

CITY OF HEALDSBURG

RESOLUTION NO. 102-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEALDSBURG (1) ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE AMENDING THE TRANSIENT OCCUPANCY TAX ORDINANCE OF THE CITY TO PERMIT THE USE OF TRANSIENT OCCUPANCY TAX REVENUES TO ACQUIRE AND CONSTRUCT CAPITAL IMPROVEMENTS FOR PARKS, COMMUNITY SERVICES FACILITIES AND AFFORDABLE HOUSING, INCLUDING PAYMENT OF PRINCIPAL, INTEREST, AND COSTS OF INDEBTEDNESS TO BE HELD ON NOVEMBER 8, 2022; (2) REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA TO CONSOLIDATE THE ELECTION REGARDING THE MEASURE WITH THE NOVEMBER 8, 2022 STATEWIDE GENERAL ELECTION AND TO PERMIT THE SONOMA COUNTY ELECTIONS DEPARTMENT TO CONDUCT SAID ELECTION; (3) DIRECTING THE CITY CLERK TO TAKE ALL NECESSARY ACTIONS AND COORDINATE WITH THE COUNTY OF SONOMA TO ENSURE PLACEMENT OF THE MEASURE ON THE NOVEMBER 8, 2022 BALLOT; (4) AUTHORIZING THE CITY MANAGER TO REIMBURSE THE COUNTY OF SONOMA FOR THE COSTS TO CONDUCT THE ELECTION; (5) AUTHORIZING THE CITY COUNCIL TO AUTHOR THE ARGUMENT IN FAVOR OF THE MEASURE AND ANY REBUTTAL ARGUMENT; AND (6) DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, pursuant to section 2.40.010 of the Healdsburg Municipal Code, the general municipal election of the City shall be held on the same day as the statewide general election; and

WHEREAS, pursuant to Section 9222 of the California Elections Code the City Council may submit the Ordinance directly to the voters; and

WHEREAS, in 2004 the voters of the City of Healdsburg adopted a measure imposing a Transient Occupancy Tax (“TOT Ordinance”) on all visitors for the privilege of occupancy in any hotel, motel, resort, inn, suite, or B&B in the City of Healdsburg; and

WHEREAS, the TOT Ordinance imposes a special tax, as defined by California Constitution Articles XIII C, § 1(c), and was adopted by 2/3 of the qualified voters in 2014; and

WHEREAS, the City Council desires to submit to the voters at the general municipal election scheduled for Tuesday, November 8, 2022 (the “Election”), a measure amending the TOT Ordinance to permit the use of Transient Occupancy Tax revenues to acquire and construct capital improvements for parks, community services facilities and affordable housing, including payment of principal, interest, and costs of indebtedness; and

WHEREAS, such an amendment must be presented to and adopted by 2/3 of the qualified voters of the City, pursuant to California Constitution Article XIII C, § 2(d) and Article XIII A, § 4; and

WHEREAS, the County of Sonoma will be conducting a statewide general election in Healdsburg on November 8, 2022; and

WHEREAS, it is in the best interest of the City of Healdsburg to consolidate the City election with the County election to be conducted on November 8, 2022; and

WHEREAS, pursuant to Elections Code Section 10002, the governing body of any city may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election, subject to the city reimbursing the county in full for the services performed upon presentation of a bill to the city; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body calling the elections; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a city for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the city shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, the City Council hereby requests the County Clerk of Sonoma County provide election services that are normally provided to the City of Healdsburg; and

WHEREAS, the ordinance attached hereto as Exhibit “A” and incorporated herein by reference (the “Ordinance”) would amend the current TOT measure to clearly authorize the City to finance acquisition and construction of capital improvements for parks, community services facilities, and affordable housing, including payment of principal, interest, and costs of indebtedness.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Healdsburg does resolve, declare, determine and order as follows:

Section 1. That pursuant to Government Code section 36503, and Healdsburg Municipal Code section 2.40.010, there is called and ordered to be held in the City of Healdsburg a general municipal election.

Section 2. The City Council orders submitted to the voters a measure for the approval of the Ordinance amending the Transient Occupancy Tax Ordinance of the City to Permit the Use of Transient Occupancy Tax Revenues to Acquire and Construct Capital Improvements for Parks, Community Services Facilities and Affordable Housing, including

Payment of Principal, Interest, and Costs of Indebtedness at such general municipal election. The full text of the proposed Ordinance, attached hereto as Exhibit A, shall be printed and made available to voters pursuant to Section 9223 of the California Elections Code.

Section 3. The complete text of the Transient Occupancy Tax Measure to be submitted to the voters for approval is attached to this Resolution as Exhibit "A," and the City Clerk shall maintain a copy of the measure and shall make the same available for public inspection upon request. The City Council hereby approves the ordinance attached to this Resolution as Exhibit "A," the form thereof, and its submission to the voters of the City at the November 8, 2022 election.

Section 4. Pursuant to Elections Code Sections 10400 and 10403, the City Council hereby orders an election be called and consolidated with any and all elections also called to be held on November 8, 2022 within the same territory. Further, pursuant to Elections Code Section 10002, the City Council hereby requests the Board of Supervisors of the County of Sonoma to consolidate the election for the above referenced Transient Occupancy Tax Measure with the November 8, 2022 general election and to permit the Sonoma County Elections Department to provide any and all services necessary for conducting the election. The County of Sonoma and its staff are authorized and instructed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and other necessary items in order to properly and lawfully conduct the election; the County of Sonoma is authorized to canvass the returns of the election, which shall be held in all respects as if there were only one election, and only one form of ballot shall be used; and the City Council recognizes that additional cost will be incurred by the County of Sonoma by reason of the consolidation of the election with the Statewide election and agrees to reimburse the County of Sonoma for any costs that are not reimbursed by the State. The City Council hereby authorizes the City Manager to pay the County of Sonoma for said services in full.

Section 5. The City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code section 10418.

Section 6. The measure shall be designated by letter by the Sonoma County Elections Department. The question to appear on the ballot for voter consideration shall be as follows:

Transient Occupancy Tax Measure	
Shall the City of Healdsburg adopt an ordinance amending the City's Transient Occupancy Tax to facilitate acquisition and construction of capital improvements for parks, community services facilities, and affordable housing, including payment of principal, interest, and cost of indebtedness, without altering any other mechanics or rates of the Transient Occupancy Tax?	YES
	NO

Section 7. Pursuant to Article XIII C of the California Constitution, this measure shall not take effect unless 2/3 of votes cast on the measure at the Election are in favor of the

measure, unless another threshold is otherwise required by law.

Section 8. In accordance with Elections Code Section 9282, the City Council authorizes a subcommittee of two Council Members, appointed by the City Council during an open and public meeting, to prepare a written argument, not to exceed 300 words, in favor of the Cannabis Business Tax Measure on behalf of the City Council. The remaining Council Members may review and sign onto the argument in advance of its publication, but may not circulate comments to other Council Members, as limited by the Brown Act. If an argument is filed against the Cannabis Business Tax Measure, the Council authorizes the same subcommittee or a different subcommittee, also appointed by the City Council during an open and public meeting, to prepare a written rebuttal, not to exceed 250 words, which also may be signed by members of the City Council.

Section 9. Ballot arguments and rebuttals shall be filed in accordance with the following:

- A. Arguments against the Measure may not exceed 300 words and must be submitted to the City Clerk in compliance with sections 9282 and 9283 of the California Elections Code by 5:00 p.m. on August 19, 2022.
- B. Rebuttal arguments are hereby authorized and may not exceed 250 words and must be submitted to the City's elections official as specified in section 9285 of the California Elections Code, by 5:00 p.m. on August 26, 2022.

Section 10. All previous resolutions providing for the filing of ballot arguments and rebuttal arguments for City measures are hereby repealed and the provisions of this resolution providing for the filing of ballot arguments and rebuttal arguments regarding the Transient Occupancy Tax Measure shall only apply to the election to be held on November 8, 2022, and shall thereafter be repealed.

Section 11. The City Clerk is hereby directed to transmit a copy of the measure to the City Attorney, who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure in accordance with Section 9280 of the California Elections Code, and to file that analysis no later than the deadline established by the Sonoma County elections official.

Section 12. The Board of Supervisors of Sonoma County is hereby requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the election and to consolidate this ballot measure with any other applicable election conducted on the same day in the City. The Board of Supervisors is further requested to order the County Clerk to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the measure and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the arguments and rebuttal arguments (if any) for and against the measure.

Section 13. Notice of the Election is hereby given and the City Clerk shall give such further notice of the election as required by law.

Section 14. The City Clerk is hereby directed to file a certified copy of this Resolution with the Sonoma County Board of Supervisors and the Sonoma County Elections Department.

Section 15. The City Clerk is authorized and directed to take all other steps necessary to conduct the election on the Measure.

Section 16. The City Manager is authorized and directed to appropriate the funds necessary to fund the cost of the Election.

Section 17. For purposes of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), a “project” is defined in State CEQA Guidelines Section 15378 (a) as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” but excludes “the submittal of proposals to a vote of the people of . . . a particular community that that not involve a public agency sponsored initiative.” (14 CCR 1378(b)(3); Stein v. City of Santa Monica (1980) 110 Cal. App. 3d 458; Friends of Sierra Madre v. City of Sierra Madre (2011) 25 Cal. 4th 165.) The City Council hereby finds that, as a citizen-sponsored initiative, this Initiative is exempt from CEQA under CEQA Guidelines Section 15378(b)(3).

Section 18. In all particulars not recited in this resolution, the election shall be held and conducted as provided by State law for holding municipal elections.

Section 19. This Resolution shall take effect upon its adoption by a majority of the City Council.

PASSED, APPROVED AND ADOPTED, this 21st day of June 2022, by the following vote:

AYES: Councilmembers: (4) Hagele, Kelley, Mitchell and Mayor Jimenez

NOES: Councilmembers: (0) None

ABSENT: Councilmembers: (0) None

ABSTAINING: Councilmembers: (0) None

SO ORDERED:


Osvaldo Jimenez, Mayor


ATTEST:


Raina Allan, City Clerk

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I, RAINA ALLAN, City Clerk of the City of Healdsburg, do hereby certify that the foregoing is a full, true, and correct copy of Resolution No. 102-2022 adopted by the City Council of the City of Healdsburg on the 21st day of June, 2022.



Raina Allan, City Clerk

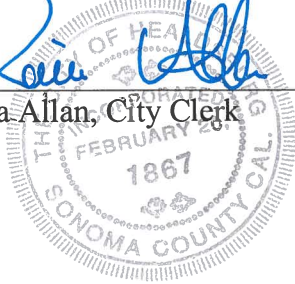


EXHIBIT A

CITY OF HEALDSBURG

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HEALDSBURG AMENDING THE TRANSIENT OCCUPANCY TAX ORDINANCE OF THE CITY OF HEALDSBURG TO PERMIT THE USE OF TRANSIENT OCCUPANCY TAX REVENUES TO ACQUIRE AND CONSTRUCT CAPITAL IMPROVEMENTS FOR PARKS, COMMUNITY SERVICES FACILITIES AND AFFORDABLE HOUSING, INCLUDING PAYMENT OF PRINCIPAL, INTEREST AND COSTS OF INDEBTEDNESS FOR THE SAME

WHEREAS, in 2004, the City of Healdsburg voters approved and enacted the Transient Occupancy Tax Ordinance Of The City Of Healdsburg (“TOT Ordinance”), set forth in Chapter 3.12 of the Healdsburg Municipal Code, for the privilege of occupancy in any hotel within the City; and

WHEREAS, pursuant to Healdsburg Municipal Code Section 3.12.030, each transient is subject to a tax of not less than 12 percent nor more than 14 percent of the rent charged by the hotel operator, with the actual rate of the tax established by resolution of the City Council. The current tax rate is 14%; and

WHEREAS, pursuant to Healdsburg Municipal Code Section 3.12.160, the first 10 percent of the 14 percent transient occupancy tax shall be used for the provision of community services only, the next 2 percent of the 14 percent transient occupancy tax shall be used for the provision of affordable housing services and programs, and any transient occupancy tax in excess of 12 percent shall be paid into the City’s general fund for general fund purposes; and

WHEREAS, the City Council wishes to have the ability to use a portion of the TOT Ordinance revenues for the acquisition and improvement of new parks, community services facilities, and affordable housing, as well as to use TOT Ordinance revenues to secure bond financing to generate funds to build new parks, community service facilities and increase affordable housing in the City; and

WHEREAS, the City Council wishes to amend the definitions of “community services” and “affordable housing services and programs” in Healdsburg Municipal Code Section 3.12.020, to specifically permit TOT Ordinance revenues to be used for acquisition and construction of new parks, and capital improvements for community services and affordable housing facilities, including payment of principal, interest and costs of indebtedness for the same; and

WHEREAS, except as outlined above, this measure will not alter the tax rate; the percentage of tax revenues allocated for the percentage of community services, affordable housing, and the general fund; the persons subject to or exempt from the tax; the mechanics of the collection of

the tax; or any other provisions of the TOT Ordinance; and

WHEREAS, this measure to amend the TOT Ordinance requires an affirmative vote of 2/3 of the electorate voting on the measure to pass, and if the measure does not garner 2/3 of the vote, the provisions of the current TOT Ordinance will remain intact.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF HEALDSBURG DO ORDAIN AS FOLLOWS:

Section 1. Findings

The City Council of the City of Healdsburg does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amendment of Code

Healdsburg Municipal Code Chapter 3.12, Transient Occupancy Tax, Sections 3.12.020, Definitions, and 3.12.160, Use of tax proceeds, are hereby amended as follows:

3.12.020 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

A. “Affordable housing services and programs” means the ~~provision of financing of capital improvements, and other services, and programs~~ and assistance provided by the City of Healdsburg to prospective and current tenants, owners and/or developers to assist in acquiring, rehabilitating, increasing, improving and preserving the City’s supply of housing available to households identified by income category in HMC 20.28.310, as the same may be amended from time to time.

B. “Agreement in writing” means a document, signed by the operator and occupant, stating that the occupant intends to occupy the hotel for more than 30 consecutive days.

C. “Chapter” means Chapter 3.12 HMC entitled “Transient Occupancy Tax.”

D. “Community services” means the facilities and services provided by the City of Healdsburg community services department, including but not limited to the construction, acquisition, improvement, rehabilitation, management and operation of fields for soccer, baseball, and other sports, parks, open space, and recreational facilities, including but not limited to Recreation, Plaza, Badger, Giorgi, “the Parkland Farms,” Carson Warner Memorial Skate Park, and the Villa Chanticleer; support for senior services; transit services and the operation and management of the Healdsburg Airport; civic promotion; special event coordination; distribution of information about community services; constructing, acquiring, rehabilitating, funding, planning, designing, and engineering capital improvement projects; support for community enrichment classes and recreational programs; scheduling and coordination of outdoor area usage at local schools, parks, and community facilities; provision

of transit services for individuals with special needs; and administering contracts for maintenance and operation of community services and facilities.

E. He – Him – His. Pronouns of the masculine gender are utilized for the sake of brevity and are intended to refer to persons of either gender or of the neuter gender, as applicable.

F. Hearing Officer. The hearing officer shall be the City Manager or his or her designee.

G. “Hotel” means any structure or any portion of any structure that is occupied or intended or designed for occupancy by transients for sleeping purposes, including any inn, home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof that is used for occupancy by transients, even if such use is on a part-time basis.

H. “Occupancy” means the use or possession or the right to the use or possession of any room or rooms or portion thereof in any hotel for sleeping purposes in exchange for rent (as defined in this section).

I. “Operator” means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his functions through a managing agent or booking agency of any type or character other than an employee, the managing agent or booking agency shall also be deemed an “operator” for the purposes of this chapter and shall have the same duties and liabilities as its principal. Compliance with the provisions of this chapter by either the principal, the managing agent or booking agency shall, however, be considered to be compliance by all, and a violation of this chapter by either the principal or any agent acting on behalf of the principal shall be considered a violation by all.

J. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or other group or combination acting as a unit.

K. “Rent” means the actual consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credit and property and services of any kind or nature without any deduction therefrom whatsoever.

L. “Tax administrator” means the finance officer or his authorized agent.

M. “Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.

3.12.160 Use of tax proceeds.

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 two 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 12 percent of the room rate shall be paid into the City’s general fund for general fund purposes. Any proceeds of the tax may be used, in addition to funding the services and programs described herein, to acquire and construct capital improvements or facilities, including payment of principal, interest and costs of indebtedness for the same. 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 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 3. Severability

If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date

This Ordinance shall take effect ten (10) days after the certification by the City Council of the election returns indicating passage of the Ordinance by two thirds of voters casting votes in the election.

Section 5. Termination Date

The amendment to this ordinance provided herein shall extend until the tax is terminated by the voters.

Section 6. Publication

The City Clerk is directed to publish this Ordinance as required by State law.

APPROVED (or DENIED) by the following vote of the People of the City of Healdsburg on November __, 2022:

YES: _____ NO: _____ TOTAL NUMBER OF BALLOTS CAST: _____

IT IS HEREBY FURTHER CERTIFIED that the foregoing Ordinance was adopted by Declaration of the November 8, 2022 election results by the City Council of the City of Healdsburg on ____, 2022, by the following vote, to wit:

AYES: Councilmembers: ()

NOES: Councilmembers: ()

ABSENT: Councilmembers: ()

ABSTAINING: Councilmembers: ()

SO ORDERED:

ATTEST:

Osvaldo Jimenez, Mayor

Raina Allan, City Clerk

Dated _____