



AGENDA ITEM NO.

CITY OF HAWTHORNE CITY COUNCIL AGENDA BILL

For the meeting of August 5, 2020

Originating Department: City Attorney/City Manager

City Manager: _____ City Attorney: _____
Erick B. Lee Russell Miyahira

SUBJECT:

Adopt Revised Resolution No. 8148, a Resolution of the City Council of the City of Hawthorne, California, Calling A Special Municipal Election For November 3, 2020, Requesting That Such Election Be Consolidated With the Statewide General Election held on That Date & Submitting a Cannabis Business Tax Measure to the Electorate At That Election.

RECOMMENDED MOTION:

Adopt Revised Resolution No. 8148.

NOTICING PROCEDURES: 24 hours posted notice pursuant to the Ralph M. Brown Act.

FISCAL IMPACT: At the City Council's request, the former City Manager retained RSG, Inc. to prepare a fiscal analysis re: permitting one adult cannabis retail business in the City. The Projected Net General Fund Revenue Per Retail outlet ranged from \$85,718 to \$175,494, with a midpoint of \$130,606. The low scenario represents the most conservative assumptions and the high represents the less conservative assumptions. RSG's approximation of increased police costs resulting from permitting cannabis retail sales in the City ranged from \$16,000 to \$19,000 per retail outlet.

EXECUTIVE SUMMARY:

The City Council previously adopted Resolution No. 8148 on January 28, 2020, which would submit the following question (the "Measure") to the qualified voters of the City of Hawthorne at the Municipal Election:

Shall the City of Hawthorne Cannabis Business Tax Ordinance of 2020 be approved, imposing a 5% cannabis business tax on the gross receipts of cannabis businesses, until ended by voters (This tax will generate no revenues initially, but would generate revenue if, in the future, cannabis businesses are permitted or exist in the City)?	Yes No
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The Ordinance attached to Resolution No. 8148 did not include reference to "the City of Hawthorne" and the County asked that the City Council re-adopt Resolution No. 8148.

ATTACHMENT(S):

Revised Resolution No. 8148.

REVISED RESOLUTION NO. 8148

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE CALLING A SPECIAL MUNICIPAL ELECTION FOR NOVEMBER 3, 2020, REQUESTING THAT SUCH ELECTION BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION HELD ON THAT DATE AND SUBMITTING A CANNABIS BUSINESS TAX MEASURE TO THE ELECTORATE AT THAT ELECTION

WHEREAS, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business & Professions Code Section 26000 *et seq.*) (the “Act”), adopted by the voters in 2016 as Proposition 64 and subsequently amended by the legislature, authorized the state to license certain business activities related to cannabis and cannabis products; and

WHEREAS, Section 26200 of the Act provides that the Act does not supersede or limit the authority of local jurisdictions to regulate such cannabis businesses and specifically provides that local jurisdictions may prohibit the establishment or operation of such businesses; and

WHEREAS, the City currently prohibits all cannabis businesses; and

WHEREAS, in the future, the City Council may consider permitting some cannabis businesses to operate in the City; and

WHEREAS, aside from generally applicable business taxes, the City currently does not impose a cannabis business tax; and

WHEREAS, a cannabis business tax requires voter approval to become effective; and

WHEREAS, the City will hold a municipal general election on November 3, 2020, which will be consolidated with the statewide general election to be held on that same date; and

WHEREAS, that municipal general election will be called by a subsequent resolution; and

WHEREAS, the City Council desires to have the matter of a cannabis business tax presented to the voters on the November 3, 2020 ballot.

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

1. Pursuant to Government Code Section 53724 and Election Code Section 9222, there shall be and there is hereby called and ordered held in the City of Hawthorne, California, a special election on Tuesday, the 3rd day of November, 2020.
2. The City Clerk is hereby directed to submit the following question (the “Measure”) to the qualified voters of the City of Hawthorne at the Municipal Election:

<p>Shall the City of Hawthorne Cannabis Business Tax Ordinance of 2020 be approved, imposing a 5% cannabis business tax on the gross receipts of cannabis businesses, until ended by voters (This tax will generate no revenues initially, but would generate revenue if, in the future, cannabis businesses are permitted or exist in the City)?</p>	<p>Yes</p> <p>No</p>
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The Ordinance to be submitted to the voters is attached hereto as Exhibit “A” and incorporated herein by reference.

This measure must be approved by a majority of the votes cast in order to be adopted.

3. The City Council hereby directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within ten (10) days of the adoption of this Resolution.
4. Pursuant to Elections Code Section 10403, the City Council requests that the Los Angeles County Board of Supervisors consent to consolidation of the Special Election with the general election to be conducted by the Los Angeles County Registrar of voters November 3, 2020. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating a special election consolidated with a statewide election. The City will bear all costs customarily charged by the County to a city in connection with a ballot question submitted at a municipal election that is consolidated with an election conducted by the County.
5. The City Clerk shall certify to the passage and adoption of this Resolution and enter into the book of original Resolutions.
6. In the event that the County requires any minor or typographical corrections to this Resolution, the City Attorney is authorized to make such corrections.

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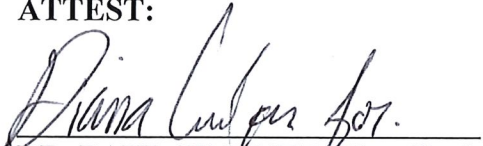
7. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters of Los Angeles County

PASSED, APPROVED AND ADOPTED THIS 5th DAY OF AUGUST, 2020.




ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:



DR. PAUL JIMENEZ, City Clerk
City of Hawthorne, California

APPROVED AS TO FORM:



RUSSELL MIYAHIRA, City Attorney
City of Hawthorne, California

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF HAWTHORNE,
CALIFORNIA, ADDING CHAPTER 5.99 TO THE HAWTHORNE MUNICIPAL
CODE, ESTABLISHING A CANNABIS BUSINESS TAX

THE PEOPLE OF CITY OF HAWTHORNE ORDAIN:

SECTION 1. Short Title

This Ordinance may be referred to as the “City of Hawthorne Cannabis Business Tax Ordinance of 2020.”

SECTION 2. Purpose.

The purpose of this Ordinance is to impose a business tax on cannabis businesses in the City of Hawthorne.

SECTION 3. Chapter 5.99 is added to the Hawthorne Municipal Code to read as follows:

CANNABIS BUSINESS TAX

- 5.99.010 Imposition of Tax.
- 5.99.020 Cannabis Business.
- 5.99.030 Use of Funds.
- 5.99.040 Administration.

5.99.010 Imposition of Tax.

Every person engaged in a Cannabis Business in the City shall pay a cannabis business tax of 5% of Gross Receipts.

5.99.020 Cannabis Business

A Cannabis Business is a business that is licensed by the state pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business & Professions Code Section 26000 *et seq.*) and/or involves the retailing, wholesaling, manufacturing, distributing, cultivation or testing of cannabis or cannabis products or involves the operation of a cannabis nursery.

5.99.030 Use of Funds

The purpose of this Chapter is to impose a tax for revenue purposes. This Chapter does not authorize any person to conduct any business in the City. Proceeds of the tax shall be deposited in the City’s general fund and available for any municipal purpose.

5.99.040 Administration

The tax imposed by this Chapter shall be administered pursuant to Division I of Title 5 of the Hawthorne Municipal Code. For purposes of this Chapter, Gross Receipts shall have the meaning set forth in Section 5.48.015 of the Hawthorne Municipal Code. This tax is in addition to any other tax imposed by the City, including the generally applicable business license tax.

SECTION 4. This Ordinance may be amended by the City Council in any respect without a vote of the people. Specifically, the City Council may reduce the rate of the tax set forth herein, may create exemptions to the tax, and may create special procedures for the collection of the tax (including, but not limited to, requiring that the tax be paid in advance or that the tax be payable as often as monthly). However, the City Council may not increase the rate of the tax unless such increase is approved by the voters as required by the California Constitution.

SECTION 5. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provision of this Ordinance are declared to be severable.

SECTION 6. If approved by the voters, this ordinance will be effective on March 1, 2021.

Approved by the People of the City of Hawthorne at the Election Held on November 3, 2020.

ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:

DR. PAUL JIMENEZ, City Clerk
City of Hawthorne, California