

Town of Yountville
Ordinance Number 20-[XXXX]

AN ORDINANCE OF THE PEOPLE OF THE TOWN OF YOUNTVILLE ADDING SECTIONS 5.04.310 AND 5.04.320 OF ARTICLE 8 OF CHAPTER 5.04 OF TITLE 5 ESTABLISHING A GENERAL BUSINESS LICENSE TAX ON CANNABIS RETAIL BUSINESSES

NOW THEREFORE, THE PEOPLE OF THE TOWN OF YOUNTVILLE HEREBY ORDAIN AS FOLLOWS:

SECTION 1. CODE AMENDMENT: Article 8 of Chapter 5.04 of Title 5 of the Yountville Municipal Code is hereby added to read as follows:

Article 8. Cannabis Business License Tax

5.04.310 Purpose.

- A. This ordinance is intended to achieve the following purposes, among others, and shall be interpreted to accomplish such purposes:
 - 1. Impose a tax on the privilege of conducting commercial cannabis activity in the Town of Yountville to the extent authorized by and in accordance with law.
 - 2. Impose a general tax that generates revenue that may be used by the Town for any lawful purpose including, but not limited to, general Town services, public safety, road and transportation purposes, and parks and recreation.
 - 3. Specify the type of tax and rate of tax applicable to commercial cannabis activity in the Town of Yountville.
- B. This Article is enacted solely to raise revenue and not for regulation. It is not a sales and use tax, a tax on income, a transient occupancy tax, utility user tax, or a tax on real property, and does not change any obligations under those taxes. It shall apply to all persons engaged in commercial cannabis activity in the Town. The tax imposed by this article is a general tax under Articles XIII A and XIII C of the California Constitution.
- C. No payment of any tax required under this section 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 section implies or authorizes that any activity connected with the cultivation, possession or provision of cannabis is legal unless otherwise authorized and allowed by the State of California and permitted by the Town. This Article is in addition to any other requirements set forth in the Yountville Municipal Code and not intended to exempt, substitute, or replace any other requirements necessary for a cannabis retail business to legally operate in the Town.

5.04.320 Cannabis business license tax.

- A. There is hereby imposed at a rate to be established from time to time by resolution of the Town Council an annual tax for on all adult use commercial cannabis activity permitted under chapter 9.30 of this code. The tax for commercial cannabis activity under this section

shall be imposed with respect to the gross receipts of such businesses up to a maximum of three percent (3%) of the business' gross receipts.

- B. The tax imposed by this article is intended to and shall apply only to those portions of the gross receipts which are attributable to the business activity carried on within the Town. In any case where business activities are conducted both inside and outside the Town, the business may upon written application to the Finance Director request the apportionment of those gross receipts which are attributable to business activity within the Town and those portions of those gross receipts which are wholly, or partially, exempt from taxation as not being attributable to business activity carried on within the Town. In making such application, the Finance Director may require, and the business shall be responsible for providing, any business records necessary to determine a fair and equitable apportionment. Any apportionment established shall be reviewed annually by the Finance Director before the renewal of such license.
- C. The Town Council may by resolution, in its discretion, implement a tax rate lower than the maximum rate established in subsection (a) of this section for all persons engaged in a cannabis retail business, or establish differing tax rates for each of different categories of cannabis retail business activity. The Town Council may, by resolution, also decrease or increase any such tax rate from time to time, provided that the tax rate shall not, at any time, be above the maximum tax rate established in subsection (a) of this section.
- D. For purposes of this section, the following terms have the following meanings:
 - 1. "Gross receipts" has the same meaning as the meaning ascribed to it in Revenue and Taxation Code section 6012.
 - 2. "Cannabis retail business" has the same meaning as the meaning ascribed to it in Section 9.30.020 of this Code.
 - 3. "Reporting period" means a year, quarter or calendar month, as determined by the tax collector.
- E. The cannabis business license tax is subject to all provisions of Chapter 5.04 of this Code, including, but not limited to, the process for collection of business license tax described in Article 6 and enforcement and penalties under Article 7, to the extent not inconsistent with the provisions herein.

SECTION 2. Amendment: This Ordinance may be amended from time to time by the Town Council without a vote of the People. Notwithstanding the foregoing, voter approval is required for any amendment that would increase, within the meaning of Government Code section 53750(h), the tax rate beyond the maximum rates authorized by this Ordinance.

SECTION 3. CEQA: This measure to be submitted to the voters adopts a general tax on cannabis retail businesses. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. Prior to commencement of any project that may result from the expenditure

of revenues from this Ordinance, any necessary environmental review required by CEQA shall be completed.

SECTION 4. Severability: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 5. Effective Date: This ordinance shall not take effect until ten days after the certification of its approval by a majority vote (50% + 1) of the electorate voting at the general election to be held on November 3, 2020 under Elections Code sections 9217 and 9222.

SECTION 6. Adoption: Notwithstanding Section 5 of this Ordinance, this Ordinance shall only take effect if Ordinance Number 20-xxxx regarding cannabis retail businesses is approved by a majority vote (50% + 1) of the electorate voting at the general election to be held on November 3, 2020.

SECTION 7. Certification: The Mayor shall sign and the Town Clerk shall attest to the passage of this Ordinance upon certification by the Town Council of the results of the election approving this Ordinance.

I hereby certify that the foregoing ordinance was duly adopted by a majority of the voters of the Town of Yountville casting votes on the question in the election held on November 3, 2020:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC
Town Clerk