



# Measure M

## City of Healdsburg

### Measure Question

**Simple Majority Needed to Pass**

Cannabis Business Tax Measure. Shall the measure establishing a City of Healdsburg cannabis business tax at annual rates up to and not to exceed 8% of gross receipts for cannabis businesses, and estimated to generate approximately \$500,000 annually in tax revenue until ended by voters, to be spent for unrestricted general revenue purposes, including police, fire and emergency services, parks, affordable housing, and street maintenance, be adopted?

### What Your Vote Means

YES	NO
A “yes” vote is a vote to adopt the Cannabis Business Tax.	A “no” vote is a vote against adopting the Cannabis Business Tax. There would be no excise tax imposed on future commercial activities of cannabis businesses.

### For and Against Measure M

FOR	AGAINST
Osvaldo Jimenez Mayor  Evelyn Mitchell Councilmember  David Hagele Councilmember  Ariel Kelley Vice Mayor	No argument was submitted against Measure M



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Arguments and rebuttals are the opinions of the authors. They are printed exactly as submitted, including errors.

City Attorney's Impartial Analysis of Measure M	Argument in Favor of Measure M
<p>The City is placing Measure M on the ballot. If adopted by the voters, Measure M would establish a cannabis business tax by adding a new Chapter 3.32 to Title 3 to Healdsburg's Municipal Code entitled "Cannabis Business Tax."</p> <p>The Healdsburg Municipal Code currently does not allow commercial cannabis businesses or permit a tax on cannabis businesses. This Measure would authorize the levy of an annual business tax on commercial cannabis businesses at a rate not to exceed eight percent (8%) of gross receipts of each cannabis business. Cannabis businesses are defined broadly to include all persons and businesses that manufacture, process, store, test, transport, distribute, package, prepare, deliver, or sell cannabis or cannabis products for commercial purposes and that require a state issued license for operation. The tax would not apply to cannabis cultivated or used privately for personal use.</p> <p>The proposed Cannabis Business Tax is a general tax and would be in addition to the City's general business tax. The revenues from the tax would be placed in the City's general fund and used for general municipal purposes, including but not limited to police, fire and emergency services, parks, affordable housing, and street maintenance.</p> <p>The City would have the responsibility of collecting and enforcing the tax. The Measure would also authorize the City Council to decrease any tax rates and to establish different tax rates for different categories of cannabis businesses.</p> <p>The proposed Cannabis Business Tax would not allow or permit cannabis businesses to operate in Healdsburg. The proposed Measure establishes a taxing mechanism, allowing the City to derive additional revenues from cannabis businesses if the City Council elects to permit and regulate cannabis businesses in the future.</p> <p>In order for the Cannabis Business Tax to be approved, the voters must adopt Measure M by a majority (greater than fifty percent (50%)) vote.</p> <p>A "yes" vote is a vote to adopt the Cannabis Business Tax.</p> <p>A "no" vote is a vote against adopting the Cannabis Business Tax. There would be no excise tax imposed on future commercial activities of cannabis businesses.</p> <p>The above statement is an impartial analysis of Measure M. The full text of Measure M is printed in the Voter's Information Pamphlet and is also available on the City of Healdsburg's website at: <a href="http://www.healdsburg.gov">www.healdsburg.gov</a>. If you desire a copy of the Measure, please call the elections official's office at 707-431-3316 and a copy will be mailed at no cost to you.</p>	<p>In 2016, California voters approved Proposition 64, legalizing recreational use of cannabis throughout California, giving local governments the responsibility to provide oversight and regulations. This is the goal of Measure M - to properly regulate cannabis sales and commercial operations should they be permitted in the City of Healdsburg.</p> <p>Measure M does not decide whether or not to allow cannabis sales in Healdsburg – that action can only be taken by the Healdsburg City Council, which is currently reviewing options for an ordinance permitting commercial cannabis operations in our city. However, in the event the Healdsburg City Council does allow cannabis, Measure M authorizes a fair and reasonable taxing structure on cannabis businesses, to be activated as soon as a commercial cannabis ordinance is passed by the Healdsburg City Council.</p> <p>Whether or not you support Proposition 64 or cannabis use, if and when commercial cannabis operations become allowed in Healdsburg, it is important they be regulated fairly and properly from the start. Measure M will do this.</p> <p>Measure M will create a fair and reasonable local taxing structure for legally operated cannabis businesses, which could include retail dispensaries, labs, manufacturing, or distribution; In setting a City tax of up to 8% for cannabis, establish a new funding source (estimated at \$500,000 annually) for vital city services that will directly benefit our Healdsburg community.</p> <p>Measure M is prudent and fiscally responsible. Local voters in cities across California have approved similar measures to ensure they have the resources needed to support vital city services. These include police, fire, emergency medical services, affordable housing, disaster preparedness, youth programs, parks, street maintenance, and more.</p> <p>Passing Measure M is the right thing to do. Please join Healdsburg's respected leaders voting Yes on M for locally controlled commercial cannabis taxation and funding to support our community, our safety, and our high quality of life. Thank you. Learn more: <a href="http://www.healdsburg.gov">www.healdsburg.gov</a></p>
<p>s/ Samantha Zutler City Attorney, City of Healdsburg</p>	<p>s/ Osvaldo Jimenez Mayor</p> <p>s/ Evelyn Mitchell Councilmember</p> <p>s/ David Hagele Councilmember</p> <p>s/ Ariel Kelley Vice Mayor</p> <p><b>No argument was submitted against Measure M</b></p>



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## Full Text of Measure M

CITY OF HEALDSBURG

ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF HEALDSBURG, STATE OF CALIFORNIA, AMENDING TITLE 3 OF THE HEALDSBURG MUNICIPAL CODE TO ADD A NEW CHAPTER 3.32 ENTITLED "CANNABIS BUSINESS TAX"

The People of the City of Healdsburg, California, DO HEREBY ORDAIN as follows:

SECTION 1. ENACTED. That Title 3 of the Healdsburg Municipal Code is hereby amended to add a new Chapter 3.32, entitled "Cannabis Business Tax", and it shall read as follows:

### Chapter 3.32 CANNABIS BUSINESS TAX

- 3.32.010 Title.
- 3.32.020 Authority and purpose.
- 3.32.030 Intent.
- 3.32.040 Definitions.
- 3.32.050 Tax imposed.
- 3.32.060 Registration, reporting and remittance of tax.
- 3.32.070 Payments and communications –timely remittance.
- 3.32.080 Payment – when taxes deemed delinquent.
- 3.32.090 Notice not required by City.
- 3.32.100 Penalties and interest.
- 3.32.110 Refunds, credits, and procedures.
- 3.32.120 Exemptions from the tax.
- 3.32.130 Administration of the tax.
- 3.32.140 Enforcement –action to collect.
- 3.32.150 Apportionment.
- 3.32.160 Constitutionality and legality; not a sales tax.
- 3.32.170 Audit and examination of records and equipment.
- 3.32.180 Other licenses, permits, taxes, fees, or charges.
- 3.32.190 Payment of tax does not authorize activity.
- 3.32.200 Deficiency determinations.
- 3.32.210 Failure to report.
- 3.32.220 Tax assessment –notice requirements.
- 3.32.230 Tax assessment – hearing, application and determination.
- 3.32.240 Conviction for violation – taxes not waived.
- 3.32.250 Violation deemed misdemeanor.
- 3.32.260 Remedies cumulative.

#### 3.32.010 Title.

This chapter shall be known as the Cannabis Business Tax Ordinance and shall be applicable in the City of Healdsburg, California, which shall be referred to herein as "city."

#### 3.32.020 Authority and purpose.

The purpose of this chapter is to adopt a tax, for revenue purposes, pursuant to sections 37100.5 and 37101 of the California Government Code, upon cannabis businesses that engage in business in the city. The cannabis business tax is levied based upon business gross receipts. It is not a sales and use tax, a tax upon income, or a tax upon real property.

The cannabis business tax is a general tax enacted solely for general governmental purposes of the city and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the city's general fund and be available for unrestricted general revenue purposes.

#### 3.32.030 Intent.

This ordinance is adopted to achieve the following purposes, among others, and shall be interpreted to accomplish those purposes:

A. To impose a tax on the privilege of transporting, dispensing, manufacturing, producing, processing, preparing, storing, testing, providing, donating, selling, or distributing cannabis or cannabis products

by cannabis businesses in the City of Healdsburg, pursuant to the state Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code section 26000 *et seq.*, Proposition 64, approved by the voters in November 2016 and as amended to date ("MAUCRSA"), which legalized and regulates commercial cannabis activities in California, and other applicable law as it now exists or may hereafter be adopted; and

B. To specify the type of tax and rate of tax to be levied and the method of collection.

This chapter does not authorize the conduct of any business or activity in the city, but provides for the taxation of such businesses or activities as they occur. Nothing in this chapter shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

#### 3.32.040 Definitions.

The following words and phrases shall have the meanings set forth below when used in this chapter:

"Cannabis" shall have the meaning set forth in section 26001(e) of the Business and Professions Code and as subsequently amended.

"Cannabis business" shall mean any business activity involving cannabis, including but not limited to transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing, and wholesaling of cannabis, of cannabis products, or of ancillary products and accessories, whether or not carried on for gain or profit. The term "cannabis business" shall include "commercial cannabis activity" as defined in section 26001(j) of the Business and Professions Code and as subsequently amended.

"Cannabis product" shall have the same meaning as in section 11018.1 of the Health and Safety Code and as subsequently amended.

"Commercial cannabis activity" shall have the meaning set forth in section 26001(j) of the Business and Professions Code and as subsequently amended.

"Employee" shall mean each person who renders any service, with or without compensation, for the owner, permittee, or agent of either an owner or permittee of a commercial cannabis business. For purposes of this chapter, the term "Employee" shall include part-time, full-time, temporary, or permanent employees.

"Engaged in business as a cannabis business" shall mean the commencing, conducting, operating, managing or carrying on of a cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the city or coming into the city from an outside location to engage in such activities. A person shall be deemed engaged in business within the city if:

1. Such person or person's employee maintains a fixed place of business within the city for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the city for business purposes;
3. Such person or person's employee regularly maintains a stock of tangible personal property in the city for sale in the ordinary course of business;
4. Such person or person's employee regularly conducts solicitation of business within the city; or
5. Such person or person's employee performs work or renders services in the city.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

"Evidence of doing business" shall mean evidence such as, without limitation, use of signs, circulars, cards or any other advertising



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media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the city.

“Fiscal year” shall mean July 1 through June 30 of the following calendar year.

“Gross Receipts,” except as otherwise specifically provided, shall mean the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature, 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 from trading in stocks or bonds, however designated. “Gross receipts” shall include 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 materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts where allowed and taken on sales.
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser.
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts.
4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business.
5. Cash value of sales, trades or transactions between departments or units of the same business.
6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered.
7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.
8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Tax Administrator with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.
9. Retail sales of t-shirts, sweaters, hats, stickers, key chains, bags, books, posters or other personal tangible property which the Tax Administrator has excluded in writing shall not be subject to the cannabis business tax under this chapter. However, any retail sales not subject to this chapter as a result of the administrative ruling shall be subject to the appropriate business tax under any other applicable provision of this code as determined by the Tax Administrator.

“Person” shall mean an individual, firm, partnership, joint venture,

association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, collective or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

“Sale” shall mean any sale, exchange, or barter or other transaction for any consideration.

“State license” or “license” shall mean a license issued by the State of California, or one of its departments or divisions, pursuant to California Business & Professions Code section 26000, *et seq.* and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

“Tax Administrator” shall mean the city finance director.

### 3.32.050 Tax imposed.

A. There is established and imposed upon each person who is engaged in business as a cannabis business an annual cannabis business tax at the rates set forth in this chapter. The tax imposed by this chapter is upon the privilege of conducting business within the city and is not a sales tax or use tax.

B. The cannabis business tax upon every person who engages in business in the city as a cannabis business shall not exceed the maximum annual rate of eight percent (8%) of the gross receipts.

C. The city council may by resolution, in its discretion, implement tax rates lower than the maximum rates established in subsection (B) of this section for all persons engaged in a cannabis business in the city, including establishing different tax rates for different categories of cannabis businesses, including for medical versus adult recreational use or for products of different potencies. The city 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, exceed the maximum tax rates established in subsection (B) of this section.

### 3.32.060 Registration, reporting and remittance of tax.

A. All persons engaging in a cannabis business, whether an existing, newly-established or acquired business, shall register with the Tax Administrator's office by the later of:

1. 30 days after commencing operation; or

2. January 1, 2023 and shall annually renew such registration on or before the anniversary of the initial registration for that business.

B. Registrants shall furnish to the Tax Administrator a statement sworn under penalty of perjury, upon a form provided by the Tax Administrator, setting forth:

1. Every name under which the person or business engages in a cannabis business in the city;

2. The names and addresses of every person who is an owner, principal or manager of the cannabis business;

3. The nature or kind of all cannabis business activity to be conducted;

4. The place or places whether or not in the city where such cannabis business is to be conducted; and

5. Any further information which the Tax Administrator may require.

C. The cannabis business tax imposed by this chapter shall be imposed on a fiscal year basis and shall be due and payable in monthly installments as follows:

1. Each person owing a cannabis business tax shall, on or before the last day of the month following the close of the prior calendar month or at the close of any reporting period which may be established by the Tax Administrator, prepare and submit a tax return statement on the form prescribed by the Tax Administrator, including the basis of its calculation, and remit to the Tax Administrator the tax due.

2. The taxpayer shall remit the tax owed to the Tax Administrator when the return is due whether or not a return is filed as required.

3. The tax due shall be no less than the monthly installment due.



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4. Tax statements and payments for all outstanding taxes owed the city are due to the Tax Administrator within 15 days of cessation of business for any reason or transfer of ownership, operation, or management.

5. The Tax Administrator may, at his or her discretion, establish an alternate reporting and payment period for any taxpayer as the Tax Administrator deems necessary to insure collection of the tax.

### 3.32.070 Payments and communications – timely remittance.

Whenever any payment, statement, report, request or other communication is due, it must be received by the Tax Administrator on or before the final due date. A postmark will not be accepted as timely remittance. If the due date falls on Saturday, Sunday, holiday, or a day City Hall is closed, the due date shall be the next regular business day on which City Hall is open to the public.

### 3.32.080 Payment - when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in Sections 3.32.060 and 3.32.070.

### 3.32.090 Notice not required by the City.

The city may as a courtesy send a tax notice to the business. However, the Tax Administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

### 3.32.100 Penalties and interest.

A. Any person who fails or refuses to pay any cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one-half of one percent (0.5%) per month, compounded with each delinquency.

2. If the tax remains unpaid for a period exceeding two calendar months beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one-half of one percent (0.5%) per month on the unpaid tax and on the unpaid penalties.

3. Interest shall be applied at the rate of one-half of one percent (0.5%) per month on the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this chapter, and any other amount allowed under state law.

### 3.32.110 Refunds, credits, and procedures.

A. No refund shall be made of any tax collected pursuant to this chapter, except as provided in this section.

B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

C. Whenever the amount of any cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Tax Administrator within three years of the date the tax was originally due and payable.

D. The Tax Administrator, his or her designee or any other city officer charged with the administration of this chapter shall have the right to examine and audit all the books and business records of the claimant to determine the eligibility of the claimant to the claimed refund. No claim

for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Tax Administrator to do so.

E. If the cannabis business tax was erroneously paid and the error is attributable to the city, the city shall refund the amount of tax erroneously paid up to one year from when the error was identified. If an error is attributable to the claimant, the city may retain an amount established by resolution of the city council from time to time in an amount sufficient to recover the city's cost to process the claim and refund the balance.

### 3.32.120 Exemptions from the tax.

The provisions of this chapter shall not apply to personal cannabis cultivation as defined in the MAUCRSA or any subsequent state legislation regarding the same. This chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

### 3.32.130 Administration of the tax.

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this chapter.

B. For purposes of administration and enforcement of this chapter generally, the Tax Administrator may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide all cannabis business taxpayers forms for the reporting of the tax;
2. Provide information to any taxpayer concerning the provisions of this chapter;
3. Receive and record all taxes remitted to the city as provided in this chapter;
4. Maintain records of taxpayer reports and taxes collected pursuant to this chapter;
5. Assess penalties and interest to taxpayers pursuant to this chapter;
6. Determine amounts owed and enforce collection pursuant to this chapter; and/or
7. Take such other reasonable steps as he or she deems necessary and appropriate to enforce this chapter.

### 3.32.140 Enforcement - action to collect.

A. Any taxes, penalties and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the city. Any person owing money to the city under the provisions of this chapter shall be liable in an action brought in the name of the city for the recovery of such debt. The provisions of this chapter shall not be deemed a limitation upon the right of the city to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this chapter or the failure to comply with any of the provisions of this chapter.

B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the city under this chapter is not paid when due, the Tax Administrator may, within three years after the amount is due record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the individual or business as it appears on the records of Tax Administrator. The lien shall also specify that the Tax Administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties thereon, constitutes a lien upon all real property in the city owned by the individual or business, or subsequently acquired by the individual or business before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten years from filing of the certificate unless sooner released or otherwise discharged.





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C. At any time within three years after any individual or business is delinquent in the payment of any amount herein required to be paid or within three years after the last recording of a certificate of lien under subsection B of this section, the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to the sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the sheriff, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The Tax Administrator shall approve the fees for publication in the newspaper.

D. At any time within three years after recording a lien against any individual or business, if the lien is not discharged and released in full, the Tax Administrator may forthwith seize any asset or property, real or personal (including bank account), of the operator and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the business subject to seizure and sale subject to this chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

### 3.32.150 Apportionment.

If a business subject to the tax is operating both within and outside the city, it is the intent of the city to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the city. To the extent federal or state law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on the form prescribed by the City for submitting cannabis business taxes. The Tax Administrator may promulgate administrative procedures for apportionment as he or she finds useful or necessary.

### 3.32.160 Constitutionality and legality; not a sales tax.

A. This tax is intended to be applied in a manner consistent with the United States Constitution and state law. None of the tax provided for by this chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitution of the United States or the State of California or a violation of any other provision of applicable law.

B. The taxes imposed under this chapter are excises on the privilege of engaging in a commercial business in the city. It is not a sales or use tax and shall not be calculated or assessed as such. Nevertheless, at the option of a commercial cannabis business, the tax may be separately identified on invoices, receipts and other evidences of transactions.

### 3.32.170 Audit and examination of records and equipment.

A. The Tax Administrator shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the city, for the purpose of ascertaining the amount of commercial cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this chapter.

B. It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of at least four years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

### 3.32.180 Other licenses, permits, taxes, fees, or charges.

A cannabis business subject to the provisions of this chapter shall also be

subject to the business license tax requirements defined in Title 5 of the Healdsburg Municipal Code. Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this code or any other ordinance or resolution of the city, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other chapter of this code or any other ordinance or resolution of the city. Any references made or contained in any other chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other chapters of this code.

### 3.32.190 Payment of tax does not authorize activity.

The payment of a tax imposed under this chapter shall not be construed to authorize the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter authorizes or implies the lawfulness of any activity connected with the distribution or possession of cannabis unless otherwise authorized and allowed in strict and full conformance with this code. Nothing in this chapter shall be applied or construed as authorizing the sale of cannabis.

### 3.32.200 Deficiency determinations.

If the Tax Administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under section 3.32.220.

### 3.32.210 Failure to report.

A. Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

1. If the person has not filed a complete statement required under the provisions of this chapter;
2. If the person has not paid the tax due under the provisions of this chapter; or
3. If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter.

B. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable chapter of this Title, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

### 3.32.220 Tax assessment - notice requirements.

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purposes of this chapter, a service by mail is complete at



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the time of deposit in the United States mail.

### 3.32.230 Tax assessment - hearing, application, and determination.

A. Within 15 days after the date of service the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the city is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive.

B. Within 30 days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than 30 days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than ten days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing, the Tax Administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in section 3.32.220 for giving notice of assessment.

C. The decision of the Tax Administrator under this section may be appealed to the city manager as set forth in section 2.36.090 of the Healdsburg Municipal Code.

### 3.32.240 Conviction for violation - taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

### 3.32.250 Violation deemed misdemeanor.

Any person violating any of the mandatory provisions of this chapter shall be deemed guilty of a misdemeanor and is punishable therefore as provided in section 1.12.070 of this code.

### 3.32.260 Remedies cumulative.

The penalties set forth in this chapter are cumulative and in addition to all other remedies, violations, and penalties set forth in the City Municipal Code, or in any other ordinance, laws, rules or regulations of the city, county, or the State of California.

**SECTION 2. TAX STATEMENT OF FACTS.** This Ordinance creates a business tax on cannabis businesses within the city at a maximum rate of eight percent of gross receipts. The revenue generated from the collection of such tax may be spent for unrestricted general revenue purposes.

**SECTION 3. SEVERABILITY.** If any provision, section, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid, illegal or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, such unconstitutionality, illegality, or invalidity shall only affect such provision, section, paragraph, sentence, phrase or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases or words, or the application of this Ordinance to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to be the intention of the city that that Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

**SECTION 4. AMENDMENT OR REPEAL.** This Ordinance may be repealed or amended by the city council without a vote of the people to the extent allowed by law. However, as required by Title XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this chapter. The people of the City of Healdsburg affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this chapter, if the city council has acted to reduce the rate

of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter; or

C. The collection of the tax imposed by this chapter, even if the city had, for some period of time, failed to collect the tax.

**SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT.** This Ordinance is exempt from the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the enactment of this Ordinance would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378(b)(4), 15061(b)(3)) and because the Ordinance involves the approval of government revenues to fund existing services (Pub. Resources Code § 21080, subd. (b)(8); CEQA Guidelines § 15273(a)(4)). It does not make any commercial activity lawful nor commit the city to fund any particular activity.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall become effective on January 1, 2023 if approved by a majority of the voters casting votes on the tax in the election.

**SECTION 7. CERTIFICATION AND PUBLICATION.** Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Healdsburg voting on the 8<sup>th</sup> day of November, 2022.

AYES: Councilmembers: ( )

NOES: Councilmembers: ( )

ABSENT: Councilmembers: ( )

ABSTAINING: Councilmembers: ( )

SO ORDERED: ATTEST:

Osvaldo Jimenez, Mayor

Raina Allan, City Clerk