

RESOLUTION NO. 2018-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON ORDERING THE SUBMISSION TO QUALIFIED ELECTORS OF THE CITY OF AMERICAN CANYON THAT CERTAIN MEASURE "H" IN THE NOVEMBER 6, 2018 GENERAL ELECTION ASKING THE VOTERS TO APPROVE AN ORDINANCE AMENDING TITLE 3 OF THE AMERICAN CANYON MUNICIPAL CODE INCREASING THE TRANSIENT OCCUPANCY TAX (TOT) FROM 12% TO 13% AND RESTRICTING ALL REVENUE FROM THE NEW TAX FOR USES IN PROGRAMS AND SERVICES FOR AFFORDABLE AND WORKFORCE HOUSING.

WHEREAS, the City Council of the City of American Canyon desires to assist in addressing the lack of housing that is affordable within the City that is crucial to support the workforce that serves local business, including the hospitality industry within the City; and

WHEREAS, a locally controlled source of funding would enable American Canyon to address the community's interest in preserving, improving and increasing the supply of affordable housing; and

WHEREAS, at its regular meeting of July 3, 2018, City staff presented the City Council with information related to the increase of its transient occupancy tax pursuant to authority provided by Government Code Section 53272 for specific purposes related to affordable housing services and programs; and

WHEREAS, after duly considering all information and public testimony thereon, the City Council directed staff to present it with legislation necessary to place an increase to its Transient Occupancy Tax on the November 6, 2018 ballot for specific purposes related to affordable and workforce housing services and programs; and

WHEREAS at the City Council's regular meeting of July 3, 2018, City staff presented the City Council with the proposed "ORDINANCE AMENDING TITLE 3 OF THE AMERICAN CANYON MUNICIPAL CODE INCREASING THE TRANSIENT OCCUPANCY TAX (TOT) FROM 12% TO 13% AND RESTRICTING ALL REVENUE FROM THE NEW TAX FOR USES IN PROGRAMS AND SERVICES FOR AFFORDABLE AND WORKFORCE HOUSING", attached hereto and incorporated herein by reference as Exhibit "A" (the "Special Transient Occupancy Tax Ordinance"), which imposes a tax at the rate of thirteen percent (13%) of the rent charged by the operator of a hotel to a transient for the privilege of occupancy in any hotel, with twelve percent (12%) to be used for unrestricted general revenue purposes and one percent (1%) for affordable and workforce housing services and programs; and

WHEREAS, a General Municipal Election consolidated with the Statewide General Election to be held on Tuesday, November 6, 2018, has been called and pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council desires to submit the Special Transient Occupancy Tax Ordinance to the qualified electors of the City of American Canyon at the November 6, 2018 General Election.

NOW BE IT RESOLVED, on May 1, 2018, the City Council previously adopted Resolution No. 2018-44 requesting the Board of Supervisors of the County of Napa to consolidate the City of American Canyon's General Municipal Election for the purpose of electing two (2) Councilmembers with the Statewide election to be held on November 6, 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of American Canyon hereby ordains as follows:

**MEASURE H TO BE SUBMITTED TO THE VOTERS FOR PROGRAMS
AND SERVICES FOR AFFORDABLE AND WORKFORCE HOUSING**

Section 2(b) of Article XIII C of the California Constitution (Proposition 218) and Government Code Section 53722 requires that a special tax must be submitted to the voters for approval and Government Code Section 53724 (c) requires that *any* tax submitted to the voters for approval shall be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the local government or district are entitled to vote, and the City Council desires that the Transient Occupancy Tax Ordinance be submitted to the voters for approval at the General Municipal Election consolidated with the Statewide General Election to be held on Tuesday, November 6, 2018.

The full text of the Transient Occupancy Tax Ordinance, attached hereto and incorporated herein to this Resolution as Exhibit A, shall be printed in the voter pamphlet. Pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council hereby submits the Special Transient Occupancy Tax Ordinance to the voters at the November 6, 2018 General Municipal Election consolidated with the Statewide General Election and orders the following question to be submitted to the voters on the ballot as follows:

Measure "H"

To increase, improve, and preserve affordable and workforce housing in the City of American Canyon, shall an Ordinance be adopted to levy an ongoing transient occupancy tax (hotel tax) of 1% on hotel charges, increasing the maximum hotel tax rate from 12% to 13%, with all revenue from the new tax (estimated: \$140,000 annually) to be restricted to providing programs and services for affordable and workforce housing?

Yes _____ No _____

This Ordinance proposes a Special Tax and thus, may only be approved by a two-thirds vote of the City of American Canyon electorate voting on Measure H at the election. If this Ordinance is approved by the City of American Canyon electorate as outlined above, then this Ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code §9217.

BE IT FURTHER RESOLVED, the City Council hereby finds that the proposed Special Transient Occupancy Tax Ordinance involves the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment, and thus, it is not a "project" subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, *et seq.* and CEQA Guidelines Section 15378 (b)(4). Additionally, it is noted that future affordable and workforce housing development projects or programs funded by this mechanism will be subject to environmental review in accordance with CEQA

at the earliest feasible time prior to consideration and approval of such projects or programs consistent with CEQA Guidelines Section 15004 and 15352.

PASSED, APPROVED and ADOPTED at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 3rd day of July, 2018, by the following vote:

AYES:	Council Members Aboudamous, Joseph, Oro, Vice Mayor Leary and Mayor Garcia
NOES:	None
ABSTAIN:	None
ABSENT:	None



Leon Garcia, Mayor

ATTEST:



Suellen Johnston, City Clerk

Exhibit A –Special Transient Occupancy Tax Ordinance

SPECIAL TRANSIENT OCCUPANCY TAX ORDINANCE (ORDINANCE NO. 2018-____)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, AMENDING TITLE 3 OF THE AMERICAN CANYON MUNICIPAL CODE INCREASING THE TRANSIENT OCCUPANCY TAX (TOT) FROM 12% TO 13% AND RESTRICTING ALL REVENUE FROM THE NEW TAX FOR USES IN PROGRAMS AND SERVICES FOR AFFORDABLE AND WORKFORCE HOUSING.

WHEREAS, the City Council of the City of American Canyon desires to assist in addressing the lack of housing that is affordable within the City that is crucial to support the workforce that serves local business, including the hospitality industry within the City; and

WHEREAS, a locally controlled source of funding would enable American Canyon to address the community's interest in preserving, improving and increasing the supply of affordable housing; and

WHEREAS, after duly considering all information and public testimony thereon, the City Council directed staff to present it with legislation necessary to place an increase to its transient occupancy tax on the November 6, 2018 ballot for specific purposes related to affordable and workforce housing services and programs.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: AMENDING SECTION 3.24.030 OF CHAPTER 3.24 OF TITLE 3 OF THE CITY OF AMERICAN CANYON MUNICIPAL CODE.

Section 3.24.030 of Chapter 3.24 of Title 3 of the City of American Canyon Municipal Code titled "Tax Imposed" is hereby amended to read as follows (shown strikethrough, underlined, and/or bold):

Section 3.24.030. Tax Imposed.

- (A) *For the privilege of occupancy in any hotel, each transient is subject to, and shall pay, a tax in the amount of ~~twelve~~ **thirteen (13)** percent of the rent charged by the operator or otherwise payable by the transient. Insofar as the transient is concerned, the tax constitutes a debt owed by the transient to the operator or to the city.*
- (B) *For the purposes of this section, the rent deemed payable on account of time-share occupancy by a transient shall be the rental value of the unit or room(s) which accommodated such occupancy, which rental value shall be computed by determining the pro rata share of the total purchase price of the time-share right or entitlement (whether or not involving an estate or any ownership in real property), which share is allocable to the period of transient occupancy currently involved, and adding thereto the total applicable operating costs including, but not limited to, the applicable real and personal property taxes, plus the total amount of any and all fees, assessments, charges and expenses (not including the previously referred to taxes) charged by the operator as attributable to the time-share occupancy of the transient by whatever name such fees, assessments, charges or expenses may be denominated, whether "occupying fee," "maintenance or operations charge," "per diem fee," "management fee" or like name or otherwise.*

(C) *In making the computation referred to above of the pro rata share of the total purchase price, in any case wherein the time-share right or entitlement is in perpetuity or for life or otherwise not for a definite or ascertainable term, such pro ration shall be made upon an assumed term of forty years.*

(D) *The first twelve percent (12%) of the tax levied and imposed by this section shall be paid into the City's General Fund for unrestricted general revenue purposes. The next one percent (1%) of the tax levied and imposed by this section shall be accounted for and paid into the Affordable and Workforce Housing Special Fund established pursuant to Section 3.24.035 and designated for the use for the provision of affordable and workforce housing services and programs.*

SECTION 2: ADDING CHAPTER 3.25 TO CHAPTER 3.24 OF TITLE 3 OF THE CITY OF AMERICAN CANYON MUNICIPAL CODE.

Chapter 3.25 entitled "Affordable and Workforce Housing Special Fund" is hereby added to Title 3 of the City of American Canyon Municipal Code to read as follows:

Chapter 3.25 Affordable and Workforce Housing Special Fund.

Section 3.25.10 – Purpose.

There is hereby created the Affordable and Workforce Housing Special Fund into which the taxes identified in Section 3.24.030 shall be deposited and thereafter used for the sole purpose of affordable and workforce housing services and programs.

Section 3.25.20 – Reporting

The City Manager or designee shall file an annual report with the City Council that contains the amount of such tax proceeds levied, collected and deposited into the Affordable and Workforce Housing Special Fund for affordable and workforce housing services and programs, how such proceeds were expended and the status of any project required or authorized to be funded with said proceeds, all in accordance with California Government Code §50075.3.

Section 3.25.30 – Definitions.

- A. *The term "affordable and workforce housing services and programs" as defined by this Section shall mean the provision of financing and other services and programs provided by the City to prospective and current tenants, owners and/or developers which the City determines assist in increasing, improving and preserving the City's supply of rental and for sale affordable and workforce housing available to and occupied by affordable and workforce households, including, but not limited to:*
 - 1. *Construction of new affordable and workforce housing.*
 - 2. *Conversion of existing market rate dwelling units to affordable and workforce housing.*
 - 3. *Preservation, rehabilitation, or maintenance of affordable and workforce housing.*
 - 4. *Acquisition of real property to achieve any of the purposes set forth above.*
- B. *The term "affordable and workforce household" as defined by this Section shall mean any of the following as defined by Section 19.28.020:*
 - 1. *"Above moderate-income households"*

2. *"Lower income households"*
 3. *"Moderate income households"*
 4. *"Very low income households"*
- C. *The term "affordable and workforce housing" as defined by this Section shall mean any dwelling unit that is rented or sold to an affordable and workforce household, including any of the following:*
1. *A dwelling unit for sale to an affordable and workforce household at an affordable sales price.*
 2. *A dwelling unit for rent to an affordable and workforce household at an affordable rent.*
 3. *"Inclusionary units" and "Target unit" as defined by Section 19.28.020, provided they rented an affordable and workforce household at an affordable rent and/or sold to at an affordable sales price.*
 4. *The terms "affordable rent" and "affordable sales price" as used in this Section are defined in Section 19.04.030 Definitions.*

SECTION 3. MODIFICATIONS

The qualified voters of the City of American Canyon reserve the right to change the special tax herein enacted and imposed by this Ordinance. The City Council may modify this Ordinance without a vote of the people but not to increase the tax rate or to expand the application of said tax.

SECTION 4. RULES AND REGULATIONS.

To the extent necessary to carry out and implement this ordinance, the City Manager, or his or her designee, shall prepare and present to the City Council for its consideration and adoption, rules and regulations consistent with the purpose and intent of this ordinance to increase, improve and preserve affordable and workforce housing within the City of American Canyon.

SECTION 5. SEVERABILITY.

If any section, subsection part, clause sentence or phrase of this Ordinance or application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, the validity of the remaining portions of this Ordinance, the application thereof, and the special taxes imposed shall not be affected but shall remain in full force and effect it being the intention of the voters to adopt each and every section subsection, part, clause sentence or phrase regardless of whether any other section, subsection part, clause sentence or phrase or the application thereof is held to be invalid or unconstitutional. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this ordinance are declared to be severable.

SECTION 6. COMPLIANCE WITH CEQA.

This Ordinance involves the increase to an existing tax on transient occupancies and does not involve any commitment to any project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.)(CEQA) pursuant to CEQA Guidelines Section 15378 (b)(4). Additionally, future affordable and workforce housing development projects or programs funded by the transient occupancy tax will be subject to environmental review in accordance with CEQA at the earliest feasible time prior to consideration and approval of such projects or programs consistent with CEQA Guidelines Section 15004 and 15352.

SECTION 7 EFFECTIVE DATE.

This Ordinance relates to the increase of the City of American Canyon Transient Occupancy Tax authorized pursuant to the provisions of Article 3.7 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code (Sections 53720-53730), for affordable and workforce housing services and programs, and submitted to the City of American Canyon electorate at the City's General Municipal Election called for November 6, 2018. This Ordinance proposes a special tax and shall become valid and binding if approved by a two- thirds vote of the City of American Canyon electorate voting on the measure at the election. If this Ordinance is approved by the City of American Canyon electorate as outlined above, then the Mayor shall sign this Ordinance, and the City Clerk shall attest and certify its passage and adoption of this Ordinance, the Ordinance shall become effective on the date the that the City Council certifies the results of said Election, and then the Ordinance shall be in full force and remain in effect as provided by law.


The foregoing Ordinance was introduced and passed at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 3rd day of July, 2018, by the following vote:

AYES:	Council Members Aboudamous, Joseph, Oro, Vice Mayor Leary and Mayor Garcia
NOES:	None
ABSTAIN:	None
ABSENT:	None



Leon Garcia, Mayor

ATTEST:


Suellen Johnston, CMC, City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney