

RESOLUTION NO. 2016-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POINT ARENA CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION TO SUBMIT TO THE VOTERS A MEASURE APPROVING AND IMPLEMENTING A TAX ON THE OPERATIONS OF MARIJUANA AND CANNABIS BUSINESSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF MENDOCINO TO CONSOLIDATE THE SPECIAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DAY PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, the City Council desires to submit to the voters at the next General Municipal Election scheduled for Tuesday, November 8, 2016, a measure relating to a tax on the operations of marijuana and cannabis businesses; and

WHEREAS, by previous resolution the City Council called a general municipal election for November 8, 2016 (the "Election"); and

WHEREAS, pursuant to Government Code section 53724 and Election Code section 9222, the City Council desires to submit the Ordinance to the qualified electors of the City at the Election.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Point Arena as follows:

Section 1. That pursuant to Article XIII C of the Constitution of the State of California, the City Council does order submitted to the voters at the General Municipal Election the following measure and question:

"In order to help fund general municipal services, including but not limited to such matters as maintenance of public facilities such as parks and buildings, economic development and general improvements throughout the City, shall an ordinance to impose a tax at a rate of not more than seven (7) cents per each \$1.00 of proceeds or fractional part thereof on non-medical cannabis or marijuana businesses and a tax at a rate of not more than three (3) cents per each \$1.00 of proceeds or fractional part thereof on medical cannabis or marijuana businesses operating in the City of Point Arena be adopted?"

Section 2. That the complete text of the measure ("Ordinance") to be submitted to the voters is attached to this Resolution as Exhibit "A," and that the City Clerk shall maintain a copy of the Ordinance and shall make the same available for public inspection upon request.

Section 3. That the measure submitted to the voters pursuant to Section 1 of this Resolution shall require a majority of votes cast for adoption.

PASSED AND ADOPTED The foregoing Resolution No. 2016-16 was passed and adopted at a Regular meeting of the Point Arena City Council on the 26th day of July, 2016, by the following vote. Motion by Councilmember Ignacio, Second by Councilmember Wasserman.

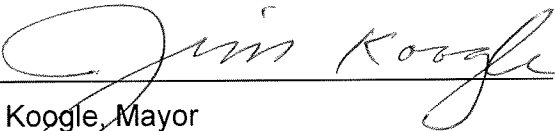
Ayes: Ignacio, Wasserman, Koogle (3)

Noes: (0)

Absent: 0)

Abstain: (0)

WHEREUPON, the Chair declared said Resolution adopted and **SO ORDERED**.



Jim Koogle, Mayor

ATTEST:


Richard Shoemaker, City Manager/Clerk

Exhibit A

ORDINANCE NO. 228

**AN ORDINANCE OF THE CITY OF POINT ARENA, CALIFORNIA, ADDING
CHAPTER 3.40 TO THE CITY OF POINT ARENA MUNICIPAL CODE,
APPROVING AND IMPLEMENTING A CANNABIS AND MARIJUANA TAX OF
NOT MORE THAN SEVEN (7) CENTS PER \$1.00 OF PROCEEDS ON
CANNABIS AND MARIJUANA BUSINESSES AND A CANNABIS AND
MARIJUANA TAX OF NOT MORE THAN THREE (3) CENTS PER \$1.00 OF
PROCEEDS ON LICENSED MEDICAL CANNABIS AND MARIJUANA
BUSINESSES OPERATING IN THE CITY.**

The People of the City of Point Arena do ordain and enact as follows:

SECTION 1. Chapter 3.40 is added to the City of Point Arena Municipal Code to read:

CANNABIS AND MARIJUANA TAX

- 3.40.010 Imposition of Cannabis and Marijuana Tax.
- 3.40.020 Definitions.
- 3.40.030 Payment Obligation.
- 3.40.035 Initial implementation
- 3.40.040 Remitting.
- 3.40.050 Records.
- 3.40.060 Initial implementation
- 3.40.070 City Council Authorization to Adjust Rates.
- 3.40.080 Payment of Tax Does Not Authorize Activity.
- 3.40.090 Cannabis and Marijuana Tax is Not a Sales Tax.
- 3.40.100 Amendments and Administration.

3.40.010 Imposition of Cannabis and Marijuana Tax.

- A. Every person engaged in operating or otherwise conducting a cannabis or marijuana business shall pay a cannabis and marijuana tax of not more than seven (7) cents for each \$1.00 of proceeds or fractional part thereof, except for medical cannabis and marijuana licensed businesses.
- B. Every person engaged in operating or otherwise conducting a medical cannabis or marijuana business shall pay a medical cannabis and marijuana tax of not more than three (3) cents for each \$1.00 of proceeds or fractional part thereof.

3.40.020 Definitions.

For purposes of this Chapter:

- A. A "cannabis or marijuana business" means any activity regulated or permitted by Point Arena Municipal Code Section 5.20. as may be amended from time to time,

or any other activity or business that involves planting, cultivating, harvesting, transporting, dispensing, delivering, providing, manufacturing, converting, compounding, processing, preparing, storing, packaging, or testing any part of the marijuana plant for medicinal or recreational use.

- B. "Proceeds" and/or "Gross sales" means gross receipts of any kind, including without limitation, membership dues; the value of in-kind contributions; reimbursements provided by members regardless of form; any payments made; and anything else of value obtained by a cannabis or marijuana business in exchange for the products the business offers for sale or trade.

3.40.030 Payment Obligation

All taxpayers subject to this Chapter must pay the full tax imposed by this Chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by California or Federal Law. Failure to pay the tax shall be subject to penalties, interest charges, and assessments as the City Council may establish and the City may use any or all other code enforcement remedies provided under local and State law and this Code. No provision in this Code can lower the tax rate set forth in this Section or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

3.40.040 Remitting

Each operator shall, on or before the last day of the month following the close of each calendar quarter or at the close of any shorter reporting period which may be established by the City Manager, on forms provided by the City, report the total sales of the cannabis and marijuana business. At the time the return is filed, the full amount of the tax owed shall be remitted to the City. The City Manager may establish shorter reporting periods for any certificate holder if they deem it necessary in order to ensure collection of the tax and may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason.

3.40.050 Records

It shall be the duty of every marijuana and cannabis business operator to keep and preserve, for period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for payment to the city, which records the City Manager, or a designated agent of the city, shall have the right to inspect and audit at all reasonable times.

3.40.060 Initial implementation

Upon approval by the voters the initial implementation of the tax will be effective February 1, 2017. Medical Marijuana/Cannabis businesses will be taxed at a rate of 3% of gross sales. Recreational Marijuana/Cannabis businesses will be taxed at a rate of 7% of gross sales.

3.40.070 City Council Authorization to Adjust Marijuana Rates

The City Council may, by resolution, implement the tax at a lower rate than the maximum for marijuana and may establish exemptions, incentives, or other reductions, and penalties and interest charges or assessments for failure to pay the tax in timely manner, as otherwise allowed under local and State law. No action by the Council under this Section shall prevent it from later increasing the tax to the maximum stated level or removing any exemption, incentive, or reduction, and restoring the maximum tax specified in this Chapter.

3.40.080 Payment of Tax Does Not Authorize Activity

The payment of the tax required pursuant to this Chapter 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 Chapter implies or authorizes that any activity connected with the distribution or possession of cannabis is legal under state law unless otherwise authorized and allowed in strict and full conformance to the provisions of this Code, including without limitation the provisions of Section 5.20 nothing in this Chapter shall be applied or construed as authorizing the sale of marijuana.

3.40.090 Cannabis and Marijuana Tax Is Not a Sales Tax

The Cannabis and Marijuana Tax provided for under the provisions of this Chapter is not a Sales or Use Tax and shall not be calculated or assessed as such. The Cannabis and Marijuana Tax shall not be separately identified or otherwise specifically assessed or charged to any customer, member, patient, or caretaker.

3.40.100 Amendments and Administration

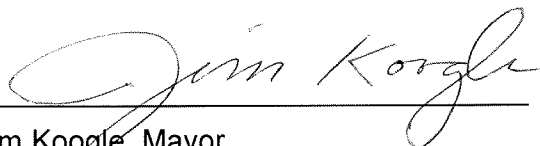
- A. This Chapter was submitted to the voters for approval. Any amendment to Section 3.40 to increase the Tax above the rate expressly provided in such Section shall not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change, or revise any other provision of this Chapter as the City Council deems in the best interest of the City.

- B. The City Manager or the City Manager's designee shall promulgate rules, regulations, and procedures to implement and administer this Chapter to ensure the efficient and timely collection of the tax imposed by this Chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.
- C. The City Manager or the City Manager's designee shall annually audit the cannabis and marijuana taxes imposed by this Chapter to verify that tax revenues have been properly expended in accordance with the law.
- D. Pursuant to California Constitution Article XIII B, the appropriation limit for the City is increased to the maximum extent over the maximum period of time allowed under law consistent with the revenues generated by the cannabis and marijuana tax.

SECTION 2. This Ordinance shall become effective upon adoption by a majority of the voters casting votes at the general municipal election on November 8, 2016.

PASSED AND ADOPTED The foregoing Ordinance No. 228 was passed and adopted at a Regular meeting of the Point Arena City Council on the 26th day of July, 2016, by the following vote. Motion by Councilmember Wasserman, Second by Councilmember Ignacio.

Ayes: Wasserman, Ignacio, Koogle (3)
Noes: (0)
Absent: (0)
Abstain: (0)



Jim Koogle, Mayor
ATTEST:



Richard Shoemaker, City Manager/Clerk