

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE NO. 493

4
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Relating to amendments to Ordinance No. 488 concerning taxes imposed on the sale of
6 recreational marijuana items; creating a new section 5.320 of the Lincoln County Code (LCC);
7 and declaring an emergency

8 Findings:

9 WHEREAS, ORS 475B.345(2) provides in part that a governing body of a county may
10 adopt an ordinance to be referred to the voters that imposes a tax or fee on the sale of marijuana
11 items sold in the unincorporated area subject to the jurisdiction of a county by a person that holds
12 a license under ORS 475B.110 (marijuana retailer); and

13 WHEREAS, ORS 475B.345(3) indicates that if a governing body of a county adopts an
14 ordinance as referenced above, the governing body shall refer the measure of the ordinance to the
15 electors of the county for approval at the next statewide general election; and

16 WHEREAS, on August 3, 2016, the Lincoln County approved Ordinance No. 488
17 concerning taxes imposed on the sale of recreational marijuana items, subject to approval by the
18 electors of Lincoln County at the next available general election on November 8, 2016; and

19 WHEREAS, Ordinance No. 488 was based upon a model ordinance provided by the
20 League of Oregon Cities (LOC), and the Association of Oregon Counties (AOC); and

21 WHEREAS, the proposed Lincoln County Recreational Marijuana Tax was submitted to
22 the voters as Measure No. 21-172; and

23 WHEREAS, Measure No. 21-172 passed in Lincoln County; the Lincoln County Clerk
24 certified the results on November 28, 2016; and

25 WHEREAS, on November 30, 2016, the Lincoln County Board of Commissioners
26 approved an intergovernmental agreement with the State of Oregon Department of Revenue for
27 the collection of the Lincoln County Recreational Marijuana Tax; and

28 WHEREAS, following the execution of the intergovernmental agreement referenced
29 above, the Department of Revenue sent to Lincoln County an email stating that: "The ordinance

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30 as provided does not grant any authority for enforcement, particularly with respect to penalty and
31 interest. In the absence of such language, we will be able to administer the tax, but not charge
32 penalty and interest on the local portion of the tax”; and

33 WHEREAS, Lincoln County needs to amend Ordinance No. 488 to be able to
34 appropriately enforce its provisions through interest and penalties;

35 NOW, THEREFORE, THE LINCOLN COUNTY BOARD OF COMMISSIONERS
36 ORDAINS AS FOLLOWS:

37 **SECTION 1.** The Lincoln County Code is amended by adding the following section 5.320:

38 **5.320 Interest and Penalty**

39 (1) Interest shall be added to the overall tax amount due at the same rate established
40 under ORS 305.220 for each month, or fraction of a month, from the time the return to the
41 Oregon Department of Revenue was originally required to be filed by the marijuana retailer to
42 the time of payment.

43 (2) If a marijuana retailer fails to file a return with the Oregon Department of Revenue or
44 pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same
45 manner and amount provided under ORS 314.400.

46 (3) Every penalty imposed, and any interest that accrues, becomes a part of the financial
47 obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of
48 Revenue.

49 (4) Taxes, interest and penalties transferred to Lincoln County by the Oregon Department
50 of Revenue will be distributed to the County’s general fund.

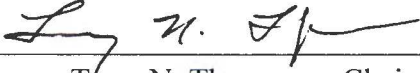
51 (5) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or
52 penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the
53 County of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement
54 between the Oregon Department of Revenue and Lincoln County under ORS 305.620 and any
55 applicable administrative rules adopted by the Oregon Department of Revenue.

56 **SECTION 2.**

57 This Ordinance, being necessary for the preservation and protection of the public peace, health
58 and safety and general welfare of Lincoln County, and being necessary to appropriately
59 administer Ordinance No. 488, and an emergency having been unanimously declared to exist,
60 this ordinance shall take effect upon its passage.

DATED this 18th day of January, 2017

LINCOLN COUNTY BOARD OF COMMISSIONERS



Terry N. Thompson, Chair

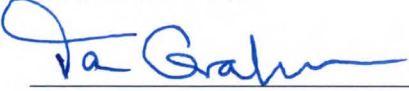


Doug Hunt, Commissioner




Bill Hall, Commissioner

ATTESTED TO:



Tanya Graham, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel