

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT AMENDING TITLE III, DIVISION 1, CHAPTER 3 (REGULATIONS INSIDE THE COASTAL ZONE); TITLE III, DIVISION 1, CHAPTER 4 (REGULATIONS OUTSIDE THE COASTAL ZONE); AND CHAPTER 9, DIVISION 1, TITLE VII (COMMERCIAL MARIJUANA CULTIVATION TAX) OF THE HUMBOLDT COUNTY CODE.

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

SECTION 1. Severability of Provisions. If any title, division, chapter, section, subsection, paragraph, sentence, clause, or phrase of this ordinance is held invalid or unconstitutional for any reason by a court, that decision does not affect the validity or constitutionality of the remainder of this ordinance. The board of supervisors declares that it would have adopted each part of this ordinance irrespective of the validity of any other part.

SECTION 2. Subdivision 313-55.4.12.2.9 of Title III, Division 1, Chapter 3 of the Humboldt County Code is added as follows:

55.4.12.2.9 This performance standard shall apply to all permittees, regardless of whether an application was submitted prior to or after December 31, 2016. Permittees shall provide and maintain security in an amount the Department determines to be sufficient to secure timely payment of annual taxes imposed by Chapter 9 of Division 1 of Title VII of this Code. Permittees shall provide and maintain such security in one of the following forms:

- 1. Cash, or a cash equivalent;*
- 2. A bond or bonds duly executed by an admitted surety insurer, as defined by section 995.120 of the Code of Civil Procedure, payable to the County; or*
- 3. Written agreement of the record owner of the premises consenting to collection on the property tax roll of all taxes, penalties, and other obligations arising out of Chapter 9 of Division 1 of Title VII, of this Code as to the premises. Upon such consent, the Department shall inform the County Assessor, and the Tax Collector shall collect those sums at the time and in the same manner as ad valorem property taxes.*

To maintain a permit or certificate, such security shall be in place by January 1st of each year that the permit or certificate is granted or prior to commencement of cultivation for permits granted after January 1st of that year. If the Planning Department does not receive the security prior to January 1st or commencement of cultivation, the permit or certificate shall be deemed to have expired.

SECTION 3. Subdivision 314-55.4.12.2.9 of Title III, Division 1, Chapter 4 of the Humboldt County Code is added as follows:

55.4.12.2.9 Notwithstanding section 55.4.3.1, this performance standard shall apply to all permittees, regardless of whether an application was submitted prior to or after December 31, 2016. Permittees shall provide and maintain security in an amount the Department determines to be sufficient to secure timely payment of annual taxes imposed by Chapter 9 of Division 1 of Title VII of this Code. Permittees shall provide and maintain such security in one of the following forms:

- 1. Cash, or a cash equivalent;*
- 2. A bond or bonds duly executed by an admitted surety insurer, as defined by section 995.120 of the Code of Civil Procedure, payable to the County; or*
- 3. Written agreement of the record owner of the premises consenting to collection on the property tax roll of all taxes, penalties, and other obligations arising out of Chapter 9 of Division 1 of Title VII, of this Code as to the premises. Upon such consent, the Department shall inform the County Assessor, and the Tax Collector shall collect those sums at the time and in the same manner as ad valorem property taxes.*

To maintain a permit or certificate, such security shall be in place by January 1st of each year that the permit or certificate is granted or prior to commencement of cultivation for permits granted after January 1st of that year. If the Planning Department does not receive the security prior to January 1st or commencement of cultivation, the permit or certificate shall be deemed to have expired.

SECTION 4. Section 719-4 regarding Imposition of Tax in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-4. Imposition of Tax.

In addition to any requirements imposed by Title III of this Code, each ~~property owner whose property is subject to~~ *person issued* a commercial marijuana cultivation permit shall pay an annual tax of \$1 per square foot of outdoor cultivation area, \$2 per square foot of mixed-light cultivation area or \$3 per square foot of indoor cultivation area regardless of whether or not marijuana is actually grown on such property.

SECTION 5. Section 719-6 regarding Collection and Remittance in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-6. Collection and Remittance.

(a) The tax imposed by this chapter shall be collected by the Humboldt County Treasurer-Tax Collector in the same or similar manner as other taxes fixed and collected by the County of Humboldt to capture the calendar year taxes required by this chapter upon information provided by the Humboldt County Planning and Building Department. For purposes of this chapter, taxes

shall be owed for each and every year in which a commercial marijuana cultivation permit is issued by the Humboldt County Planning and Building Department.

(b) The Humboldt County Planning and Building Department shall submit to the Humboldt County Treasurer-Tax Collector's Office sufficient information ~~in order for~~ *so* tax invoices (bills) ~~to can~~ be sent ~~out~~ to all ~~property owners whose properties are subject to a commercial marijuana cultivation permit~~ *persons liable for payments due under this chapter.*

SECTION 6. Section 719-7 regarding Penalties in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-7. Penalties.

(a) Any ~~property owner~~ *person* that fails to pay the tax required by this chapter within thirty (30) days after the due date shall pay, in addition to the tax, a penalty for nonpayment in a sum equal to ten percent (10%) of the total amount due. All taxes and penalties remaining unpaid through December 31st each year will accrue interest at the rate of one and one-half percent (1.5%) per month, for a total of eighteen percent (18%) per year, beginning January 1st and will continue to accrue until redeemed. A cost recovery fee will also be added each time a notice regarding overdue payments is mailed. Receipt of the tax payment by the Humboldt County Treasurer-Tax Collector's Office shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

(b) The Humboldt County Treasurer-Tax Collector is hereby authorized to waive or cancel any penalties, costs or other charges resulting from nonpayment of the tax required by this chapter where the failure to make a timely payment was due to circumstances beyond the taxpayer's control.

SECTION 8. Section 719-12 regarding Application of Provisions in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-12. Application of Provisions.

(a) ~~In the event that the commercial cultivation of marijuana for casual and/or recreational use is legalized or decriminalized in the State of California, the~~ *The* provisions of this Chapter shall apply, ~~without subsequent voter approval,~~ to each ~~property owner whose property is subject to~~ *person holding* a permit authorizing the commercial cultivation of marijuana for such purposes in accordance with the applicable provisions of this Code and all other applicable state and federal laws and regulations.

(b) No payment of any tax required under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Chapter implies or authorizes that any activity connected with the cultivation, possession or provision of marijuana is legal unless otherwise authorized and allowed by the State of California and permitted by the County. (Ord. 2567, § 1, 12/13/2016)

SECTION 9. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

SECTION 10. This ordinance is intended to restore the provisions of Chapter 9 of Division 1 of Title VII of the Humboldt County Code as they read before the adoption of Ordinance No. 2575 and to eliminate references suggesting property owners who are not permitted cannabis cultivators have an obligation to pay the tax due under that chapter. It shall be interpreted in light of that intent.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

AYES: Supervisors--

NOES: Supervisors--

ABSENT: Supervisors--

**Chair of the Board of Supervisors of the
County of Humboldt, State of California**

(SEAL)

ATTEST:

**Kathy Hayes, Clerk of the Board of Supervisors
County of Humboldt**