July 1 of each fiscal year by the most recent Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area. If no action is taken today, the cultivation tax rates will automatically be raised on July 1, 2025 by the most recent CPI, which is 2.7 as of the February 2025 published rate. If the CPI adjustment were to go into effect for FY 25-26, the cannabis cultivation tax rates would be:

- Outdoor cultivation: \$0.71 / square foot
- Mixed-Light cultivation: \$2.58 / square foot
- Indoor cultivation: \$7.78 / square foot

Supply Chain tax rates (retail and manufacturing) were not analyzed as part of this annual review. These rates use the gross receipts method for taxation and are not affected by CPI adjustments.

Sonoma County Cannabis Tax Fund Budget and Program Costs

Cannabis program costs are funded by cannabis business tax revenues. Due to declining revenue, the program has had to use fund balance to maintain program operations. Estimated program costs for FY 25-26 and FY 26-27 are approximately \$1.7 million each year. However, cannabis business tax revenue is estimated at only \$890,000. Cannabis program costs include staff in five County departments, including 1.5 full-time equivalent code enforcement positions, legal costs (County Counsel and external counsel), other contract services, and the Environmental Impact Report and Cannabis Program Update (See Attachment D). Program costs do not include those for the Department of Health Services Environmental Health Division or Department of Agriculture / Weights & Measures (AWM), which are offset by permit fees, nor Permit Sonoma permit fees, as those permits are at-cost billed to the applicants.

After significant declines in taxable (verified) canopy from fiscal year 21-22 to fiscal year 23-24, taxable canopy has stabilized in the current fiscal year, and taxable canopy for FY 24-25 was similar to that of FY 23-24. See table below for taxable canopy for fiscal years 21-22 through 24-25.

	FY 21-22 (sf/ac)	FY 22-23 (sf/ac)	FY 23-24 (sf/ac)	FY 24-25 (sf/ac)
Outdoor	1.3M sf / 30.2 ac	890,000 sf / 20.5 ac	579,350 sf / 13.3 ac	570,600 sf / 13.1 ac
Mixed-light	29,600 sf / 0.68 ac	7,800 sf / 0.18 ac	6,970 sf / 0.16 ac	6,100 sf / 0.14 ac
Indoor	68,800 sf / 1.58 ac	55,300 sf / 1.27 ac	40,100 sf / 0.92 ac	33,970 sf / 0.78 ac

This stabilization aligns with the actions taken by the Board last year to reduce cultivation tax rates in response to the declining market. Although a similar amount of cultivation was confirmed each year, projected cannabis cultivation tax revenue will be lower in FY 24-25 than that received in FY 23-24 due to the reduced cannabis cultivation tax rates. To make up the difference between program costs and cannabis business tax revenue, the program has relied on, and will continue to rely on, fund balance to make up the difference in program costs from cannabis business tax revenue received, which, with current assumptions, will sustain the program through FY 26-27. Projections include fund balance the Board committed in June 2021 to the Cannabis Program Update and Environmental Impact Report, which is being conducted by Permit Sonoma, estimated to cost approximately \$2.5 million.

Other Jurisdictions

A review of cannabis cultivation tax rates for other jurisdictions is included in Attachment F. The County’s tax rate for outdoor cultivation is comparable to other counties using the square footage model for taxation, such as Lake and Monterey. In contrast, the County’s tax rate for indoor cultivation is much higher than those same counties.

As part of their analysis, HdL converted the current cannabis cultivation tax rates to a gross receipts percentage, adjusting for the average price per pound as reported for 2024, which is: 4.83% for outdoor cultivation; 5.47% for mixed-light cultivation; and 6.32% for indoor cultivation. These rates are comparable to those counties using the gross receipts method for taxation, which include San Luis Obispo, Santa Barbara, Santa Cruz, and Yolo.

Options and Staff Recommendation

Staff developed and evaluated the following options:

1. Adjust current cannabis cultivation tax rates down by 25%.
2. Adjust current cannabis cultivation tax rates to align with 2.5% gross receipts converted to square footage.
3. No change to the ordinance, allowing the annual CPI adjustment to occur.
4. Maintain current tax rates, not allowing the annual CPI adjustment to occur.

Cultivation Type	Option 1. Reduce 25%	Option 2. Gross Receipts rate: 2.5%	Option 3. CPI adjusted	Option 4. No change
Outdoor	\$0.52	\$0.36	\$0.71	\$0.69
Mixed-Light	\$1.88	\$1.15	\$2.58	\$2.51
Indoor	\$5.69	\$3.00	\$7.78	\$7.58

Staff recommends the Board adopt Option 1, as it is responsive to the reported decline in market prices and limits the use of fund balance to maintain the Cannabis Program through FY 26-27 and implementation of the Cannabis Program Update and EIR.

The Cannabis Program Update and EIR project is anticipated to be completed during FY 25-26 with implementation continuing through FY 26-27. In order to maintain Cannabis Program functions through FY 26-27, a certain level of tax revenue is required in combination with the use of fund balance. The projected revenue and use of fund balance associated with each tax rate option is provided in Attachment E. Staff continue to strive to be responsive to the reported decline in market prices but must also maintain Cannabis Program operations and fund balance through FY 26-27 to allow time for implementation of the Cannabis Program Update and EIR.

Option 2, which would adjust the cultivation tax rates to the revised equivalent to 2.5% of gross receipts, is not recommended as the estimated reduced tax revenue would result in a higher use of fund balance, thus limiting Cannabis Program operations prior to the implementation of the Cannabis Program Update and EIR.

Options 3 and 4 are not recommended as they are not responsive to market price changes for cultivation as reported in HdL’s review. If one of these options were chosen, the cannabis cultivation tax rates would increase by the CPI rate of 2.7 effective July 1, 2025 (Option 3) or would remain the same (Option 4).

Option 1 is within the scope of authority granted to the Board of Supervisors by the voters in approving the cannabis business tax. Under this option, the recommended cannabis cultivation tax rates for FY 25-26 would be:

- Outdoor cultivation - \$0.52 / square foot
- Mixed-Light cultivation - \$1.88 / square foot
- Indoor cultivation - \$5.69 / square foot

Below is projected cannabis business tax revenue for FY 25-26, including supply chain businesses, assuming that Option 1 is adopted.

Cannabis Business Type	Projected Tax Revenue*
Cultivation Type and Tax Rate	FY 25-26
Outdoor	\$297,410
Mixed-Light	\$11,465
Indoor	\$193,328
Total projected cultivation tax revenue	\$502,203
Supply Chain Operation Type and Tax Rate	
Retail (Dispensary), 3.0%	\$350,000
Manufacturing, 1.5%	\$40,000
Total projected supply chain tax revenue	\$390,000
Total projected cannabis business tax revenue	\$892,203

*Note: Assumptions for cultivation tax revenue are based on known verified taxable canopy for FY 24-25. Canopy for FY 25-26 will be verified throughout the fiscal year.

It is difficult to forecast the numerous factors that go into a tax rate analysis, including when the market price of cannabis will rebound, whether verified and taxable canopy numbers will increase, and what the Program Update will include. Based on current assumptions, the projected tax revenue at the recommended adjusted rates and year-end estimated FY 24-25 fund balance will meet the projected annual cannabis program escalated costs through FY 26-27. Staff will continue to track program costs and revenue and will return with program operational adjustments as necessary.

Strategic Plan:

N/A

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

4/30/2024 - Adopted Ordinance No. 6471, amending cannabis cultivation, retail (dispensary), and manufacturing tax rates, effective July 1, 2024 ([SONOMA COUNTY - File #: 2024-0305 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6645993&GUID=B6C818B7-4452-4E9E-BF21-E17ED39D40C3&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6645993&GUID=B6C818B7-4452-4E9E-BF21-E17ED39D40C3&Options=&Search=>))

5/23/2023 - Adopted Ordinance No. 6433 setting cannabis cultivation tax rates, using the tax rate convertor model (2.5% gross receipts converted to square footage tax), effective July 1, 2023 ([SONOMA COUNTY - File #: 2023-0323 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6208098&GUID=F1689D18-7F34-4AA5-9531-0A9A17C47910&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6208098&GUID=F1689D18-7F34-4AA5-9531-0A9A17C47910&Options=&Search=>))

4/19/2022- Adopted Ordinance No. 6374 to temporarily reduce the cultivation tax rates by 45% and make administrative changes ([SONOMA COUNTY - File #: 2022-0331 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5552456&GUID=CA51C391-F51F-4BDD-B912-3F2A83817AB1&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5552456&GUID=CA51C391-F51F-4BDD-B912-3F2A83817AB1&Options=&Search=>))

8/28/2018 - Adopted Ordinance No. 6241 to make administrative changes

6/13/2017 - Adopted Ordinance No. 6203 setting cannabis business tax rates within the voter-approved maximum rates, and establishing certain regulations

12/13/2016 - Adopted Ordinance No. 6188 to impose a cannabis business tax on commercial cannabis businesses, which established Chapter 35, the Cannabis Business Tax Ordinance

FISCAL SUMMARY

Expenditures	FY24-25 Adopted	FY25-26 Projected	FY26-27 Projected
Budgeted Expenses		\$1,715,000	\$1,761,000
Additional Appropriation Requested			
Total Expenditures		\$1,715,000	\$1,761,000
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other		\$890,000	\$900,000
Use of Fund Balance		\$825,000	\$861,000
General Fund Contingencies			
Total Sources		\$1,715,000	\$1,761,000

Narrative Explanation of Fiscal Impacts:

There are no new expenditures related to the implementation of the new tax rate as the taxation methodology is unchanged. Annual cannabis program costs will be supplemented with cannabis tax fund balance in the amount of approximately \$825,000 in FY 25-26 and \$861,000 in FY 26-27. Estimated FY 26-27 ending fund balance is \$1.03M. Fiscal impacts and use of fund balance as it relates to reduced Cannabis Tax revenue is: \$825,000 (Option 1); \$1.01M (Option 2); \$640,000 (Option 3); and \$658,000 (Option 4 or No Adjustment).

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Attachment A: Draft Cannabis Business Tax Ordinance

Attachment B: Resolution introducing, reading the title of, waiving further reading of the proposed Cannabis Business Tax Ordinance

Attachment C: Redline version of existing Cannabis Business Tax Ordinance

Attachment D: Cannabis Tax Fund Budget

Attachment E: Projected Revenue and Use of Fund Balance

Attachment F: Other Jurisdictions Cannabis Tax Rates

Attachment G: HdL Companies 2025 Report

Attachment H: PowerPoint Presentation

Related Items “On File” with the Clerk of the Board:

None