

RESOLUTION NO. 6206

RESOLUTION OF THE CITY OF SEBASTOPOL REQUESTING CONSOLIDATION OF THE MUNICIPAL ELECTION WITH THE CONSOLIDATED GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY OF SEBASTOPOL A BALLOT MEASURE KNOWN AS THE "INCREASE IN TRANSIENT OCCUPANCY TAX" AND SETTING DEADLINES FOR SUBMISSION OF ARGUMENTS AND REBUTTAL ARGUMENTS AND PROVIDING FOR AN IMPARTIAL ANALYSIS BY THE CITY ATTORNEY

WHEREAS, the City Council of the City of Sebastopol has determined pursuant to California Elections Code section 10400 et seq. to consolidate the Municipal Election with the Statewide General Consolidated Election and has contracted with the County of Sonoma to conduct the election on the City's behalf; and

WHEREAS, the City Council also desires to submit to the electors the ballot measure known as "Increase in Transient Occupancy Tax"; and

NOW, THEREFORE, the City Council of the City of Sebastopol does resolve, declare, determine and order as follows:

1. Pursuant to California Elections Code Section 9222, the City of Sebastopol City Council hereby calls an election at which it shall submit to the qualified voters of the City of Sebastopol, a measure that, if approved, would increase the City's Transient Occupancy Tax by 2%, clarify the measure of the tax, and adjust the refund claim period. This measure shall be designated by letter by the Sonoma County Registrar of Voters.
2. By this resolution, the City of Sebastopol orders an election to be held and requests consolidation with the November 6, 2018 Consolidated General Election.
3. The following ballot measure shall be presented to the electors of the City during the Consolidated General Election to be held on November 6, 2018:

"Shall the measure to clarify and increase the City of Sebastopol's transient occupancy tax by 2%, until repealed by the voters, which is estimated to annually raise \$617,000, be adopted?"

[] Yes

[] No

The proposed amended ordinance is attached hereto as Exhibit "B" and is incorporated herein by reference and shall be published in the ballot materials provided to the voters;

4. That the City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Sebastopol, in accordance with Section 12111 of the California Elections Code and Section 6061 of the California Government Code.
5. If the majority of qualified electors voting on the initiative measure shall vote in favor thereof, the initiative measure shall become a valid and binding ordinance of the City of Sebastopol and shall be considered adopted upon the date that the vote is declared by the City Council of said City.
6. That the Board of Supervisors of the County of Sonoma, State of California is hereby requested pursuant to Section 10403 of the California Elections Code, to order the consolidation of said General Municipal Election to be held on November 6, 2018 with the Consolidated General Election

to be held on the same date.

7. The City Clerk is hereby directed to file with the Board of Supervisors and the County Clerk of Sonoma certified copies of this resolution at least 88 days prior to the date of said election.
8. That the City Manager is hereby authorized to reimburse the County of Sonoma in full for the costs of conducting said election and services actually performed, upon presentation of a bill from Sonoma County.
9. That the Mayor, the City Manager, the Finance Director, the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the measure on the ballot.

BE IT FURTHER RESOLVED, that the City Council wishes to establish deadlines for the filing of arguments for and against said measure, and to provide for rebuttal arguments, and that the Council further desires that its City Attorney prepare an impartial analysis of said measure, as follows:

1. Arguments in favor of or in opposition to the "Increase in Transient Occupancy Tax" may not exceed 300 words in length and shall be filed at the office of the Sebastopol City Clerk not later than August 10, 2018.
2. Rebuttal arguments not to exceed 250 words shall be filed at the Office of the City Clerk no later than August 20, 2018.
3. The Sebastopol City Attorney is directed to prepare an impartial analysis of said measure to be filed not later than August 20, 2018. Such analysis shall be submitted by the City Attorney and shall not exceed 500 words in length and shall comply in all respects with applicable provisions of the California Elections Code.
4. Any measure, city attorney's impartial analysis, or primary argument filed will be available for public examination in the City Clerk's Office for not less than ten calendar days from the deadline for the filing of the arguments and analyses. Any rebuttal argument filed will be available for public examination in the City Clerk's office for not less than ten calendar days from the deadline for filing rebuttal arguments.
5. As provided in Section 9282 of the California Elections Code, any and all members of the City Council are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument, and the City establishes August 10, 2018 as the deadline to file arguments for or against the measure with the City Clerk, and August 20, 2018 as the deadline to file rebuttal arguments with the City Clerk.
6. The deadline for public examination of all ballot measure material is August 31, 2018.
7. Arguments may be changed or withdrawn up to the filing deadline. Arguments received prior to the deadline are confidential until the deadline.

IN COUNCIL DULY ADOPTED this 17th day of July, 2018.

VOTE:

Ayes:	Councilmembers Carnacchi, Glass, Gurney, Vice Mayor Hinton and Mayor Slayter
Noes:	None
Abstain:	None

Absent: None

APPROVED: PKSLT
Mayor Patrick Slayter

ATTEST: Mary C. Gourley
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: [Signature]
Larry McLaughlin, City Attorney

AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING SECTIONS 3.12.030 AND 3.12.120(A) OF THE SEBASTOPOL MUNICIPAL CODE, WHICH IMPOSES THE CITY'S TRANSIENT OCCUPANCY TAX, TO INCREASE THE TAX RATE BY 2%, CLARIFY THE MEASURE OF THE TAX, AND TO ADJUST THE REFUND CLAIM PERIOD

Sections:

Findings

1. Amendment to Section 3.12.030 of the City's Municipal Code
2. Amendment to Section 3.12.120(A) of the City's Municipal Code
3. Effect on Chapter 3.12 of the City's Municipal Code
4. Voters' Power

FINDINGS

The voters of the City of Sebastopol hereby find, declare and do ordain as follows:

The City's transient occupancy tax (TOT) is charged to visitors who stay overnight in a hotel room. It is currently set at 10% of the rent charged by the operator. In fiscal year 2016-17, the TOT generated approximately \$514,000.

Increasing the TOT by 2% will help align the City with the TOT rates of many neighboring cities. Annual revenue is expected to grow moderately in the near term and then increase significantly in the future when new proposed hotel establishments are built.

Changing the measure of the TOT from the rent charged by the operator to the rent paid by the transient will put all transients on an equal footing. Currently, when a transient books a room directly with a hotel, that transient will pay more transient occupancy tax than a transient that books the same room at the same price through a third party, such as an online travel agency. This issue has become more prominent in recent years due to the rise of online travel agencies. By changing the measure of the tax to the rent paid by the transient, from the rent charged by the operator, all transients will pay the tax at the same rate.

Additionally, adjusting the refund claim period from three years to one year will more closely align the claim period with the statutory claim period established by the Government Claims Act.

Section 1. Amendment to Section 3.12.030 of the City's Municipal Code. Section 3.12.030 of the City's Municipal Code is amended as follows:

3.12.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of 1012 percent of the rent ~~charged by the operator~~ paid by the transient. Said tax constitutes a debt owed by the transient to the City, which is extinguished only by

payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

Section 2. Amendment to Section 3.12.120(A) of the City's Municipal Code. Section 3.12.120, subsection A, is amended as follows:

3.12.120 Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections B and C of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within ~~three~~ one years of the date of payment. The claim shall be on forms furnished by the Tax Collector.

Section 3. Effect on Chapter 3.12 of the City's Municipal Code. Chapter 3.12 of the City's Municipal Code, which sets forth the City's transient occupancy tax, otherwise remains in full force and effect, including, but not limited to, the method of collection for the transient occupancy tax.

Section 4. Voters' Power. By approving this ordinance, the voters authorize the City Council to amend this tax without subsequent voter approval so long as such amendment does not increase the amount of the tax paid by any taxpayer. This tax shall remain in effect until repealed or amended by the voters.

THE FOREGOING ORDINANCE was adopted by Declaration of the vote of the Sebastopol City Council on the ___ day of _____, 2018, at a regular meeting of the Sebastopol City Council by the following vote, to wit:

City of Sebastopol City Council:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk