

ORDINANCE NO. 16-048

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DIXON, AMENDING CHAPTER 4.02, BUSINESS LICENSE TAX, TO TITLE 4, REVENUE AND FINANCE, OF THE DIXON MUNICIPAL CODE

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as Cal. Health and Safety Code § 11362.5, and known as "The Compassionate Use Act of 1996" or "CUA"); and

WHEREAS, in 2003, the California legislature passed SB 420 (Medical Marijuana Program Act), which amended the Health and Safety Code to permit the establishment of medical marijuana dispensaries for the distribution of marijuana for medical purposes; and

WHEREAS, on October 9, 2015, Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643), collectively referred to as the Medical Marijuana Regulation and Safety Act (the "MMRSA"). MMRSA sets up a State licensing system for commercial medical marijuana uses while also allowing cities to maintain local control of marijuana cultivation; and

WHEREAS, on January 12, 2016, in response to MMRSA, the City adopted an ordinance prohibiting marijuana cultivation and delivery in order to maintain local control of marijuana cultivation within city limits; and

WHEREAS, on November 8, 2016, Californians may be asked to vote to decide whether the State should legalize the commercial sale, use, and possession of marijuana for recreational or non-medical use; and

WHEREAS, if such a proposition is proposed and approved by California voters on November 8, 2016, the City intends to have in place a legal mechanism to tax businesses involved in marijuana cultivation and distribution, if such activities are authorized and approved by the City in the future; and

WHEREAS, all persons engaged in business activity in the City are required to obtain a business license tax certificate and pay the city's business license tax; and

WHEREAS, this Ordinance would tax businesses engaged in marijuana cultivation and distribution at a maximum rate of up to 15% of monthly gross receipts, as directed by the City Council under the business license tax section of the Dixon Municipal Code; and

WHEREAS, the City Council of the City of Dixon finds that it is in the best interest of the health, welfare and safety of the public to submit this ordinance to the qualified voters of the City at the next statewide general election on November 8, 2016.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF DIXON ORDAIN:

SECTION 1. Chapter 4.02, Business License Tax, of Title 4, Revenue and Finance, of Dixon's Municipal Code shall be amended to read as follows:

Section 4.02.020, Definitions, shall be deleted in its entirety and replaced as follows:

4.02.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Business" means professions, trades, occupations, gainful activities, and all and every kind of calling whether or not carried on for profit.

"City" means the City of Dixon, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

"Collector" means the Director of Finance or other City officer or employee charged with the administration of this chapter.

"Fixed place of business" means the premises occupied in the City for the particular purpose of conducting a business there and regularly kept open for that purpose with a competent person in attendance for the purpose of attending to such business.

"Gross receipts" means the total amount charged or received for the performance of any act, service or employment of whatever nature it may be, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise, for which a charge is made or credit allowed. Gross receipts shall be calculated without any deduction on account of any of the following: (i) the cost of tangible property sold or bartered; (ii) the cost of materials or products used, labor or service cost, interest paid, losses, or other expense; or (iii) transportation costs

"Marijuana" or "Cannabis" has the meaning as defined in California Health and Safety Code section 11018.

"Marijuana business" means any business activity involving the commercial cultivation, distribution and exchange of marijuana, including but not limited to the, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting,

processing, preparing, storing, packaging, providing, wholesale and retail sales, whether fixed, mobile, permanent or temporary, where marijuana is made available, sold, given distributed, or otherwise provided in accordance with the existing laws of the State of California, whether for medical or non-medical reasons.

“Person” means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, societies and individuals transacting and carrying on any business in the City.

“Reporting Period” means a year, quarter or calendar month, as determined by the collector.

“Sworn statement” means an affidavit sworn to before a person authorized to take oaths or declaration or certification made under penalty of perjury

Section 4.02.035, Marijuana Business Tax, shall be added as follows:

4.02.035 Marijuana Business Tax.

A. Every person engaged in a marijuana business shall pay an annual business license tax of up to 15 cents for each \$1.00 of gross receipts, regardless whether the City has issued a permit for the marijuana business.

B. The tax rate shall be set by resolution of the City Council. The City Council may, in its discretion, implement such marijuana business tax rate it deems appropriate, and may by resolution increase or lower such tax rate from time to time, provided that the marijuana business tax shall not exceed 15 cents for each \$1.00 of gross receipts.

C. The collector shall establish reporting periods for the periodic collection of gross receipts. The reporting period may fall under yearly, quarterly or monthly reporting, or any reasonable reporting period established by the collector.

D. Failure to pay the marijuana business tax shall be subject to penalties, interest charges, and assessments as the City Council may establish, and the City may use any and all code enforcement remedies available at law to collect such payments.

E. The payment of the marijuana business tax shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this section shall be applied or construed as authorizing the sale of marijuana.

F. The collector or his or her designee shall annually audit any marijuana business taxes imposed by this section to verify that tax revenues have been properly expended in accordance with the law.

G. The marijuana business tax is not a sales tax and shall not be assessed as such.

H. This section was submitted to the qualified voters of the City for approval. Any amendment to the maximum tax rate therefore may not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change or revise any other provisions of this section as the City Council deems in the best interest of the City. The City Council or City Manager may promulgate rules, regulations and procedures to implement this section and to ensure the efficient and timely collection of any taxes or any related penalties imposed by this section.

SECTION 2. This is a City Council-sponsored initiative ordinance that shall only be amended by the qualified voters of the City of Dixon as provided in the ordinance. The City Council reserves the right and authority to amend the ordinance as authorized, or at any time after a State or federal law is enacted which requires amendments in order for the ordinance to be in compliance with such law or laws.

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The People of the City of Dixon hereby declare that they would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. After it is enacted by the voters, this ordinance shall be in full force and effect ten (10) days after the vote is declared by the legislative body, pursuant to the provisions of Elections Code sections 9217 and 15400, and as provided by law.