

CITY OF HEALDSBURG

RESOLUTION NO. 67-2016

RESOLUTION OF THE CITY COUNCIL OF THE CITY HEALDSBURG ESTABLISHING NOVEMBER 8, 2016 AS THE DATE FOR A MUNICIPAL ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL TO ADJUST THE CITY'S EXISTING MAXIMUM TWELVE PERCENT (12%) TRANSIENT OCCUPANCY TAX TO ADD A TWO PERCENT (2%) INCREMENT FOR AFFORDABLE HOUSING PURPOSES; ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH ELECTION; REQUESTING THE SONOMA COUNTY CLERK TO CONDUCT SUCH AN ELECTION; AND REQUESTING THE CITY ATTORNEY TO PREPARE AND FILE AN IMPARTIAL ANALYSIS OF THE PROPOSED BALLOT MEASURE

WHEREAS, as a result of State legislation and judicial decisions dissolving redevelopment agencies and eliminating the use of property tax increment to increase, improve and preserve the supply of affordable housing, cities have been struggling to find an alternative funding source for such purposes; and

WHEREAS, the City's Community Housing Committee, and the City Council, have identified an urgent need for a permanent source of funds to meet the City's current and future affordable housing needs and objectives by providing financial assistance and services and creating programs to increase, improve and preserve the City's rental and for-sale housing stock affordable to households of extremely low-, very low-, low-, moderate- and middle-income; and

WHEREAS, the City Council has provided direction to City Staff, during a duly-noticed City Council meeting on May 16, 2016, to prepare to seek voter approval to increase the maximum TOT (defined below) by two percent (2%) from twelve percent (12%) to fourteen percent (14%), for the specific purpose of using the additional two percent (2%) to provide such financial assistance and services and create such programs; and

WHEREAS, on April 19, 1965, pursuant to its authority under California Revenue and Taxation Code Section 7280 *et seq.*, the City Council of the City of Healdsburg (the "City Council") adopted Ordinance No. 469, codified as Chapter 18, Article III of the Healdsburg Municipal Code, which provided for the imposition and collection of a general excise tax in the amount of four percent (4%) on the privilege of using hotel accommodations in the City (a "transient occupancy tax" or "TOT") to be paid by hotel users and collected by hotel operators; and

WHEREAS, the City Council subsequently adopted Ordinance No. 569 on September 17, 1973; Ordinance No. 598 on June 2, 1975; Ordinance No. 737 on November 21, 1983; and Ordinance No. 885 on December 7, 1992; all increasing the rate of the TOT, which was established pursuant to Ordinance No. 885 to be ten percent (10%) of the room rate; and

WHEREAS, on November 6, 1996, the voters of California approved Proposition 218, which added Articles XIIC and D to the state constitution; and

WHEREAS, at the November 5, 2002 municipal election, the voters of Healdsburg approved a ballot initiative, known as Ordinance No. 997, that affirmed the City's ten percent (10%) TOT and restricted the use of the TOT proceeds for the provision of community services only, as defined therein; and

WHEREAS, at the November 2, 2004 municipal election, the voters of Healdsburg approved another ballot initiative, known as Ordinance No. 1020, authorizing an increase in the TOT amount to a maximum rate of twelve percent (12%) subject to a determination by the City Council, through the City's annual budget review process, that additional General Fund revenues were needed to maintain City services at existing Fiscal Year 2004-2005 service levels; and

WHEREAS, on December 19, 2005, the City Council adopted Resolution No. 142-2005 authorizing the collection of the voter-approved two percent (2%) increase to the City's ten percent (10%) TOT effective June 1, 2006, with the requirement that the City Council review the financial condition of the City's General Fund every two years to determine whether the need to continue collecting the voter-approved TOT increase still exists; and

WHEREAS, on April 21, 2008, the City Council adopted Resolution No. 43-2008 reauthorizing the collection of the two percent (2%) increase to the City's ten percent (10%) TOT, effective June 1, 2008; and

WHEREAS, on May 4, 2009, the City Council adopted Ordinance No. 1080, which purported to repeal Article III of Chapter 18 of the Municipal Code and replace it with a new Title 3, Chapter 3.12, entitled "Transient Occupancy Tax"; and

WHEREAS, on July 19, 2010, the City Council adopted Resolution No. 89-2010 reauthorizing the collection of the two percent (2%) increase to the City's ten percent (10%) TOT, effective June 1, 2010; and

WHEREAS, the Healdsburg Municipal Code was recodified in 2011; and

WHEREAS, on May 21, 2012, the City Council adopted Resolution No. 46-2012 reauthorizing the collection of the two percent (2%) increase to the City's ten percent (10%) TOT, effective June 1, 2012; and

WHEREAS, on March 18, 2013, the City Council adopted Ordinance No. 1126, which acknowledged that neither Ordinance No. 1080 nor the Municipal Code recodification in 2011 had appropriately addressed the provisions of Ordinance No. 997 and Ordinance No. 1020, and which therefore amended Title 3, Chapter 3.12 of the Healdsburg Municipal Code to incorporate into, and codify as part of the Municipal Code, Ordinance No. 997 and Ordinance No. 1020; and

WHEREAS, on May 5, 2014, the City Council adopted Resolution No. 57-2014 reauthorizing the collection of the two percent (2%) increase to the City's ten percent (10%) TOT, effective June 1, 2014; and

WHEREAS, on May 16, 2016, the City Council adopted Resolution No. 37-2016 reauthorizing collection of the two percent (2%) increase to the City's ten percent (10%) TOT, effective June 1, 2016; and

WHEREAS, ten percent (10%) of the proceeds of the City's existing TOT is a special tax, which may be used solely for the provision of community services, and if the City Council determines that additional General Fund revenues are needed to maintain general City services at FY 2004-05 levels, the additional two percent (2%) increase approved by the voters in 2004 may be collected and used for General Fund purposes only; and

WHEREAS, because none of the proceeds of the City's existing TOT may be used to fund affordable housing programs and services, the City Council is seeking voter approval to increase the maximum TOT rate by two percent (2%), with the additional proceeds to be used solely for funding such programs and services; and

WHEREAS, Article XIIC, Section 2(d) of the California Constitution requires that any special tax, such as the TOT when it is used for a restricted purpose, must be submitted to the voters and approved by a two-thirds majority vote of the voters voting on the issue of increasing the TOT; and

WHEREAS, Article XIIC, Section 2(b) of the California Constitution permits an election by the voters to approve a special tax to be consolidated with an election for City Councilmembers; and

WHEREAS, the November 8, 2016 election includes an election of members of the City Council; and

WHEREAS, after considering the foregoing information, including public comment at its duly-noticed City Council meeting of June 20, 2016, the City Council believes that a two percent (2%) incremental adjustment to the TOT should be authorized by the voters of the City of Healdsburg for the specific purpose of increasing, improving and preserving the City's supply of affordable housing, with implementation of the additional increment to be effective as of January 1, 2017; and

WHEREAS, the ordinance in Exhibit 1 hereto authorizing the special tax to be approved by the voters is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines"). The transient occupancy tax authorized by the ordinance is a special tax that can only be used to fund affordable housing projects and services but does not approve any particular project or service. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the

meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines Section 15060, review of the ordinance under CEQA is not required. The City shall perform CEQA analysis for any project funded by the revenue from the tax prior to approving the project, if the project requires analysis under CEQA.

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

Section 1. Call for Election. Pursuant to California Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of Healdsburg a measure that, if approved by a two-thirds majority vote, would increase the maximum Transient Occupancy Tax from twelve percent (12%) to fourteen percent (14%), with the additional two percent (2%) restricted to fund programs to increase, improve and preserve the City’s affordable housing stock. This measure shall be designated by letter by the Sonoma County Registrar of Voters. Pursuant to California Elections Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 8, 2016.

Section 2. Ballot Language. The ballot language for the proposed measure shall be as follows:

MEASURE:	ADJUSTMENT OF HOTEL (BED) TAX RATE	
“To increase, improve and preserve the City’s affordable housing stock, shall the City of Healdsburg be authorized to levy an ongoing 2% transient occupancy tax (or “hotel” tax) on persons who occupy hotel rooms for 30 days or less, increasing the maximum hotel tax rate from 12% to 14%, and providing an estimated minimum \$530,123 annually, with all funds of the additional tax restricted to affordable housing services and programs?”	YES	
	NO	

Section 3. Proposed Ordinance. The ordinance authorizing the special tax to be approved by the voters pursuant to Section 2 is as set forth in Exhibit 1 attached hereto. The City Council hereby approves the proposed ordinance, the form thereof, and its submission to the voters of the City at the November 8, 2016 election.

Section 4. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Healdsburg, in accordance with Section 12111 of the California Elections Code and Section 6061 of the California Government Code.

Section 5. Request to Consolidate and Conduct Election and Canvass Returns.

(a) The City Council hereby requests that the Sonoma County Board of Supervisors consolidate the election called by this Resolution with the statewide election to be conducted on November 8, 2016 and order the election to be conducted by the Registrar of Voters. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of Sonoma County and the Registrar of Voters of Sonoma County on or before August 12, 2016.

(b) The election on the measure set forth in Section 2 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the measure set forth in Section 2 shall be held in Sonoma County in the City of Healdsburg on November 8, 2016, as required by law, and the Board of Supervisors of Sonoma County is authorized to canvass the returns of the election with respect to the votes cast in the City of Healdsburg and certify the results to the City Council of the City of Healdsburg.

(d) At the next regular meeting of the City Council of the City of Healdsburg occurring after the returns of the election for the measure set forth in Section 2 have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

Section 6. Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the measure shall be by 5:00 p.m. on Monday, August 22, 2016.

(b) The last day for submission of rebuttal arguments for or against the measure, only if opposing arguments are filed, shall be by 5:00 p.m. on Thursday, September 1, 2016.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare, by Monday, August 22, 2016, an impartial analysis of the measure showing the effect of the measure.

(f) The Mayor is hereby authorized to file a written argument, not to exceed three hundred (300) words, in favor of the proposed measure, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote. In the event that an argument is filed against the measure, the Mayor is also authorized to file a rebuttal argument, not to exceed two hundred fifty (250) words, on behalf of the City Council. The rebuttal argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

Section 7. Appropriation of Necessary Funds. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 8. Services of City Clerk. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Healdsburg this 20th day of June 2016, by the following vote:

AYES: Councilmembers: (4) Mansell, Plass, Ziedrich and Mayor Chambers

NOES: Councilmembers: (0) None

ABSENT: Councilmembers: (1) McCaffery

ABSTAINING: Councilmembers: (0) None

SO ORDERED:

ATTEST:



Thomas L. Chambers, Mayor



Maria Curiel, City Clerk

Resolution No. 67-2016

Page 7

I, MARIA CUIEL, City Clerk of the City of Healdsburg, do hereby certify that the foregoing is a full, true, and correct copy of Resolution No. 67-2016 adopted by the City Council of the City of Healdsburg on the 20th day of June, 2016.



Maria Cuiel, City Clerk



EXHIBIT 1

CITY OF HEALDSBURG

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF HEALDSBURG
AMENDING THE HEALDSBURG MUNICIPAL CODE TO
INCREASE THE MAXIMUM TRANSIENT OCCUPANCY
TAX BY 2%, FROM A MAXIMUM OF 12% TO A
MAXIMUM OF 14%, AND RESTRICTING THE
PROCEEDS OF THE 2% INCREMENT FOR
AFFORDABLE HOUSING SERVICES AND PROGRAMS**

WHEREAS, as a result of State legislation and judicial decisions dissolving redevelopment agencies and eliminating the use of property tax increment to increase, improve and preserve the supply of affordable housing, cities have been struggling to find an alternative funding source for such purposes; and

WHEREAS, the City's Community Housing Committee and the City Council of the City of Healdsburg (the "City Council") have identified an urgent need for a permanent source of funds to meet the City's current and future affordable housing needs and objectives by providing financial assistance and services and creating programs to increase, improve and preserve the City's rental and for-sale housing stock affordable to households of extremely low-, very low-, low-, moderate- and middle-income; and

WHEREAS, on April 19, 1965, pursuant to its authority under California Revenue and Taxation Code Section 7280 et seq., the City Council adopted Ordinance No. 469, codified as Chapter 18, Article III of the Healdsburg Municipal Code, which provided for the imposition and collection of a general excise tax in the amount of four percent (4%) on the privilege of using hotel accommodations in the City (a "transient occupancy tax" or "TOT") to be paid by hotel users and collected by hotel operators; and

WHEREAS, the City Council subsequently adopted Ordinance No, 569 on September 17, 1973; Ordinance No. 598 on June 2, 1975; Ordinance No. 737 on November 21, 1983; and Ordinance No. 885 on December 7, 1992; all increasing the rate of the TOT, which was established pursuant to Ordinance No. 885 to be ten percent (10%) of the room rate; and

WHEREAS, at the November 5, 2002 municipal election, the voters of Healdsburg approved a ballot initiative, known as Ordinance No. 997, that affirmed the City's 10% TOT and restricted all of the proceeds of the TOT for the provision of community services only; and

WHEREAS, at the November 2, 2004 municipal election, the voters of Healdsburg approved another ballot initiative, known as Ordinance No. 1020, authorizing the City Council to increase the TOT by an additional two percent (2%) each year to a maximum rate of twelve percent (12%) provided that the City Council, through the City's budget review process,

determines that additional General Fund revenues are needed to maintain City services at existing Fiscal Year 2004-2005 service levels; and

WHEREAS, the additional two percent (2%) increase approved by the voters in 2004 may be collected and used for General Fund purposes only; and

WHEREAS, because none of the proceeds of the City's existing TOT may be used to fund affordable housing programs and services and because no other sources of funds are available for such purposes, the City Council determined that it was necessary to place a measure on the November 8, 2016 ballot to increase the maximum TOT rate by two percent (2%), with the additional proceeds to be used solely for funding affordable housing programs and services; and

WHEREAS, if the ballot measure is approved, it would increase the maximum TOT rate by two percent (2%), from a maximum of twelve percent (12%) to a maximum of fourteen percent (14%), and restrict the proceeds of the two percent (2%) increment for the provision for affordable housing programs and services.

Now therefore, the People of the City of Healdsburg, do hereby ORDAIN as follows:

SECTION 1. Amendment of Healdsburg Municipal Code. Chapter 3.12 of Title 3 of the Healdsburg Municipal Code is hereby amended as follows (in this Section 1, text to be inserted into the Municipal Code is indicated in underline while text to be stricken is presented in ~~strikeout~~; text in standard type currently appears in the Municipal Code and is reaffirmed and readopted by this ordinance):

a. Section 3.12.020 is hereby amended to add the following definition:

A. "Affordable housing services and programs" means the provision of financing and other services and programs provided by the City of Healdsburg to prospective and current tenants, owners and/or developers to assist in increasing, improving and preserving the City's supply of housing available to households identified by income category in Section 20.28.310 of the City's Municipal Code, as the same may be amended from time to time.

b. Section 3.12.030A is hereby amended to read as follows:

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in an amount not less than ~~10~~ 12 percent nor more than ~~12~~ 14 percent of the rent charged by the hotel operator. The actual rate of tax to be paid shall be established by resolution of the Healdsburg City Council based on a determination, through the City's annual budget review process, that additional general fund revenues are needed to maintain general City services, including police and fire services, at FY 2004-2005 service levels.

Such tax constitutes a debt owed by the transient to the City which can be extinguished only by payment of such tax to the hotel operator. The tax shall be due at the time the transient ceases to occupy space in the hotel and the transient shall pay the tax to the hotel operator at the time the rent is paid. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require the tax to be paid directly to the City.

c. Section 3.12.160 is hereby amended to read as follows:

The first 10 percent of all proceeds of the tax levied and imposed by this chapter shall be accounted for and paid into a special fund or account designated for use for the provision of community services only. The next 2 percent of such proceeds shall be accounted for and paid into a special fund or account designated for use for the provision of affordable housing services and programs. Any proceeds of the tax that are in excess of ~~10~~ 12 percent of the room rate shall be paid into the City's general fund for general fund purposes. No other entity, public or private, shall have access to the proceeds of the transient occupancy tax, and no part thereof shall be expended on services provided outside the City.

As to ~~the first 10 percent of~~ all proceeds of the tax levied and imposed by this chapter for the provision of community services and affordable housing services and programs, and collected by the City, the finance director shall file an annual report with the City Council that contains the amount of such proceeds, how such proceeds were expended and the status of any project required or authorized to be funded with revenue raised by such proceeds, all in accordance with California Government Code Section 50075.3.

SECTION 2. Environmental Compliance. The findings for this ordinance, in compliance with the California Environmental Quality Act ("CEQA"), are the same as those set forth in the City's Resolution No. _____ calling for an election on this ordinance. The CEQA findings in Resolution No. _____ are incorporated herein by reference.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 4. Effective Date and Publication. This Ordinance relates to the levying and collecting of the City transient occupancy taxes and shall take effect on January 1, 2017.

IT IS HEREBY CERTIFIED that the foregoing Ordinance was APPROVED by the following vote of the People of the City of Healdsburg on November 8, 2016:

Yes: _____ No: _____ Total: _____

Ordinance No. _____

Page 4

IT IS HEREBY FURTHER CERTIFIED that the foregoing Ordinance was adopted by Declaration of the November 8, 2016 election results by the City Council of the City of Healdsburg on _____, 2016, by the following vote, to wit:

AYES: Councilmembers: ()

NOES: Councilmembers: ()

ABSENT: Councilmembers: ()

ABSTAINING: Councilmembers: ()

SO ORDERED:

ATTEST:

Thomas L. Chambers, Mayor

Maria Curiel, City Clerk

2670204.1