



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-8

For the meeting of: June 6, 2017

Date: May 23, 2017

To: Board of Supervisors

From: Amy S. Nilsen, County Administrative Officer *AN*

Subject: Adoption of Ordinance: Amending Certain Sections 719-3 through 719-7 and 719-12 of the Commercial Marijuana Cultivation Tax Ordinance

RECOMMENDATION(S):

That the Board of Supervisors adopt Ordinance No. 2575, amending sections 719-3 through 719-7 and section 719-12 relating to the Commercial Marijuana Cultivation Tax Ordinance to Title VII of the Humboldt County Code.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

On May 23 your Board introduced the above referenced ordinance amending certain sections for adoption with a directive to the Clerk of the Board to publish a pre-adoption summary of the ordinance and set the ordinance for adoption at least one week away. This action completes adoption of the ordinance and will result in publication of a post-adoption summary.

Prepared by: Amy S. Nilsen

CAO Approval *[Signature]*

REVIEW:

Auditor _____ County Counsel Sm Human Resources _____ Other _____

TYPE OF ITEM:

Consent
 Departmental
 Public Hearing
 Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell Seconded by Supervisor Wilson

Ayes Fennell, Sundberg, Bohn, Wilson
Nays _____
Abstain _____
Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. I-1

Meeting of: 5-23-17

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: June 6, 2017

By: *[Signature]*
Kathy Hayes, Clerk of the Board

FINANCIAL IMPACT:

There is no significant financial impact to the county by amending this ordinance; however, the county can expect to benefit from collection of commercial marijuana cultivation taxes.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

None

ATTACHMENTS:

1. Humboldt County Commercial Marijuana Cultivation Tax Ordinance Amendment

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of June 6, 2017

**ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT
AMENDING SECTIONS 719-3 THROUGH 719-7, AND 719-12 OF TITLE VII OF THE
HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL MARIJUANA
CULTIVATION TAX**

ORDINANCE NO. 2575

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

SECTION 1. Sections 719-3 through 719-7, and 719-12 of Chapter 9 of Division 1 of Title VII of the Humboldt County Code are amended as shown on the attached pages.

SECTION 2. 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.

PASSED, APPROVED AND ADOPTED this 6th day of June, 2017 on the following vote, to wit:

| | | |
|---------|-------------|---------------------------------|
| AYES: | Supervisors | Fennell, Sundberg, Bohn, Wilson |
| NOES: | Supervisors | -- |
| ABSENT: | Supervisors | Bass |



RYAN SUNDBERG, Vice Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

ATTEST:
Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____
Ana Hartwell, Deputy

TITLE VII - FINANCE, REVENUE AND TAXATION

DIVISION 1

REVENUE AND TAXATION

CHAPTER 9

COMMERCIAL MARIJUANA CULTIVATION TAX

719-1. TITLE.

This Chapter shall be known as the Humboldt County Commercial Marijuana Cultivation Tax Ordinance. (Ord. 2567, § 1, 12/13/2016)

719-2. PURPOSE AND INTENT.

This Chapter is enacted solely for the purpose of raising revenue for general County purposes, and is not intended to be regulatory. Nothing in this Chapter is intended, nor shall be construed, to exempt commercial marijuana cultivation from compliance with all applicable provisions of this Code, including, without limitation, the requirements set forth in Title III, and all other applicable state and federal laws and regulations. (Ord. 2567, § 1, 12/13/2016)

719-3. DEFINITIONS.

(a) "Commercial marijuana cultivation" shall mean any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of marijuana or cannabis, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered or sold in accordance with the applicable provisions of this Code and all other applicable state and federal laws and regulations. (Ord. 2567, § 1, 12/13/2016)

(b) "Commercial marijuana cultivation permit" shall mean any zoning clearance certificate, special permit or conditional use permit issued by the Humboldt County Planning and Building Department pursuant to Title III of this Code, which authorizes commercial marijuana cultivation to take place on the particular property listed therein. (Ord. __, § __, __/__/2017)

(bc) "Cultivation area" shall mean the cultivation area stated on the commercial marijuana cultivation permit issued by the Humboldt County Planning and Building Department. sum of the area(s) of marijuana cultivation as measured around the perimeter of each discrete area of marijuana cultivation on a single premises, as defined herein. Area of marijuana cultivation is the physical space where marijuana is grown and includes, without limitation, garden beds or plots, the exterior dimensions of hoop houses or green houses, and the total area of each of the pots and bags containing marijuana plants on the premises. (Ord. 2567, § 1, 12/13/2016; Ord. __, § __, __/__/2017)

(cd) "Indoor" shall mean indoor cultivation of marijuana which involves the exclusive use of artificial lighting. (Ord. 2567, § 1, 12/13/2016; Ord. __, § __, __/__/2017)

(de) "Mixed-light" shall mean cultivation of marijuana which involves the use of a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in Section 314-55.4.11, et seq. of this Code, or as to be determined by the Department of Food and Agriculture, whichever is less. (Ord. 2567, § 1, 12/13/2016; Ord. __, § __, __/__/2017)

(ef) "Outdoor" shall mean outdoor cultivation of marijuana which does not involve the use of artificial lighting of any kind. (Ord. 2567, § 1, 12/13/2016; Ord. __, § __, __/__/2017)

~~(f) "Person" shall mean an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit and includes the plural as well as the singular number. (Ord. 2567, § 1, 12/13/2016)~~

(g) "Premises" shall mean a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor, mixed-light, or indoor cultivation or processing of marijuana, or a leased or owned space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture or distribution of marijuana. (Ord. 2567, § 1, 12/13/2016)

(h) "Property owner" shall mean any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit who owns property within the unincorporated area of Humboldt County. (Ord. _____, § __, __/__/2017)

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 a commercial marijuana cultivation permit person engaged in legally authorized commercial marijuana cultivation within the unincorporated area of Humboldt County 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. (Ord. 2567, § 1, 12/13/2016; Ord. _____, § __, __/__/2017)

719-5. ANNUAL ADJUSTMENT.

(a) The tax imposed by this Chapter shall be adjusted on July 1, 2017, and July 1st of each succeeding year based on the Consumer Price Index (CPI) for all urban consumers in the as published by the United States Government Bureau of Labor Statistics; however, no adjustment shall decrease the tax imposed by this Chapter, unless approved by the Humboldt County Board of Supervisors. (Ord. 2567, § 1, 12/13/2016; Ord. _____, § __, __/__/2017)

(b) On or before July 1, 2017, and on or before July 1st of each succeeding year, the County Administrative Officer or designee thereof shall supply to the Humboldt County Planning and Building Director or designee thereof, in a formal communication, the Consumer Price Index (CPI) for all urban consumers as published by the United States Government Bureau of Labor Statistics for computation of the tax imposed by this Chapter. (Ord. _____, § __, __/__/2017)

719-6. COLLECTION AND REMITTANCE.

(a) The tax imposed by this Chapter shall be collected by the Humboldt County Treasurer-Tax Collector biannually in the same or similar manner as other taxes fixed and collected by the County of Humboldt. 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. begin to accrue on the date on which a person becomes engaged in legally authorized commercial marijuana cultivation in accordance with the applicable provisions of this Code and all other applicable state and federal laws and regulations. (Ord. 2567, § 1, 12/13/2016; Ord. _____, § __, __/__/2017)

(b) The Humboldt County Planning and Building Department shall submit to the Humboldt County Treasurer-Tax Collector's Office sufficient information, in order for tax invoices (bills) to be sent out to all property owners whose properties are subject to a commercial marijuana cultivation permit. (Ord. _____, § __, __/__/2017)

719-7. PENALTIES.

Any property owner person that fails to pay the tax required by this Chapter within 30 days after the due date shall pay, in addition to the tax, a penalty for nonpayment in a sum equal to 25 percent of the total amount due. An additional 10 percent penalty shall be added on the first day of each month following the month of the imposition of the initial 25 percent penalty if the tax remains unpaid - up to a maximum of 100 percent of the tax payable on the due date. 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. (Ord. 2567, § 1, 12/13/2016; Ord. _____, § __, ___/___/2017)

719-8. ADDITIONAL PENALTIES.

Any violation of this Chapter shall constitute a public nuisance and shall be subject to any and all administrative, civil, or criminal remedies available to the County, including those set forth in Title III, Division 5, Chapter 1 of this Code. (Ord. 2567, § 1, 12/13/2016)

719-9. MODIFICATION, REPEAL OR AMENDMENT.

The Humboldt County Board of Supervisors may repeal this Chapter, or amend it in a manner which does not result in an increase in the amount of the tax or broaden the scope of the tax imposed herein, without further voter approval. If the Board of Supervisors repeals any provision of this Chapter, it may subsequently reenact it without voter approval, as long as the reenacted provision does not result in an increase in the amount of the tax or broaden the scope of the tax imposed herein. (Ord. 2567, § 1, 12/13/2016)

719-10. ADMINISTRATION.

The Humboldt County Administrative Officer or designee thereof, upon the approval of the Humboldt County Board of Supervisors, may promulgate regulations to implement and administer the provisions of this Chapter. (Ord. 2567, § 1, 12/13/2016)

719-11. RECORD INSPECTION.

Whenever it is necessary to examine any books or records, including tax returns, of any entity subject to the provisions of this Chapter, to ascertain the amount of any tax due pursuant to this Chapter, the County shall have the power and authority to examine such necessary books and records at any reasonable time including, without limitation, during normal business hours. Such records shall be maintained for no less than seven (7) years. (Ord. 2567, § 1, 12/13/2016)

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 provisions of this Chapter shall apply, without subsequent voter approval, to each property owner whose property is subject to a permit authorizing the commercial cultivation of person cultivating marijuana for such purposes in accordance with the applicable provisions of this Code and all other applicable state and federal laws and regulations. (Ord. 2567, § 1, 12/13/2016; Ord. _____, § __, ___/___/2017)

(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)

719-13. SEVERABILITY.

If any provision of this Chapter, or the application thereof, is held invalid, such invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provisions or application and to this end, the provisions or application of this Chapter are severable. (Ord. 2567, § 1, 12/13/2016)

719-14. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The purpose of this Chapter is to establish a government funding mechanism for general County purposes and the County is not committing to a specific course of action with respect to the tax revenue generated hereunder, and therefore, this Chapter is not a "project" subject to the requirements of the California Environmental Quality Act ("CEQA") as defined in Section 15378, subdivision (b), of the CEQA Guidelines. (Ord. 2567, § 1, 12/13/2016)

719-15. OPERATIVE DATE.

This Chapter shall become operative on January 1, 2017. (Ord. 2567, § 1, 12/13/2016)

SUMMARY FOR PUBLICATION AFTER ADOPTION OF ORDINANCE

(The summary shall be published within fifteen (15) days after the adoption of the ordinance.)

SUMMARY

On _____, 2017, the Humboldt County Board of Supervisors adopted Ordinance No. _____ amending Sections 719-3 through 719-7, and 719-12 of Title VII of the Humboldt County Code relating to the Commercial Marijuana Cultivation Tax.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors.

The votes were:

AYES:

NOES:

ABSENT: