

RESOLUTION R2018-097

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, CALIFORNIA, ORDERING THE SUBMISSION OF A BALLOT MEASURE TO THE QUALIFIED ELECTORS OF THE CITY OF NAPA AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION REGARDING THE PROPOSED BALLOT MEASURE F, AMENDING NAPA MUNICIPAL CODE TITLE 3 BY ENACTING A NEW CHAPTER 3.22 TO ESTABLISH A ONE PERCENT TRANSIENT OCCUPANCY SPECIAL TAX FOR AFFORDABLE AND WORKFORCE HOUSING; AND AUTHORIZING RELATED ACTIONS INCLUDING THE CITY COUNCIL'S AUTHORIZATION OF BALLOT ARGUMENTS, AND DIRECTING THE CITY ATTORNEY TO PREPARE THE IMPARTIAL ANALYSIS

WHEREAS, California Elections Code Section 9222 authorizes the City Council, on its own motion, to submit to the voters, without a petition, a ballot measure for the enactment of any ordinance to be voted upon at a General Municipal Election; and

WHEREAS, at the May 15, 2018 City Council meeting, the Council directed staff to prepare a proposed ballot measure for an ordinance to establish a one percent transient occupancy special tax to fund affordable and workforce housing; and

WHEREAS, at the June 19, 2018 Regular City Council meeting, the Council approved the first reading and introduction of a proposed ordinance to establish a one percent transient occupancy special tax to fund affordable and workforce housing (which is subject to voter approval of a ballot measure, as described in this resolution), and at this July 17, 2018 Regular City Council meeting, the Council approved the second reading, final passage, and adoption of the proposed ordinance; and

WHEREAS, by separate resolution at this July 17, 2018 Regular City Council meeting, the City Council called the next General Municipal Election to be held on November 6, 2018, and the Council requested the Napa County Board of Supervisors to consolidate the General Municipal Election with the statewide general election on November 6, 2018; and

WHEREAS, the City Council intends to submit the ballot measure and ballot question, as described in this resolution, to the qualified electors of the City of Napa at the November 6, 2018 General Municipal Election; and

WHEREAS, since the ballot measure described in this resolution proposes the establishment of a transient occupancy tax to fund programs and services for affordable and workforce housing, the proposed ballot measure is a "special tax" (as defined by California Constitution Article XIII C, Section 1), the ballot measure requires approval by a two-thirds vote of the electorate of the City (as required by California Constitution Article XIII C, Section 2); and

WHEREAS, California Elections Code Section 9051 and 13247 requires any ballot measure submitted to the voters to be phrased on the form of a "Yes" or "No" ballot question of no more than 75 words; and

WHEREAS, California Elections Code Sections 9280, *et seq.*, and Napa Municipal Code Section 1.08.035, and Council Policy Resolution No. 32 (R2014-113) establish procedures and priorities for filing ballot arguments (limited to 300 words each) and rebuttals (limited to 250 words each) with the City Clerk (as the City's Elections Official); and

WHEREAS, all arguments shall be filed with the City Clerk, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument; and

WHEREAS, the City Clerk (as the City Election Official, and in accordance with California Elections Code Sections 9285 and 9286) has fixed the date and time of July 31, 2018 at 5:00 p.m. as the last date and time on which ballot arguments may be submitted to the City Clerk "in favor" of or "against" the ballot measure described in this resolution; and has fixed the date and time of August 10, 2018 at 5:00 p.m. as the last date and time on which rebuttal arguments may be submitted to the City Clerk; and

WHEREAS, the City Council intends to authorize the Mayor of the City of Napa and Councilmember Sedgley to submit a written argument in favor of the ballot measure identified in this resolution, and to submit the corresponding written rebuttal to any argument against the ballot measure, and to solicit additional signatures for the arguments (as set forth in this resolution); and

WHEREAS, California Elections Code Section 9280 authorizes the City Council to direct the City Attorney to prepare an impartial analysis of the measure not exceeding 500 words, showing the effect of the measure on the existing law and the operation of the measure; and

WHEREAS, the City Council has considered all written and oral information submitted at the public hearings identified in this resolution.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:

SECTION 1. The City Council hereby approves and orders the proposed Measure F ("Measure") set forth in Exhibit "A" (attached hereto and incorporated herein by reference) to be submitted to the qualified electors of the City of Napa at the General Municipal Election on November 6, 2018 (in accordance with California Elections Code Sections 9222 through 9224). If the Measure is approved by at least two-thirds of voters (per California Constitution Article XIII C, Section 2), the Measure shall become effective ten days after the date that the City Council declares the results of the General Municipal Election (per California Elections Code Section 9217), and Napa Municipal Code Title 3 shall be amended by enacting a new Chapter 3.22 "Transient Occupancy Special Tax for

Affordable and Workforce Housing” as set forth in the Measure.

SECTION 2. In accordance with California Elections Code Sections 13247 and 9051, and in order to submit the proposed Measure described in Section 1 of this resolution to the voters, the City Council hereby approves and orders the following ballot question to be submitted to the qualified electors of the City of Napa at the General Municipal Election on November 6, 2018:

CITY OF NAPA – MEASURE F

<p>To increase, improve, and preserve affordable and workforce housing in the City of Napa, shall an ordinance be adopted to levy an ongoing transient occupancy tax (hotel tax) of 1% on hotel charges to visitors of 30 days or less, increasing the maximum hotel tax rate from 12% to 13%, with all revenue from the new tax (estimated: \$2,100,000 annually) to be restricted to providing programs and services for affordable and workforce housing?</p>	<p>YES</p>
	<p>NO</p>

SECTION 3. The City Council hereby directs the City Clerk to transmit to the City Attorney a copy of the Measure approved by this resolution, and the City Attorney shall prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure (in accordance with California Elections Code Section 9280). The impartial analysis shall not exceed 500 words in length.

SECTION 4. The City Council hereby authorizes the Mayor and Councilmember Sedgley to submit a written argument in favor of the Measure identified in this resolution, and to submit the corresponding written rebuttal to any argument against the ballot measure, and to solicit and obtain additional signatures (for the arguments in favor and/or rebuttal) from individuals that support the Measure.

SECTION 5. That the City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council’s adoption of this Resolution.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 17th day of July, 2018 by the following vote:

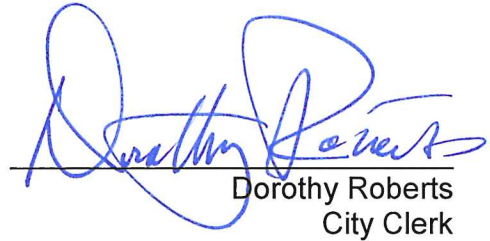
AYES: Krider, Mott, Gentry, Sedgley, Techel

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:


Dorothy Roberts
City Clerk

Approved as to form:



Michael W. Barrett
City Attorney

EXHIBIT A

FULL TEXT OF CITY OF NAPA – MEASURE F

A MEASURE ESTABLISHING A TRANSIENT OCCUPANCY SPECIAL TAX TO PROVIDE PROGRAMS AND SERVICES FOR AFFORDABLE AND WORKFORCE HOUSING

BE IT ORDAINED by the people of the City of Napa as follows:

Section 1. Napa Municipal Code Title 3 is hereby amended by enacting a new Chapter 3.22, “Transient Occupancy Special Tax for Affordable and Workforce Housing,” including Sections 3.22.010 through 3.22.050, which will read as follows:

“3.22.010 Purpose and scope.

- A. In accordance with Ordinance No. 1645, adopted by City Council on December 7, 1964, which is currently codified at Chapter 3.20 of the Napa Municipal Code (“this code”), the City has historically imposed a transient occupancy tax (“TOT”) as a general tax, with TOT revenue allocated to the general fund to be expended for any proper municipal purpose, in accordance with Section 3.36.020 of this code.
- B. In accordance with Ordinance No. 093-024, adopted by City Council on July 27, 1993, the general tax TOT (imposed pursuant to Chapter 3.20 of this code) has been and is imposed on each transient in the amount of 12% of the rent charged by the operator of each hotel. (See Section 3.20.020.)
- C. The transient occupancy special tax that is imposed pursuant to this Chapter 3.22 (“Special Tax”) is imposed on each transient in the amount of 1% of the rent charged by the operator of each hotel.
- D. The 1% Special Tax is in addition to the 12% general tax TOT, for a total effective tax on each transient in the amount of 13% of the rent charged by the operator of each hotel.
- E. The revenue generated from the Special Tax imposed in accordance with this chapter shall be spent for the sole purpose of providing programs and services that increase, improve, or preserve the availability of Affordable and Workforce Housing to Affordable and Workforce Households.

3.22.020 Definitions and interpretation.

- A. Unless otherwise specified herein, all terms used in this chapter related to the imposition and collection of the Special Tax (including the processes for payment; the registration, records, and reporting; calculation of

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exemptions, refunds, penalties, and interest; processes for appeals and challenges; and enforcement of violations) shall be interpreted in accordance with their use in Chapter 3.20 of this code. All terms defined in Chapter 3.20 shall apply to the interpretation of terms used in this Chapter 3.22, specifically including "hotel," "occupancy," "operator," "person," "rent," and "transient."

B. Unless otherwise specified herein, all terms used in this chapter related to the provision of programs and services for Affordable and Workforce Housing shall be interpreted in accordance with their use in Chapter 15.94 and Title 17 of this code. All terms defined in Chapter 15.94 shall apply to the interpretation of terms used in this Chapter 3.22, specifically including "affordable rent," "affordable sales price," "affordable unit," "annual household income," "area median income," "dwelling unit," and "market rate units" (including "median income households" and "moderate income households").

C. As used in this chapter:

"Affordable and Workforce Household" is each household with an annual household income of up to 120% of area median income. An "Affordable and Workforce Household" specifically includes a "moderate income household" (up to 120% of area median income), a "median income household" (up to 100% of area median income), a "low-income (or "lower income") household" (up to 80% of area median income), a "very low-income household" (up to 50% of area median income), or an "extremely low income household" (up to 30% of area median income).

"Affordable and Workforce Housing" includes each dwelling unit that is required to be rented or sold to an Affordable and Workforce Household, including any of the following:

1. A dwelling unit for sale to a moderate income household or a median income household, at a maximum monthly owner-occupied housing payment (including mortgage, taxes, and insurance) that is equal to or less than one-twelfth of 35% of the specified target annual household income.
2. A dwelling unit for sale at an affordable sales price in accordance with the requirements of Chapter 15.94.
3. A dwelling unit for rent to a moderate income household or a median income household, at a maximum monthly rent that is equal to or less than one-twelfth of 30% of 110% of the annual area median income.
4. A dwelling unit for rent at an affordable rent in accordance with the requirements of Chapter 15.94.

"Special Tax" means the one percent transient occupancy special tax imposed and implemented in accordance with this chapter, for the sole purpose

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of providing programs and services that increase, improve, or preserve Affordable and Workforce Housing for Affordable and Workforce Households.

3.22.030 Special Tax imposed.

- A. For the privilege of occupancy in any hotel, each transient is subject to and shall pay the Special Tax in the amount of 1% of the rent charged by the operator.
- B. The City will impose and collect the Special Tax in accordance with the processes used by the City to impose and collect the general tax TOT, as set forth in Chapter 3.20.
- C. Each transient must pay the Special Tax in accordance with the requirements, processes, and definitions that apply to the general tax TOT set forth in Chapter 3.20.
- D. Each operator must collect, register, report, and pay the Special Tax in accordance with the requirements, processes, and definitions that apply to the general tax TOT set forth in Chapter 3.20.

3.22.040 Authorized expenditures of Special Tax.

- A. All Special Tax revenue received by the City shall be deposited in a special fund for Affordable and Workforce Housing ("Housing Special Tax Fund"). All revenue deposited in the Housing Special Tax Fund, along with any interest earned thereon, must be used for the sole purpose of providing programs and services to Affordable and Workforce Households to obtain Affordable and Workforce Housing, as defined in this chapter.
- B. Revenue in the Housing Special Tax Fund shall be used for the sole purpose of providing programs and services which the City Council determines increase, improve, or preserve the availability of Affordable and Workforce Housing to Affordable and Workforce Households, including
 - 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. Any expenditure that is an authorized expenditure of affordable housing impact fee revenue, under Chapter 15.94.

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5. Acquisition of real property to achieve any of the purposes set forth in this section.

3.22.050 Effective date and administration.

- A. This chapter shall take effect on January 1, 2019.
- B. The finance director shall file an annual report with the City Council, in accordance with the requirements of California Government Code Section 50075.3, documenting the amount of funds collected and expended, and the status of any project required or authorized to be funded in accordance with this chapter."