RESOLUTION NO. 2017 - 46
RESOLUTION OF THE COUNCIL OF THE CITY OF COTATI (1) ORDERING AND GIVING NOTICE OF AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2017, FOR THE PURPOSE OF SUBMITTING TO COTATI VOTERS AN ORDINANCE OF THE CITY OF COTATI ADDING CHAPTER 5.30 TO THE COTATI MUNICIPAL CODE TO IMPOSE A CANNABIS BUSINESS TAX ON CERTAIN CANNABIS BUSINESSES OPERATING IN COTATI, AND AMENDING CHAPTER 5.04 TO IMPOSE A BUSINESS LICENSE TAX ON CERTAIN OTHER CANNABIS BUSINESSES OPERATING IN COTATI (2) APPROVING BALLOT LANGUAGE, (3) PERMITTING THE FILING OF BALLOT ARGUMENTS, (4) DIRECTING THE CITY ATTORNEY TO PROVIDE AN IMPARTIAL ANALYSIS AND (5) SETTING INITIAL TAX RATES FOR A THREE-YEAR TERM.

WHEREAS, the City of Cotati has responsibly and proactively managed its finances and its taxpayer dollars through transparent budget and decision-making processes and recently enacted Measure G to ensure the City’s fiscal stability by securing an additional one percent (1%) sales tax until 2023; and

WHEREAS, on November 5, 1996, the California voters enacted Proposition 215 to legalize medical use of cannabis, and in October 2015, the Governor signed into law the Medical Marijuana Regulation and Safety Act (now known as the Medical Cannabis Regulation and Safety Act or “MCRSA”), establishing a state licensing framework and authorizing local regulation of the medical cannabis industry; and

WHEREAS, on November 8, 2016, California voters enacted Proposition 64 to legalize adult recreational use of cannabis and to allow businesses that support such cannabis use to operate legally, subject to regulations imposed by state and local public entities; and

WHEREAS, the State of California Governor’s Office proposed a series of amendments to the state’s regulatory structure during the budget process, known as “SB 94”, “the Governor’s Trailer Bill,” in order to better align the requirements of MCRSA and Proposition 64, now known as the Medical and Adult Use Cannabis Regulation and Safety Act or “MAUCRSA,”

WHEREAS, the permitting and support of this industry, in association with the earlier passage of Proposition 215, and the recent enactment of MCRSA and passage of Proposition 64, has significant cost implications for the City due to the substantial costs of adopting and implementing regulations to govern this new industry, enforcing those regulations, ensuring public safety, addressing environmental concerns, and providing economic development and other related services; and

WHEREAS, the City must identify a funding source to support regulation of the industry while not adversely impacting the general fund in order to maintain consistent funding and financial stability for essential services such as police and fire protection, 911 emergency response times, streets and road maintenance, affordable housing, recreational programs and other general city services; and
WHEREAS, the City’s existing general business tax ordinance, which generally levies a limited business tax on all businesses operating in Cotati, is insufficient to generate the volume of revenue needed to pay the City’s costs of allowing the new and unique cannabis industry to operate in Cotati; and

WHEREAS, nearly fifty (50) other California jurisdictions – typically in collaboration with cannabis businesses – have enacted local measures to impose a general tax on cannabis business for the privilege of operating within the local jurisdiction; and

WHEREAS, such business taxes are imposed on cannabis businesses, and not directly on cannabis users or consumers; and

WHEREAS, adopting such a local cannabis business tax measure in the City of Cotati will benefit residents of the City by ensuring that cannabis businesses contribute reasonably and fairly to paying for the costs associated with allowing this emerging industry to operate while allowing the City to continue to maintain stable funding for essential City services and continued quality of life; and

WHEREAS, the City recognizes the volatility of the newly-legalized cannabis market and will therefore set limited initial tax rates to balance the financial needs of the City and the desire of the City to support and encourage the industry to engage in the regulated market; and

WHEREAS, such a tax measure will provide locally-controlled revenue that cannot be taken by the State; and

WHEREAS, such a tax measure will help to maintain the City’s long-term financial stability, with public oversight and annual fiscal reviews; and

WHEREAS, the City of Cotati wishes to continue its policy engagement and discussions with stakeholders and the public about how cannabis businesses operating in Cotati should be regulated, while acting quickly and decisively to address any significant financial disruptions or impact to the City’s General Fund and provision of services to Cotati citizens; and

WHEREAS, the City Council desires to consolidate the election regarding the adoption of an Ordinance authorizing the imposition of a cannabis business tax on cannabis business with the other elections to be conducted by the Sonoma County Registrar of Voters on the established election date of November 7, 2017; and

WHEREAS, it is desirable that the County Elections Department of the County of Sonoma canvass the returns of said election and that the elections be handled in all respects as if there were only one election.
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COTATI RESOLVES AS FOLLOWS:

Section 1. Pursuant to the requirements and laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Cotati, California, on Tuesday, November 7, 2017, a general election.

Section 2. Pursuant to Section 10403 of the California Elections Code, the Board of Supervisors of the County of Sonoma is hereby requested to consent and agree to consolidation of said election with the County-wide elections taking place on said date.

Section 3. The City Council proposes an amendment to the City’s Municipal Code, adding Chapter 5.30 to impose a cannabis business tax on certain cannabis businesses operating within the City and making corresponding modifications to Chapter 5.04, including imposing the City’s general business tax on certain other cannabis businesses.

Section 4. The City Council, pursuant to its right and authority, does hereby direct the Deputy City Clerk to attach the full text of the draft ordinance, attached hereto as Exhibit A and incorporated herein by reference, to the ballot and orders submitted to the voters at the said election the following question:

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<th>Shall an ordinance be adopted authorizing a City of Cotati cannabis business tax on cannabis cultivation businesses up to $25 per square foot of cultivation area (annually adjusted by CPI) or 8% of gross receipts, and on cannabis manufacturing, distribution and dispensary businesses up to 8% of gross receipts, to maintain local City services and address cannabis industry impacts with all funds subject to annual audits, generating approximately $300,000 in revenue per year until repealed?</th>
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Section 5. 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.
Section 6. The County Elections Department is authorized to canvass the return of said election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 7. The Deputy City Clerk is hereby directed to issue instructions to the County Elections Department to take any and all steps necessary for the holding of the election.

Section 8. The Deputy City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Elections Department of the County of Sonoma.

Section 9. The polls for the elections shall be open at 7:00 a.m. on the date of the election and shall remain open continuously from that time until 8:00 p.m. of the same day, when the polls shall be closed, except as provided in section 14401 of the California Elections Code.

Section 10. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 11. Notice of the time and place of holding the election is hereby given and the Deputy City Clerk is authorized, instructed and directed to give further and/or additional notice of the election, in time, form and manner as required by law.

Section 12. The provisions of California Elections Code section 9285 shall hereby apply.

Section 13. The Deputy City Clerk is directed to transmit a copy of this resolution to the City Attorney, who shall prepare an impartial analysis of the measure in accordance with California Elections Code Section 9280.

Section 14. The Deputy City Clerk shall certify the passage and adoption of this Resolution and file it with the City's original resolutions.

Pursuant to California Elections Code sections 1000 and 1400, and California Government Code sections 53723 and 53724, the Council hereby orders an election to be held in the City of Cotati, California, on Tuesday, the 7th day of November 2017, for the purpose of submitting to the qualified voters of the City an ordinance entitled "AN ORDINANCE OF THE CITY OF COTATI ADDING CHAPTER 5.30 TO THE COTATI MUNICIPAL CODE TO IMPOSE A CANNABIS BUSINESS TAX ON CERTAIN CANNABIS BUSINESSES OPERATING IN COTATI, AND AMENDING CHAPTER 5.04 TO IMPOSE A BUSINESS LICENSE TAX ON CERTAIN OTHER CANNABIS BUSINESSES OPERATING IN COTATI" in the form attached hereto as
Exhibit A, which is incorporated by this reference as if fully set forth herein. The full text of the provisions of the Ordinance submitted to the voters shall be available to any member of the public in the Office of the Registrar of Voters.

1. Arguments for and against the proposition may be submitted to the qualified voters of the City in accordance with Sections 9282 through 9287 of the California Elections Code. The deadline date for submitting ballot arguments for or against the proposition shall be set by the Deputy City Clerk. Proposed arguments shall not exceed three hundred (300) words and shall be submitted to the Office of the Deputy City Clerk. The deadline for submitting rebuttal arguments shall be set by the Deputy City Clerk. Proposed rebuttal arguments shall not exceed two hundred fifty (250) words and shall be submitted to the office of the Deputy City Clerk. The provisions of Section 9285(a) of the California Elections Code shall apply to the submittal of rebuttal arguments.

2. Initial cannabis business tax rates, should the proposed ballot initiative pass on November 7, 2017, shall be set as follows for a term of three (3) years beginning the day the Ordinance goes into effect:

   a. **Cultivation Initial Rate:** two percent (2%) of gross receipts or $5.00 per square foot of cannabis cultivation area, at the taxpayer’s election, except that vertically integrated businesses, as defined in Section 5.30 of this code, must use the per square foot rate.

   b. **Manufacturing Initial Rate:** one percent (1%) of gross receipts

   c. **Distribution Initial Rate:** zero percent (0%)

   d. **Retailers Initial Rate:** three percent (3%) of gross receipts. Sales to persons with a physician’s recommendation or a state issued medical identification card, issued for medical purposes, shall be excluded from the calculation of gross receipts for the purpose of the cannabis business tax. Physician’s recommendation means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. State issued medical identification card means a document issued by the State Department of Public Health that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any, in accordance with Section 11362.71 of the Health and Safety Code.

**IT IS HEREBY CERTIFIED** that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Cotati held on the 8th day of August, 2017, by the following vote, to wit:
RESULT: ADOPTED [UNANIMOUS]
MOVER: John A. Dell'Osso, Council Member
SECONDER: John C. Moore, Council Member
AYES: Skillman, Moore, Dell'Osso, Harvey, Landman
Approved: Mayor

Attest: Lauren Berges, Deputy City Clerk

Approved as to form:

[Signature]
City Attorney
Attachments:
Attachment A - Cannabis Tax Ordinance (PDF)