

MEASURE __

FULL TEXT OF USE TAX ORDINANCE SUBJECT TO APPROVAL OF A MAJORITY OF THE QUALIFIED VOTERS AT THE NOVEMBER 8, 2016 ELECTION

ORDINANCE NO. 789

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COALINGA ADDING CHAPTER 9, SECTIONS 3-9.01 THROUGH 3-9.12 TO TITLE 3 OF THE COALINGA MUNICIPAL CODE TO ENACT (1) A BUSINESS OPERATIONS ANNUAL TAX ON COMMERCIAL MARIJUANA OPERATIONS AND, (2) A GROSS RECEIPTS TAX ON A MARIJUANA DISPENSARY, IF A DISPENSARY IS APPROVED BY THE VOTERS, SUBJECT TO APPROVAL OF THE VOTERS AT THE NOVEMBER 8, 2016 ELECTION

THE CITY COUNCIL OF THE CITY OF COALINGA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The City Council finds and determines as follows:

- A. The City has repeatedly experienced a loss of general tax revenues to meet current operations and capital investment which has resulted in deferred spending on many areas of essential services.
- B. On July 7, 2016, the City Council approved Ordinance No. 786 that removed the ban on commercial marijuana cultivation in the City. As a result, the City anticipates the establishment of marijuana facilities within the City limits.
- C. For the public health, safety, and welfare of the residents and businesses of Coalinga, the City Council finds that it is necessary to restore and meet recommended city service levels, restore deferred capital funds, and meet currently identified capital needs.
- D. The City Council further finds that a tax on commercial marijuana operations within the City is the best way to raise the necessary revenue to address the City's service and capital funding needs, and seeks voter approval for the tax.

SECTION 2. AMENDMENT TO COALINGA MUNICIPAL CODE. Coalinga Municipal Code Chapter 9, sections 3-9.01 through 3-9.12 are hereby added to Title 3, to read as follows:

Sec. 3-9.01. - Commercial Marijuana Operations Tax.

Every person engaged in commercial marijuana operations in the City shall pay an annual business operations tax as follows: twenty-five dollars (\$25.00) per square foot used in connection with each commercial marijuana operation for the first three thousand (3,000) square feet, and ten dollars (\$10.00) per square foot for each additional square foot thereafter. The square footage calculation shall be determined by including all portions of the premises deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used

exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the commercial marijuana operation (such as a janitorial closet).

If more than one commercial marijuana operation operates on the premises, each person shall be responsible for paying the tax. The tax shall be payable in advance, in not less than quarterly installments, with the first quarterly payment due prior to opening. The first payment shall be prorated so that future payments coincide with calendar year quarters, but in no event shall the first payment be less than the equivalent of one full quarterly payment. Except for the first quarterly payment, all quarterly payments shall be received by the City before the end of the quarter.

Sec. 3-9.02. - Dispensary Gross Receipts Tax.

The owner/operator of the single marijuana dispensary located in the City of Coalinga shall pay a 10% gross receipts tax. "Gross Receipts" is defined as: the total amount actually received or receivable from all marijuana dispensary sales; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of the material used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever.

Sec. 3-9.03. - Purpose.

The purpose of these general taxes is to raise revenue to fund general municipal services and the revenue can be used for any lawful purpose.

Sec. 3-9.04. - Customers.

The tax shall not be specifically charged or assessed to any customers or consumers of marijuana subject to this tax payment and remittance of the tax to the City shall solely be the responsibility of the person or entity engaged in commercial marijuana operations or operating a marijuana dispensary in the City.

Sec. 3-9.05. - Modification, repeal or amendment.

The City Council 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 City Council 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.

Sec. 3-9.06. - Penalties.

Any entity that fails to pay the taxes required by this chapter within thirty (30) days after the due date shall pay in addition to the taxes a penalty for nonpayment in the sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid – up to a maximum of one hundred percent (100%) of the tax payable on the due date. Receipt of the tax payment by the City shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

Sec. 3-9.07. - Records Retention or Inspection.

Whenever it is necessary to examine any books or records, including tax returns, of any entity or person subject to the provisions of this chapter, to ascertain the amount of any tax due pursuant to this chapter, the City shall have the power and authority to examine such necessary books and records at any reasonable time including, but not limited to, during normal business hours. Records relating to the business, and any determinations to be made under this section must be maintained at least seven (7) years.

Sec. 3-9.08. - Legality of Business.

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.

Sec. 3-9.09. - Remittance

The taxes imposed by this chapter shall be remitted directly to the City quarterly as set forth in this chapter.

Sec. 3-9.10. - Administration.

The City Council by resolution, may promulgate supplemental regulations to implement and administer the provisions of this chapter.

Sec. 3-9.11. - Appeals.

Any aggrieved person by any decision of the City Manager, or designee, may appeal to the City Council by filing a notice of appeal with the City Manager within fifteen (15) days after the service of the notice of decision. The City Council shall fix a time and place for hearing such appeal as prescribed in rules and regulations adopted by the City Council for appeals, and shall give the appellant ten (10) days' written notice of the time and place of hearing.

The City Council may affirm, modify, or reverse such orders and decisions of the City Manager or dismiss the appeal thereof, as may be just. Decisions of the City Council upon appeal shall be final after service upon the appellant of a decision in accordance with the provisions of this chapter.

Whenever an appeal is available under this chapter and no appeal is filed within the time prescribed, the action of the City Manager shall be final.

Sec. 3-9.12. - Judicial Review.

No injunction, write of mandate, or other legal or equitable process shall issue in any suit, action or proceeding in any court against the City or an officer thereof, to prevent or enjoin the collection of taxes sought to be collected pursuant to this chapter, and payment of all tax, interest and penalties shall be required as a condition precedent to seeking judicial review.

SECTION 4. EFFECTIVE DATE: VOTER APPROVAL. This ordinance relates to the levying and collecting of the City taxes and shall take effect immediately following certification by the City Council of approval by a majority vote of the qualified voters of the City voting at the November 8, 2016 election.

SECTION 5. PUBLICATION AND CERTIFICATION. The City Clerk shall publish this ordinance as required by applicable law. Upon approval by the voters, the City Clerk shall certify the passage of this ordinance by the voters, and cause the ordinance to be codified in the Coalinga Municipal Code.

APPROVED:

Ron Ramsey, Mayor

City Clerk/Deputy City Clerk

The foregoing ordinance was introduced and read at a regular meeting of the City Council held on August 4, 2016, and was adopted at a regular meeting of said Council held on _____, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: _____, 2016

City Clerk/Deputy City Clerk