ORDINANCE NO. 610

AN ORDINANCE OF THE CITY OF WOODLAKE ENACTING A CANNABIS

INDUSTRY TAX

 THE PEOPLE of the City of Woodlake do ordain as follows:

**Section 1**. PURPOSE. The provisions of this ordinance are necessary for the safety of the public and for the preservation of essential city services for the residents of the City of Woodlake (“**City**”). By adopting Resolution No. 17-74 by a vote of at least two-thirds vote of all members of the City Council, the City Council authorized placing this ordinance before the voters of the City of Woodlake at an election to be held on November 7, 2017.

**Section 2**. CODE ADOPTION. Chapter 3.18 of Title 3 of the Municipal Code of the City of Woodlake is added to read in its entirety as follows:

**Chapter 3.18**

**CANNABIS INDUSTRY TAX**

# 3.18.010 - Cannabis Industry Tax.

The cannabis industry tax is an excise tax on the privilege of engaging in cannabis business activity in the City; it is not a sales or use tax. All of the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and used for general governmental purposes.

**3.18.020 – Definitions**

"Applicant" means a person who is required to file an application for a permit under this section.

"Business Owner" means the owner(s) of the Cannabis Business. For publicly traded companies, owner means the chief executive officer or any person or entity with an aggregate ownership interest of 5% or more. For all other businesses other than publicly traded companies, an owner is an individual that has an aggregate ownership of interest other than a lien or encumbrance, of 20% or more in the commercial cannabis business.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972, and amended by the California Control, Regulate and Tax Adult Use of Cannabis Initiative, and as defined by other applicable State law.

"Cannabis business" or “cannabis industry” means any business activity in the City relating to cannabis, including but not limited to cultivation (including nurseries), transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (wholesale and/or retail sales) of cannabis or cannabis products, whether or not carried on for gain or profit. A cannabis business does not include any business whose only relationship to cannabis or cannabis products is the production or sale of cannabis accessories.

“Cannabis cultivation area” means the total aggregate area(s) of cannabis cultivation by a cannabis business as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, excluding non-production areas, as determined by the Community Development Director or his or her designee.

"Cannabis industry tax” means the tax due pursuant to this Chapter for engaging in cannabis business in the City.

"Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and those products described in Section 11018.1 of the Health and Safety Code.

"Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether the areas are contiguous or noncontiguous. The plant canopy need not be contained to a single parcel of land in determining the total square footage that will be subject to tax under this Chapter. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

“City” means the City of Woodlake, either the entity or its territorial limits, as the context requires.

“City Council” or “Council” means the City Council of the City of Woodlake.

"Collector” means the City’s Chief Financial Officer or his or her designee.

"Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a cannabis business. Commercial cannabis cultivation does not include personal medical cannabis cultivation, or cultivation for personal recreational use as authorized under the "Control, Regulate and Tax Adult Use of Marijuana Act" approved by the State’s voters on November 8, 2016, for which the individual receives no compensation whatsoever.

“Commercial Cannabis Business” or “Cannabis Business” or “Cannabis Operation” means any commercial marijuana activity allowed under State Law and the implementing regulations, as State Law and the implementing regulations may be amended from time to time, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

“Cannabis production” means the processes associated with the processing, extraction, manufacturing, testing, distribution and transportation of medical and non-medical cannabis products.

“Commingling” means the physical aggregation of harvest batches or nonmanufactured cannabis products by a licensee

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. “Cultivation” also includes nurseries. In addition, and without limiting the foregoing, “cultivation” includes “cultivation” as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted and amended from time to time.

“Delivery” means the commercial transfer of marijuana cannabis or marijuana cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

“Delivery employee” means an individual employed by a licensed dispensary who delivers medical cannabis goods from the licensed dispensary premises to a medical cannabis patient or primary caregiver at a physical address.

"Dispensary" means a facility where cannabis or cannabis products, are offered, either individually or in combination, for retail sale, including an establishment that engages in delivery of cannabis or cannabis products as part of a retail sale. In addition, and without limiting the foregoing, “dispensary” includes “dispensary” as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

"Distributor'' means a person engaged in procuring cannabis from a cultivator, and/or procuring cannabis products from a manufacturer, for sale to a licensed commercial cannabis business. In addition, and without limiting the foregoing, “distributor” includes “distributor” as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

"Distribution" means the procurement, sale, and transport of cannabis or cannabis products between licensees.

"Employee" means each and every person engaged in the operation or conduct of any cannabis business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such cannabis business for a wage, salary, commission, barter or any other form of compensation.

"Gross Receipts," means the amount a Cannabis Operation received from all sources during its accounting period, without subtracting any costs or expenses.

“Indoor cultivation” means the cultivation of cannabis within a structure using artificial light, at a rate greater than 25 watts per square foot.

"Manufacturer" means a person who conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or that packages or repackages cannabis or cannabis products or labels or re-labels its container. In addition, and without limiting the foregoing, “manufacturer” includes “manufacturer” as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

“Mixed-light cultivation” means the cultivation of cannabis using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.”

''Nursery" means a person who produces cannabis clones, immature plants, and/or seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of cannabis. In addition, and without limiting the foregoing, “nursery” includes “nursery” as defined in California Business and Professions Code section 19300.5 and any successor statute, as may be adopted or amended from time to time.

"Operator" means the Business Owner and any other person designated by the Business Owner as responsible for the day to day Cannabis business operation.

"Personal medical cannabis cultivation" means cultivation, by either a qualified patient who cultivates cannabis exclusively for his or her personal medical use or by a caregiver who cultivates cannabis exclusively for medical use by qualified patients and who is exempt from State licensing requirements under the State Medical Cannabis Regulation and Safety Act.

“Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

"Responsible Party" shall mean the Business Owner, Operator, manager(s), and any employee having significant control over the cannabis businesses operations.

"State" means the State of California.

“State Law” means all regulations and laws pertaining to Cannabis Business in the State of California.

"State license," means a State license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable State law.

“Testing means a laboratory, facility, or entity in the State, that offers or performs tests of cannabis or cannabis products and that is both of the following:

1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana cannabis activity in the State.

 2) Registered with Licensed by the State Department of Public Health.

“Transport” means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

# 3.18.030 – Tax Authorization

A cannabis industry tax is hereby imposed on every person who is engaged in cannabis business in the City as prescribed herein, from and after the effective date of a City Council resolution implementing the tax. It is unlawful for any person to transact or carry on any cannabis business in the City without paying, in accordance with this Chapter, the cannabis industry tax imposed by this section.

1. **Tax on Commercial Cannabis Businesses**
2. There is hereby imposed on every person engaged in commercial cannabis business in the City, an annual tax at a rate established by resolution of the City Council which rate shall not exceed twenty-five U.S. dollars ($25 USD) per square foot of cannabis business area or ten percent (10%) of annual gross receipts. The maximum square foot tax shall be adjusted annually each January 1st based on the year-over-year percentage change in Bureau of Labor Statistics San Francisco/Oakland/San Jose Consumer Price Index – All Urban Consumers (CPI-U) October to October comparison, or if such index is discontinued, a comparable successor consumer price index as determined by the City Council. The tax imposed under this Subsection (A)(1) shall be due and payable in installments as provided in Section 3.18.040 of this Chapter. The tax imposed under this Subsection (A)(1) shall not be implemented unless and until the City Council acts by resolution to do so.
3. The taxable square footage calculation shall be determined by including all portions of the premises where the commercial cannabis business operates 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 cannabis business (such as a janitorial closet).
4. If more than one cannabis business operates on the premises, each licensee shall be responsible for paying the tax.
5. The City Council may by resolution, in its discretion, implement an effective tax rate which is lower than the maximum authorized rates set forth in Subsection (A)(1) for all persons engaged in a cannabis business in the City or establish differing tax rates for different categories of commercial cannabis business or tiered tax rates based on the cannabis business area . For example, and without limitation, the City Council may set different effective tax rates for cannabis cultivation for medical or non-medical cannabis, or for indoor rather than mixed light cultivation. For example, and without limitation, the City Council may set different effective rates for each license including manufacturers, processors, distributors, transporters, testing facilities or dispensaries. The City Council may, by resolution, also decrease or increase any such effective tax rate from time to time, provided that the effective tax rate shall not, at any time, exceed the maximum tax rates authorized in Subsection (A)(1). The City may also establish, by resolution, a tiered rate which establishes different effective rates which will increase or decrease based upon the cannabis business area. An affirmative vote of the City Council is required for any tax increase resulting in a tax rate of over 5% whenever the effective rate is already set at or below 5%. Tax rates shall be set for a minimum of a one (1) fiscal year term and, unless otherwise provided by the resolution setting the rate, shall remain in effect from year to year until further action by the City Council.
6. Persons subject to the tax imposed by Subsections (A)(1) and (A)(2) shall also register and pay all fees required by the City Council.
7. No further voter approval shall be required for the adoption or increase of a tax under the authority granted by this Section 3.18.030 of this Chapter, it being the intent of the People of the City of Woodlake to authorize such a tax up to and including the maximum rates set forth above whenever implemented by the City Council hereafter.

**3.18.040** **Reporting and Remittance of Tax**.

The cannabis industry tax imposed by this Chapter shall be due and payable as follows:

1. Each person subject to tax under this chapter, except a cannabis tax based on a square footage, shall, on or before the last day of the month following the close of each calendar quarter, prepare and submit a tax return and remit to the Collector the tax due for that quarter. At the time the return is filed, the full amount of the tax due for the prior quarter shall be remitted to the Collector. At any time, a business may apply in writing to the Collector to have these tax returns and payments made less frequently or on a different schedule. Any determination resulting from this application will be at the sole discretion of the Collector and shall be provided in writing.
2. Each person subject to a cannabis tax based upon square footage shall, on or before the last day of the month following the close of each calendar quarter, prepare and submit a tax return and remit to the Collector the tax due for that quarter. The tax shall be calculated in accordance with rules and regulations established by the Collector pursuant to 3.18.120. The tax return may include a request for adjustment of the tax due to crop loss or periods without cultivation, along with evidence substantiating the crop loss or fallow periods. If the cultivation begins significantly after January 1 or terminates significantly before December 31 of the calendar year, a request to prorate the tax may be submitted with clear and convincing evidence supporting the timing of the cultivation. The decision to prorate or adjust the tax will be made at the sole discretion of the Collector. At the time the return is filed, the full amount of the tax due for the prior quarter shall be remitted to the Collector. At any time, a business may apply in writing to the Collector to have these tax returns and payments made less frequently or on a different schedule. Any determination resulting from this application will be at the sole discretion of the Collector and shall be provided in writing.
3. All tax returns shall be completed on forms prescribed by the Collector.
4. Tax returns and payments for all outstanding taxes owed to the City under this Chapter are immediately due and payable to the City of Woodlake upon cessation of business for any reason.

**3.18.050 Payments and Communications – Timely Remittance**.

Whenever any payment, return, report, request or other communication is due under this Chapter, it must be received by the Collector on or before the due date. A carrier postmark will not be accepted as timely remittance. If the due date falls on Saturday, Sunday or a City holiday, the due date shall be the next regular business day on which the City is open to the public.

**3.18.060** **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 City of Woodlake on or before the due date as specified in Section 3.18.040

**3.18.070 Notice Not Required by City**.

The City of Woodlake is not required to send a delinquency or other notice or bill to any person subject to this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty or interest due under this Chapter.

**3.18.080 Waiver of Penalties**.

The Collector may waive the penalties imposed upon any person if:

1. The person provides evidence satisfactory to the Collector that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent cannabis industry tax and accrued interest owed the City before applying to the Collector for a waiver.
2. The waiver provisions specified in this subsection shall be granted only once during any twenty-four (24) month period.

**3.18.090 Refunds.**

Refunds may be paid pursuant to Section 3.20.140 of the Woodlake Municipal Code.

# 3.18.100 Exemptions from the Tax.

1. Nothing in this Chapter shall be deemed or construed to apply to any person transacting and carrying on any business that is exempt from the payment of such taxes as are herein prescribed by virtue of the Constitution or applicable statutes of the United States or of the State.
2. Any person claiming an exemption pursuant to this Section shall file a sworn statement with the Collector stating the facts upon which exemption is claimed. Unless and until the Collector determines in writing that such person is exempt from tax under this Chapter, such person shall be liable for the payment of the tax imposed by this Chapter.

**3.18.110 Enforcement.**

It shall be the duty of the Collector or designee to enforce each and all of the provisions of this Chapter.

**3.18.120 Rules and Regulations.**

The Collector may adopt rules and regulations not inconsistent with the provisions of this Chapter as may be necessary or desirable to aid in the implementation and enforcement of the provisions of this Chapter.

**3.18.130 Apportionment.**

If a cannabis business subject to a cannabis industry tax is operating both within and outside the City, it is the intent of the City to apply the cannabis industry tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on within the City.

# 3.18.140 Construction.

1. This tax is intended to be applied in a manner consistent with the United States and California Constitutions, State and local 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 or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution, State or local law.

# 3.18.150 Audit and Examination of Records and Equipment.

1. The Collector shall have the power to audit and examine all books and records of any person engaged in cannabis business in the City, including both State and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person engaged in cannabis business in the City, for the purpose of ascertaining the amount of cannabis industry tax, if any, required to be paid under this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter. If such person, after written demand by the Collector, refuses to make available for audit, examination or verification such books, records or equipment as the Collector requests, the Collector may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an assessment against the cannabis business of the taxes estimated to be due under this Chapter.
2. 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 five (5) 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 Collector shall have the right to inspect at all reasonable times.

# 3.18.160 Modification, repeal or amendment.

Pursuant to Section 9217 of the California Elections Code the City Council shall have the right and authority to amend or repeal the ordinance, or amend it in any lawful manner which does not result in an increase in the maximum rate 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 maximum rate of the tax or broaden the scope of the tax imposed herein.

**3.18.170 Other Licenses, Permits, Taxes, Fees, or Charges.**

Except as expressly provided in this Chapter, 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 provision of any other title or Chapter 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 title or Chapter of this Code or any other ordinance or resolution of the City. Any references made or contained in any other title or Chapter of this Code to any permits, licenses, taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the permits, licenses, taxes, fees or charges, or schedule of license fees, provided for in other titles or Chapters of the Woodlake City Code unless otherwise expressly provided.

**3.18.180 Successor’s and Assignee’s Responsibility.**

Notwithstanding any other provision within the City’s municipal code or any other ordinance of the City, no locally issued business license for any cannabis business can be transferred unless and until an amount equal to the estimated taxes projected by the Collector to be owed under this Chapter at the close of the quarter following the consummation of transfer, is actually deposited in-full with the City. Upon consummation of the transfer, any overpayment may be claimed through a timely and appropriate refund as authorized within this Chapter.

**3.18.190 Payment of Tax Does Not Authorize Unlawful Business.**

1. The payment of a tax required by this Chapter, and its acceptance by the City, shall not entitle any person to engage in any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable State or local laws.
2. No tax paid under this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any State or local laws.

**3.18.200 Deficiency Determinations.**

If the Collector is not satisfied that any tax return or other statement filed as required under 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 facts contained in the tax return or statement or any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable, or such later date as allowable by law. 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 (3) years thereafter, or such later date as allowable by law, 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 3.20.100.

**3.18.210 Failure to Report – Nonpayment.**

1. Under any of the following circumstances and at any time, the Collector may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:
	1. If the person has not filed a complete return or statement required under this Chapter;
	2. If the person has not timely paid any tax, fee, interest and/or penalties due under of this Chapter; or
	3. If the person has not, after demand by the Collector, filed a corrected return or statement, or furnished to the Collector adequate substantiation of the information contained in a return or statement filed previously.
2. The notice of assessment shall separately set forth the amount of any tax, fee, interest and/or penalties known by the Collector to be due or estimated by the Collector, after consideration of all information within the Collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter.

**3.18.220 Tax Assessment – Notice Requirements.**

The notice of assessment shall be served upon the person liable for the tax under this Chapter 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 Collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Collector for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

**3.18.230 Appeal Procedure.**

Any taxpayer aggrieved by any decision of the Collector with respect to the amount of tax, fee, interest and penalties, if any, due under this Chapter may appeal to the City Manager by filing a written appeal with the Clerk of the Woodlake City Council within fifteen (15) calendar days of the mailing of the decision or determination. The Clerk shall schedule the appeal and give fifteen (15) business days’ written notice to the appellant of the time and place of hearing by serving the notice personally or by depositing in the United States Post Office in the City, postage prepaid, addressed as shown on the appeal papers or, if none, such other address as is known to the City or, absent any address, by publication in a newspaper of general circulation in the City. The City Manager or designee shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this Chapter.

**3.18.240 Conviction for Chapter Violation – Taxes not Waived.**

The conviction and punishment of any person for failure to pay a required tax, fee, penalty and/or interest under this Chapter shall not excuse or exempt such person from any civil action for the amounts due under this Chapter. 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.

**3.18.250 Violation Deemed Misdemeanor.**

Any person who violates any provision of this Chapter or who other than by a sworn statement, knowingly or intentionally misrepresents to any officer or employee of the City any material fact herein required to be provided is guilty of a misdemeanor punishable as provided in Section 5.04.420 of this Code. A person who on a sworn statement states as true a material fact that he or she knows to be false is guilty of perjury.

**3.18.260 Actions to Collect.**

The amount of any tax, fee, penalty and/or interest imposed pursuant to this Chapter shall be deemed a debt owed to the City. An action may be commenced in the name of the City in any court of competent jurisdiction, for the amount of any delinquent tax, fees, penalties and interest thereon.

**3.18.270 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

**3.18.280 Remedies Cumulative.**

All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

**3.18.290 Amendment or Repeal.**

This Chapter may be repealed or amended by ordinance of the Woodlake City Council without a vote of the People except that, as required by Article XIIIC of the California Constitution, any amendment that increases the maximum rates of tax beyond the levels authorized in 3.18.030 above shall not take effect unless approved by a vote of the People. The City Council may, by resolution, implement a tax under this Chapter in any amount or at any rate that does not exceed the maximum rates set forth in Section 3.18.030.”

# 3.18.300 Penalties.

Any entity that fails to pay the taxes or fees required by this chapter within fifteen (15) 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.

**Section 3.** CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15060(c)(2), 15061(b)(3) and 15378(b)(2) and (4). The City Manager is hereby directed to ensure that a *Notice of Exemptio*n is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

**Section 4**. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Woodlake, or any official, employee or agent thereof.

**Section 5**. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 6**. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Woodlake hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more of other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 7**. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Woodlake Municipal Code as amended by this ordinance, if any, are substantially the same as provisions in the Woodlake Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

**Section 8.** EFFECTIVE DATE. Pursuant to Elections Code § 9217, this ordinance shall be deemed adopted on the date when the final vote is declared by the City Council and this ordinance shall go into effect ten (10) days after that date, contingent upon approval by a majority of the voters voting on the measure in the November 7, 2017 election. However, pursuant to Revenue and Taxation Code § 7265, the authority to levy the general sales tax in the foregoing ordinance shall take effect first day of the first calendar quarter commencing more than one hundred ten (110) days after the adoption of this ordinance.

 THE FOREGOING ORDINANCE was approved by the City Council of the City of Woodlake, State of California, on July 24, 2017 at a regular meeting of said Council duly and regularly convened on said day by the following vote:

|  |  |
| --- | --- |
| AYES: | Mendoza, Ortiz, Lopez, Martinez & G. Gonzalez Jr. |
| NOES: |  |
| ABSTAIN: |  |
| ABSENT: |  |
|  |  |
|  |
|  |
|  |  Rudy Mendoza, Mayor |
|  |  |
|  |  |
| ATTEST: |  |
|  | Irene Zacarias, City Clerk  |
|  |  |

**CLERKS CERTIFICATE**

City of Woodlake }

County of Tulare } ss.

State of California }

I, Irene Zacarias, City Clerk of the City of Woodlake hereby certify that the foregoing is a full, true and correct copy of an ordinance approved by the City Council of the City of Woodlake at a meeting held on the 24th day of July, 2017, by the vote as set forth therein.

DATED: July 25, 2017

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Irene Zacarias, City Clerk