

RESOLUTION NO. 111-16 (CM)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE ORDERING A GENERAL MUNICIPAL ELECTION TO BE CALLED ON WHETHER TO AMEND CHAPTER 6 (TAXATION) OF TITLE 3 (FINANCE) OF THE WATSONVILLE MUNICIPAL CODE BY ADDING ARTICLE 12 ENTITLED WATSONVILLE CANNABIS BUSINESS TAX, ADDING ARTICLE 13 ENTITLED COMPANION ADVISORY TAX REVENUE APPORTIONMENT MEASURE; REQUESTING SANTA CRUZ COUNTY ELECTIONS TO CONDUCT THE ELECTION; REQUESTING CONSOLIDATION OF THE ELECTION TO BE HELD ON NOVEMBER 8, 2016; AND DIRECTING THE CITY CLERK TO TAKE STEPS TO PLACE SAID MEASURE

WHEREAS, the City Council of the City of Watsonville desires to call a General Municipal Election to submit to the qualified electors of the City of Watsonville a proposal whether to impose a Cannabis Business Tax of not to exceed 10% on gross receipts from retail sales of cannabis, 2.5% on gross receipts from the sale of cannabis and \$20 per square foot tax for grow area of cannabis cultivation and if approved by the voters, adopt a companion advisory ordinance recommending use of cannabis tax revenue; 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 relating to the conduct of an election; and

WHEREAS, the resolution of the City Council of the City shall specify the services requested; and

WHEREAS, pursuant to Elections Code Section 10002, the city shall reimburse 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, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision 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 or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10400, such election for cities may be either completely or partially consolidated; 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 the City Council 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, acknowledging that the consolidation election will be held and conducted in the manner prescribed in Section 10418. Upon such request, the Board of Supervisor may order the consolidation; and

WHEREAS, pursuant to Elections Code Section 10418, if consolidated, the consolidated election shall be held and conducted, election boards appointed, voting precincts designated, candidates nominated, ballots printed, polls opened and closed, voter challenges determined, ballots counted and returned, returns

canvassed, results declared, certificates of election issued, recounts conducted, election contests presented, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of law regulating the statewide or special election, or the election held pursuant to Section 1302 or 1303, as applicable; and

WHEREAS, 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, various district, county, state, and other political subdivision elections may be or have been called to be held on November 8, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, AS FOLLOWS:

SECTION 1. That the City Council of the City of Watsonville hereby orders a General Municipal Election be called and consolidated with any and all elections also called to be held on November 8, 2016, insofar as said elections are to be held in the same territory or in territory that is in part of the same as the territory of the City of Watsonville and requests the Board of Supervisor of the County of Santa Cruz to order such consolidation under Elections Code Sections 10401 and 10403 and 10418.

SECTION 2. That the City Council of the City of Watsonville hereby requests the Board of Supervisors to permit the Santa Cruz County Elections Department to provide any and all services necessary for conducting the election if the City agrees to pay for said services.

SECTION 3. That the City Council of the City of Watsonville hereby orders that the Santa Cruz County Elections Department shall conduct the General Municipal Election for the following measure to be voted on at the November 8, 2016: at which election shall be submitted to the qualified electors of the City of Watsonville the following measure:

The ballot measure text will read as follows:

Ballot Question:

“To protect and preserve the quality of life in the City of Watsonville and to fund essential City services , shall an ordinance be adopted to impose a tax on cannabis cultivation of not more than \$20 per square foot per year of canopy area, not more than 2.5% on gross receipts from manufactured cannabis product, and not more than 10% on gross receipts from the retail sale of cannabis?”

Yes _____

No _____

ORDINANCE NO. 1330-16 (CM)

A CODIFIED ORDINANCE BY THE VOTERS OF THE CITY OF WATSONVILLE AMENDING CHAPTER 6 (TAXATION) OF TITLE 3 (FINANCE) OF THE WATSONVILLE MUNICIPAL CODE BY ADDING ARTICLE 12 ENTITLED WATSONVILLE CANNABIS BUSINESS TAX IMPOSING A TAX ON CANNABIS FACILITIES WITHOUT RESTRICTIONS TO BE DONE SOLELY WITH VOTER APPROVAL

ELECTION ON NOVEMBER 8, 2016

EFFECTIVE DATE:

THE PEOPLE OF THE CITY OF WATSONVILLE, CALIFORNIA, DO

HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Chapter 6 (Taxation) of Title 3 (Finance) of the Watsonville Municipal Code is hereby amended by adding a new Article 12 entitled *Watsonville Cannabis Business Tax* which imposes a tax on Cannabis Facilities without restrictions to read in words and figures as follows:

Article 12. Watsonville Cannabis Business Tax

Sec. 3-6.1200 Purpose.

This chapter shall be known as the "Watsonville Cannabis Business Tax" and is enacted solely to raise revenue for the general governmental purposes of the City and not for purposes of regulation or of raising revenues for regulatory purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and used for the usual current expenses of the City.

Sec. 3-6.1201 Tax imposed.

There is established and imposed a business tax at the rate set forth in this chapter.

Sec. 3-6.1202 Definitions.

The definitions in this section shall govern the application and interpretation of this chapter.

(a) "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

(b) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by [Section 11018](#) of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, “cannabis” does not mean “industrial hemp” as defined by [Section 81000](#) of the Food and Agricultural Code or [Section 11018.5](#) of the Health and Safety Code..

(c) “Cultivation” or “cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(d) “Cultivated area” means any area indoors that is the greater of either:

(1) The total area of a property that is densely or primarily occupied by cannabis cultivation; or

(2) One square foot per juvenile or mature cannabis plant on the parcel.

(e) "Employee" means each and every person engaged in the operation or conduct of any 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 business for a wage, salary, commission or room and board.

(f) "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

(1) Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;

(2) Such person or person's employee owns or leases real property within the City for business purposes;

(3) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;

(4) Such person or person's employee regularly conducts solicitation of business within the City;

(5) Such person or person's employee performs work or renders services in the City on a regular and continuous basis involving more than five working days per year;

(6) Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(g) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of Internet or telephone solicitation, represent that such person is engaged in cannabis business in the City, then these facts may be used as evidence that such person is engaged in business in the City.

(h) "Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or

service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
- (6) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- (7) Cash value of sales, trades or transactions between departments or units of the same business;
- (8) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded

from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered;

(9) Transactions between a partnership and its partners;

(10) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

(i) The voting and nonvoting stock of which is owned at least 80 percent by such other corporation with which such transaction is had; or

(ii) Which owns at least 80 percent of the voting and nonvoting stock of such other corporation; or

(iii) At least 80 percent of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

(11) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in subsection (h)(9) of this section;

(12) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of \$1.00;

(13) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Finance Department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

(i) "Gross receipts" subject to the business tax shall be that portion of gross receipts relating to business conducted within the City.

(j) "Cannabis products" means products comprised of cannabis and other ingredients and for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(k) "Cannabis business" or "medical cannabis business" means either of the following:

(1) Any location where cannabis is distributed, delivered, dispensed, sold or given away to a qualified patient, a person with an identification card, or a primary caregiver.

(2) Any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, dispense, or give away cannabis to a qualified patient, a person with an identification card, or a primary caregiver.

(3) Notwithstanding subsections (k)(1) and (k)(2) of this section, "medical cannabis business" shall not include any of the following:

(1) (i) A residence or dwelling unit in which a qualified patient or designated primary caregiver may possess and cultivate amounts of medical cannabis in compliance with state law.

(ii) Any location during only that time reasonably required for a primary caregiver to distribute, deliver, dispense or give away cannabis to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.5 and 11362.7 et seq.;

(iii) The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), all of Division 2 of the California Health and Safety Code where: (i) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency, and (ii) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card; or

(iv) Any vehicle during only that time reasonably required for its use by: (i) a qualified patient or person with an identification card to transport cannabis for his or her personal medical use, or (ii) a primary caregiver to transport, distribute, deliver, dispense, or give cannabis to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.765.

(l) "Cannabis business tax," "business tax" or "cannabis tax" means the tax due for engaging in cannabis business in the City of Watsonville.

(m) "Person" means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(n) "Sale" means and includes any sale, exchange, or barter.

(o) "Finance Director" means the Director of Finance for the City of Watsonville or such other person designated by the City Manager from time to time to administer this chapter.

(p) "Manufacturer" means a person who conducts the production, preparation, propagation, or compounding of manufactured 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 at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(q) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(r) “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

Sec. 3-6.1203 Other licenses, permits, taxes, fees or charges.

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 license or permit 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 licenses, license taxes, fees or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

Sec. 3-6.1204 Payment of tax does not authorize unlawful business.

(a) The payment of a business tax required by this chapter, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any cannabis business in any building or on any premises if such building or premises is situated in a zone or locality in which the conduct of such cannabis business is in violation of any law.

(b) No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the City.

Sec. 3-6.1205 Payment-Location.

The tax imposed under this chapter shall be paid to the Finance Director in lawful money of the United States, at the offices of the City of Watsonville Finance Department. Lawful money shall mean any coin, currency or negotiable instrument, exchangeable for said coin or currency, which the United States Congress has declared to be a national legal tender.

Sec. 3-6.1206 Amount of tax owed.

(a) Cultivation. Every person who engages in the business of cannabis cultivation in the City shall pay an annual tax of not to exceed twenty dollars per square foot per year (\$20.00/SF/YR) of canopy area. The tax shall be paid monthly in arrears to the Finance Director at the rate of 8.33 percent (8.33%) of the annual tax per month or any portion of a month. Notwithstanding the maximum tax rate of twenty dollars (\$20.00/SF/YR) per square foot per year imposed under this subsection, the City Council may, in its discretion, at any time by ordinance, adopt a lower tax rate for cannabis cultivation, as defined in such ordinance, subject to the maximum rate set forth in this

subsection. The Council may by ordinance also increase the tax from time to time, not to exceed the maximum tax of this subsection.

(b) Manufacturers. Every person who engages in the business of manufactured cannabis or manufacture of cannabis products in the City shall pay to the City a tax of not more than two and one half percent (2.5%) of gross receipts. The tax shall be paid monthly in arrears to the Finance Director at the rate of 8.33 percent (8.33%) of the annual tax per month or any portion of a month. Notwithstanding the maximum tax rate of two and one half percent (2.5%) of gross receipts imposed under this subsection, the Council may, in its discretion, at any time by ordinance, implement a lower tax rate for all cannabis manufacture businesses, as defined in such ordinance, subject to the maximum rate set forth in this subsection. The Council may by ordinance also increase any such tax rate from time to time, not to exceed the maximum tax rate established in this subsection. The cannabis business tax for manufacturers is set at two and one half percent (2.5%) of gross receipts from the manufacture of cannabis or manufactured cannabis products in the City through and including February, 2018 to allow collection and analysis of such data as may be determined by the City Council to be appropriate to consider any change in the initial rate two and one half percent (25 rate after February, 2018).

(c) Dispensary Sales. Every person engaged in retail cannabis sales business, including but not limited to a cannabis dispensary in the City shall pay a business tax of no more than ten percent (10%) of gross receipts. The tax shall be paid monthly in arrears to the Finance Director at the rate of 8.33 percent (8.33%) of the annual tax per month or any portion of a month. Notwithstanding the

maximum tax rate of 10 percent (10%) of gross receipts imposed under this subsection, the Council may, in its discretion, at any time by ordinance, implement a lower tax rate for all cannabis retail sales, as defined in such ordinance, subject to the maximum ten percent (10%). The Council may by ordinance also increase any such tax rate from time to time, not to exceed the maximum tax rate established under this subsection. The cannabis business tax for dispensary sales is set at seven percent (7%) of gross receipts from retail sale of cannabis, manufactured cannabis or cannabis products through and including February, 2018 to allow collection and analysis of such data as may be determined by the Council to be appropriate to consider any change in the initial seven percent (7%) rate after February, 2018.

Sec. 3-6.1207 Payment-Time limits

The business tax imposed by this chapter shall be due and payable as follows:

(a) Each person owing a tax under this chapter shall, on or before the fifth day of each calendar month, prepare and submit a tax statement to the Finance Director for the amount of tax owed for the preceding calendar month. At the time the tax statement is filed, on or before the fifth day of the succeeding month, the full amount of the tax owed for the preceding calendar month shall be remitted to the Finance Director.

(b) All tax statement shall be completed on forms provided by the Finance Director.

(c) Tax statements and payments for all outstanding taxes owed the City are immediately due to the Finance Director upon cessation of business for any reason.

Sec. 3-6.1208 Payments and communications made by mail.

Whenever any payment, statement, report, request or other communication received by the Finance Director is received after the time prescribed by this chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this chapter for the receipt thereof, or whenever the Finance Director is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the Finance Director may regard such payment, statement, report, request or other communication as having been timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City Building at 250 Main Street, Watsonville is open to the public.

Sec. 3-6.1209 Payment-When taxes deemed delinquent.

Unless otherwise specifically allowed under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid on or before the due date specified in § [3-6.1207](#).

Sec. 3-6.1210 Notice not required by City.

The Finance Director is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

Sec. 3-6.1211 Payment-Penalty for delinquency.

(a) Any person who fails or refuses to pay any business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to 25 percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at a rate established by resolution of the Council; and

(2) An additional penalty equal to 25 percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties, calculated at the rate established by resolution of the Council.

(3) Interest shall be applied at the monthly rate on the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

(4) Only payments for the full amount due shall be accepted. Partial payments shall not be accepted.

(b) Whenever a check is submitted in payment of a business tax and the check is subsequently returned unpaid by the bank upon which the check is

drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under State law.

(c) The business tax due shall be that amount due and payable from the first date on which the person was engaged in cannabis business in the City, together with applicable penalties and interest calculated in accordance with subsection (a) of this section.

Sec. 3-6.1212 Waiver of penalties.

The Finance Director may waive the first instances of the 25 percent (25%) penalty imposed upon any person for good cause if:

(a) The person provides evidence satisfactory to the Finance Director that failure to pay on time 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 business tax and accrued interest owed the City before applying to the Finance Director for a waiver.

(b) The waiver specified in this section shall not apply to interest accrued on the delinquent tax.

(c) A waiver may be granted no more than once during any 24-month period.

Sec. 3-6.1213 Refunds-Credits.

(a) No refund shall be made of any tax collected pursuant to this chapter, except as provided in WMC Section 3-6.1214; or

(b) No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution or other termination of a business.

(c) Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against such person's business taxes for the next calendar month.

Sec. 3-6.1214 Refunds and procedures.

(a) Whenever the amount of any business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded to the claimant who paid the tax; provided, that a written claim for refund is filed with the Finance Director within three (3) years of the date the tax was originally due and payable, and the provisions of Chapter 3-1 Claims and Warrants of this Code commencing with section 3-01.01 are satisfied.

(b) The Finance Director or the Finance Director's authorized agent, as a condition prior to eligibility for a refund, have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Finance Director to do so.

(c) If the business tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount

set forth in the schedule of fees and charges established by resolution of the Council from the amount to be refunded to cover expenses.

Sec. 3-6.1215 Exemptions; Application; Issuance; Conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this chapter shall apply upon forms prescribed by the Finance Director and shall furnish such information and make such affidavits as may be required by the Finance Director.

Sec. 3-6.1216 Exemptions-General.

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the State of California or preemptive Federal or State laws.

Sec. 3-6.1217 Exemptions-Occasional transactions.

(a) This chapter shall not apply to persons having no fixed place of business within the City who come into the City to transact a specific item of business at the request of a specific patient, client or customer; provided, that such person does not come into the unincorporated area for the purpose of transacting business on more than five (5) days during any calendar year.

(b) For any person not having a fixed place of business within the City who comes into the City for the purpose of transacting business and who is not exempt as provided in subsection (a) of this section, the business tax payable by such person may be apportioned by the Finance Director in accordance with [§3-6.1220](#).

Sec. 3-6.1218 Enforcement-Duties of Finance Director.

It shall be the duty of the Finance Director to enforce each and all of the provisions of this chapter.

Sec. 3-6.1219 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this chapter generally, the Finance Director, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations implementing this chapter.

Sec. 3-6.1220 Apportionment.

(a) None of the tax provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce or violate the equal protection or due process clauses of the Constitutions of the United States or the State of California

(b) If a business tax is believed by a taxpayer to place an undue burden upon interstate commerce or violate such constitutional clauses, the taxpayer may apply to the Finance Director for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one (1) year after the date of payment of the tax. If the taxpayer does not request in writing within one (1) year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(c) The taxpayer shall, as a condition precedent to be entitled to apportionment, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the

Finance Director may deem necessary to determine the extent, if any, of such undue burden or violation. The Finance Director shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the Finance Director shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter.

(d) Should the Finance Director determine that the gross receipt measure of tax to be the proper basis, the Finance Director may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the Finance Director.

Sec. 3-6.1221 Audit and examination of records and equipment.

(a) The Finance Director shall have the power to audit and examine all books and records of persons engaged in cannabis business described in this chapter including both State and Federal income tax returns, California sales tax returns, or such 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 business tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by

any person pursuant to the provisions of this chapter. If such person, after written demand by the Finance Director, refuses to make available for audit, examination or verification such books, records or equipment as the Finance Director requests, the Finance Director 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 in the manner provided in §§3-6.1224 through 3-6.1226 of any taxes estimated to be due.

(b) 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 three (3) 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 Finance Director shall have the right to inspect at all reasonable times.

Sec. 3-6.1222 Tax deemed debt to City.

The amount of any tax, penalties and interest imposed by the provisions of this chapter shall be deemed a debt to the City and any person carrying on any cannabis business without first having paid such tax shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

Sec. 3-6.1223 Deficiency determinations.

If the Finance Director is not satisfied that any statement filed as required under the provisions of 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 basis of the facts contained in the statement or upon the basis of 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. 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 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 §§ [3-6.1224](#) through [3-6.1226](#).

Sec. 3-6.1224 Tax assessment-Authorized when-Nonpayment-Fraud.

(a) Under any of the following circumstances, the Finance Director may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

- (1) If the person has not filed any statement required under the provisions of this chapter;
- (2) If the person has not paid any tax due under the provisions of this chapter;
- (3) If the person has not, after demand by the Finance Director, filed a corrected statement, or furnished to the Finance Director adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter; or

(4) If the Finance Director determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

(b) The notice of assessment shall separately set forth the amount of any tax known by the Finance Director to be due or estimated by the Finance Director, after consideration of all information within the Finance Director's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

Sec. 3-6.1225 Tax assessment-Notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, 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 Finance Director for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the Finance Director 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.

Sec. 3-6.1226 Tax Assessment-Hearing-Application and determination.

Within ten (10) days after the date of service of the notice, such person may apply in writing to the Finance Director for a hearing on the assessment. If application for a hearing before the City is not made within such ten (10) days, the tax assessed by the Finance Director shall become final and conclusive. Within thirty (30) days of the receipt of any application for hearing, the Finance Director shall cause the matter to be set for hearing before him or her not later than thirty five (35) days after the receipt of the application, unless a later date is agreed to by the Finance Director and the person requesting the hearing. The Finance Director Notice shall give notice of such hearing to the person requesting such hearing not later than five days before such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Finance Director should not be confirmed and fixed as the tax due. After such hearing the Finance Director shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in § [3-6.1225](#) for giving notice of assessment.

Sec. 3-6.1227 Conviction for chapter violation-Taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. 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.

Sec. 3-6.1228 Violation deemed misdemeanor-Penalty.

Any person violating any of the provisions of this chapter or any regulation or rule passed in accordance herewith shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.

Sec. 3-6.1229 Severability.

Should any provision of this chapter, or its application to any person or circumstance, be 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.

Sec. 3-6.1230 Effect of State and Federal reference/authorization.

(a) Unless specifically provided otherwise, any reference to a State or Federal statute in this chapter shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a State or Federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation

that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

(b) To the extent that the City's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in State or Federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

Sec. 3-6.1231 Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. 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 of this chapter.

Sec. 3-6.1232 Amendment or repeal.

This chapter of the Watsonville Municipal Code may be repealed or amended by the Council without a vote of the people. However, as required by Chapter XIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to

this chapter. The people of the City of Watsonville affirm that the following actions shall not constitute an increase of the rate of a tax:

- (a) The restoration of the tax rate to a rate no more than set by this chapter, if the Council has acted to reduce tax rate;
- (b) The increase of the tax rate from a prior rate if the increase is to a rate no more than allowed by this chapter;
- (c) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;
- (d) The establishment of a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or
- (e) The collection of the tax imposed by this chapter, even if the City had, for some period of time, failed to collect the tax.

SECTION 2. PUBLICATION.

- (a) This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be in force and take effect ten (10) days after the City Council declares the vote of the November 8, 2016, Presidential General Election

pursuant to California Election Code Section 9217 and shall become operative and be imposed on January 1, 2017, and shall not apply prior to said date.

The ballot measure text will read as follows:

Ballot Question:

If Measure __ is approved by the voters, shall (i) 20% of its proceeds be used only to pay for law enforcement and crime prevention services, (ii) 15% used only to pay for fire services, (iii) 20% used only to pay for community development, (iv) 25% used only to pay for parks and community services, (v) 8% used only for the City libraries, and (vi) 12% only for non-profit social and community services?

Yes _____ No _____

ORDINANCE NO. 1331-16 (CM)

A CODIFIED ORDINANCE BY THE VOTERS OF THE CITY OF WATSONVILLE AMENDING CHAPTER 6 (TAXATION) OF TITLE 3 (FINANCE) OF THE WATSONVILLE MUNICIPAL CODE ADDING ARTICLE 13 (COMPANION ADVISORY TAX REVENUE APPORTIONMENT MEASURE) RECOMMENDING THAT CANNABIS BUSINESS TAX REVENUE GO TO THE GENERAL FUND TO BE DONE SOLELY WITH VOTER APPROVAL

ELECTION ON NOVEMBER 8, 2016

EFFECTIVE DATE:

**THE PEOPLE OF THE CITY OF WATSONVILLE, CALIFORNIA, DO
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. ENACTMENT.

Chapter 6 (Taxation) of Title 3 (Finance) of the Watsonville Municipal Code is hereby amended by adding Article 13 (Companion Advisory Tax Revenue Apportionment Measure) to read in words and figures as follows:

Article 13. Companion Advisory Tax Revenue Apportionment Measure

At the General Municipal Election called for November 8, 2016, the following advisory question shall also be submitted to the qualified electors of the City of Watsonville:

If Measure ___ is approved by the voters, shall (i) 20% of its proceeds be used only to pay for law enforcement and crime prevention services, (ii) 15% used only to pay for fire services, (iii) 20% used only to pay for community development, (iv) 25% used only to pay for parks and community services, (v) 8% used only for the City libraries, and (vi) 12% only for non-profit social and community services?

	<i>Department</i>	
	<i>Police</i>	<i>20%</i>
	<i>Fire</i>	<i>15%</i>
	<i>Community Development</i>	<i>20%</i>
	<i>Parks and Community Service</i>	<i>25%</i>
	<i>Library</i>	<i>8%</i>
	<i>Non Prof Sector Social and Community Services</i>	<i>12%</i>
	<i>Total:</i>	<i>100%</i>

SECTION 2. PUBLICATION.

This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 3. SEVERABILITY.

If any provision of these Sections or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provision or

applications of the Article which can be given effect without the invalid provision or application, and to this end the provision of these Sections are severable.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in force and take effect ten (10) days after the City Council declares the vote of the November 8, 2016, Presidential General Election pursuant to California Election Code Section 9217 and shall become operative and be imposed on January 1, 2017, and shall not apply prior to said date.

SECTION 4. That the Santa Cruz County Elections Department is hereby requested to print the hereinabove measure text exactly as filed or indicated on the filed document in the Voter's Information Pamphlet section of the Sample Ballot for the November 8, 2016, election. Cost of printing and distribution of the measure text will be paid by the City.

SECTION 5. That the City Clerk of the City of Watsonville is hereby ordered and directed to cause to be published a synopsis of the measure to be submitted at the Special Municipal Election in the time, manner and form required by Section 12111 of the Elections Code of the State of California.

SECTION 6. That the Special Municipal Election hereby called shall be held and conducted and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the Special Municipal Election shall be held as provided for in the Charter of the City, and in all

particulars not provided for therein, the election shall be held as provided by law for the holding of special municipal elections in the City of Watsonville and otherwise in accordance with the Elections Code of the State of California.

All persons qualified to vote at municipal elections in the City of Watsonville on the day of the election herein provided for shall be qualified to vote on the measure hereby submitted at the election.

To vote in favor of the measure a voter shall mark the voting square to the right after the word "Yes" on the ballot to the right of such measure, and to vote against the measure a voter shall mark the voting square to the right after the word "NO" on the ballot to the right of such measure. If a majority of the qualified voters voting on the measure vote in favor thereof, such measure shall be deemed ratified.

SECTION 7. That the Board of Supervisors of the County of Santa Cruz is hereby requested to order the County Clerk (1) to set forth on all sample ballots to be mailed to the qualified electors of the City of Watsonville for said consolidated election the text of the ballot measure as set forth hereinabove, arguments (if any) for and against said measure, and other authorized material (if any), and (2) to provide absent voter ballots for said election for use by the qualified electors of the City of Watsonville who are entitled thereto, in the manner provided by law.

The Board of Supervisors of the County of Santa Cruz is hereby further requested to direct the County Elections Official to canvass, or cause to be canvassed, as provided by law, returns of said special election and to certify such

canvass of the votes cast for and against said measure to the City Council of the City of Watsonville.

SECTION 8. That the City Attorney is hereby directed to prepare an impartial analysis for the hereinabove measure.

SECTION 9. That the Administrative Services Director is hereby directed to prepare an impartial fiscal analysis for the hereinabove measure.

SECTION 10. That the City Clerk is directed to take the necessary steps to request the addition of this ballot measure on the November 8, 2016, consolidated general election ballot for the City of Watsonville.

SECTION 11. Written Arguments. The deadline for filing arguments for the ballot measure with the City Clerk shall be August 19, 2016, by 5:00pm., and the argument shall not exceed 300 words in length. Rebuttal arguments shall be filed with the City Clerk by August 26, 2016, by 5:00pm., and shall not exceed 250 words in length. 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, and copies of the argument against to the authors of the argument in favor.

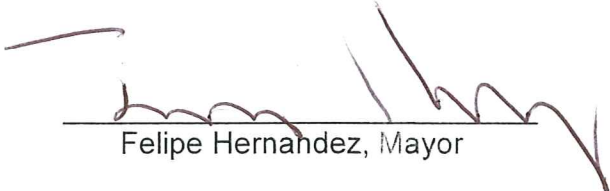
SECTION 12. That the City Clerk is hereby authorized and directed to file a copy of this Resolution with the Board of Supervisors and the County Clerk of Santa Cruz County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Watsonville, held on the 28th day of June, 2016, by Member Garcia, who moved its adoption, which motion being duly seconded by Member Coffman-Gomez, was upon roll call carried and the resolution adopted by the following vote:

AYES: COUNCIL MEMBERS: **Bilicich, Cervantez Alejo, Coffman-Gomez, Dutra, Garcia, Hurst, Hernandez**

NOES: COUNCIL MEMBERS: **None**

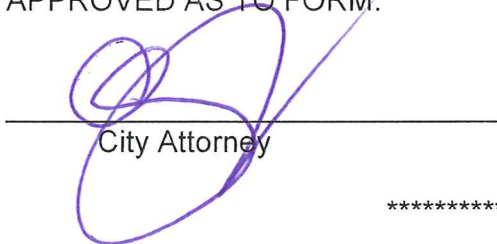
ABSENT: COUNCIL MEMBERS: **None**


Felipe Hernandez, Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

I, Beatriz Vázquez Flores, City Clerk of the City of Watsonville, do hereby certify that the foregoing Resolution No. 111-16 (CM) was duly and regularly passed and adopted by the Watsonville City Council at a meeting thereof held on the 28th day of June, 2016, and that the foregoing is a full, true and correct copy of said Resolution.


Beatriz Vázquez Flores, City Clerk