

## RESOLUTION NO 2018-98

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST HELENA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF ST HELENA MEASURE E TO APPROVE AN INCREASE TO THE TRANSIENT OCCUPANCY TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018; REQUESTING CONSOLIDATION BY THE NAPA COUNTY BOARD OF SUPERVISORS OF THE ELECTION REGARDING SAID MEASURE E WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE AND THAT NAPA COUNTY PROVIDE ELECTION SERVICES WITH FULL REIMBURSEMENT BY THE CITY OF ST HELENA; SETTING CITY COUNCIL PRIORITY FOR FILING WRITTEN ARGUMENT; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AUTHORIZING THE FILING OF REBUTTAL ARGUMENT; AND AUTHORIZING THE RELEASE OF CITY COUNCIL REBUTTAL ARGUMENT**

**WHEREAS**, the City Council of the City of St. Helena has established a goal to “Stabilize, Maintain and Improve Access to Housing”; and

**WHEREAS**, the City Council desires to assist in addressing the lack of affordable housing 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 St. Helena to address the community’s interest in preserving, improving and increasing the supply of affordable housing; and

**WHEREAS**, the City Council directed staff to provide it with information related to addressing the supply of affordable housing and housing challenges within the City; and

**WHEREAS**, at its regular meeting of June 12, 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 §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 ordinance 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 Tuesday, June 26, 2018, City staff presented the City Council with the proposed “**ORDINANCE AMENDING THE CITY OF ST HELENA MUNICIPAL CODE PROVIDING FOR AN INCREASE IN THE TRANSIENT OCCUPANCY TAX RATE BY ONE PERCENT TO THIRTEEN PERCENT AND RESTRICTING THE PROCEEDS OF THE ONE PERCENT INCREASE FOR AFFORDABLE AND WORKFORCE HOUSING SERVICES AND PROGRAMS**”, attached hereto and incorporated herein by reference as Exhibit “A” (the “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 Transient Occupancy Tax Ordinance to the qualified electors of the City of St. Helena at the consolidated election; now, therefore, be it

**RESOLVED**, that the City Council of the City of St. Helena does hereby declare, determine and order as follows:

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

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 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 Transient Occupancy Tax Ordinance to the voters at the 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:

To increase, improve, and preserve affordable and workforce housing in the City of St. Helena, 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: \$279,000 annually) to be restricted to providing programs and services for affordable and workforce housing?

Yes \_\_\_\_\_

No \_\_\_\_\_

Resolution  
City Council Agenda  
June 26, 2018  
Transient Occupancy Tax Measure

This ordinance proposes a special tax and thus may only be approved by a two-thirds vote of the City of St. Helena electorate voting on Measure E at the election. If this ordinance is approved by the City of St. Helena 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; and, be it, further

**RESOLVED**, on June 12, 2018, the City Council adopted Resolution No. 2018-73 requesting the Board of Supervisors of the County of Napa to consolidate the City of St. Helena's general municipal election for the purpose of electing a Mayor and two (2) Councilmembers with the Statewide election to be held on November 6, 2018, and accordingly, pursuant to the requirements of Elections Code §10403, the City Council hereby requests that the consolidated election of November 6, 2018, include the submission of the Transient Occupancy Tax Ordinance Measure E to the voters of the City of St. Helena; and, be it, further

**RESOLVED**, the City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed by Elections Code §10418; the City of St. Helena requests the services of Napa County to conduct said general municipal election and the Board of Supervisors is requested to issue instructions to the County staff to take any and all steps necessary for the holding of a consolidated election; Napa County and its staff are authorized and instructed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and other necessary items in order to properly and lawfully conduct the election; Napa County is authorized to canvass the returns of the election, which shall be held in all respects as if there were only one election, and only one form of ballot shall be used; and the City of St. Helena recognizes that additional cost will be incurred by Napa County by reason of the consolidation of the Transient Occupancy Tax Ordinance Measure E with the Statewide election and agrees to reimburse Napa County for any costs that are not reimbursed by the State; and, be it, further

**RESOLVED**, that in accordance with California Elections Code §9282, the City Council of the City of St. Helena does resolve, declare, determine, and order that the City Council of the City of St. Helena is authorized to file a written argument in favor of Measure E as specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against Measure E may be submitted to the City Clerk; and, be it, further

**RESOLVED**, that in accordance with California Elections Code §9282, arguments in favor and against, not exceeding 300 words, shall be filed with the City Clerk no later than **5:00 p.m. on Friday, August 17, 2018**, signed, 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. The arguments shall be accompanied by the *Form of Statement to Be Filed By Author(s) of Argument*, which can be obtained from the Office of the City Clerk; and be it, further

**RESOLVED**, that in accordance with California Elections Code §9280, the City Council directs the City Clerk to transmit a copy of the Transient Occupancy Tax Ordinance Measure E to the City Attorney, who shall prepare an impartial analysis showing the effect of Measure E on the existing law and the operation of Measure E; the City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than **5:00 p.m. on Friday, August 10, 2018**; and, be it, further

**RESOLVED**, the City Council elected to author ballot argument in support of the Transient Occupancy Tax Ordinance Measure E, and California Elections Code §9285 authorizes the City Council to adopt provisions for the filing of rebuttal arguments for measures submitted at municipal elections; accordingly, when the City Clerk has selected the argument for and against Measure E which will be printed and distributed to the voters, the City Clerk shall send a copy of the argument in favor of Measure E to the authors of the argument against, and a copy of the argument against to the authors of the argument in favor of Measure E immediately upon receiving the arguments. The authors may prepare and submit rebuttal arguments not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be filed no later than **5:00 p.m. on Monday, August 24, 2018**, accompanied by the printed names and signatures of the persons 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. The rebuttal arguments shall be accompanied by the *Form of Statement To Be Filed By Author(s) of Argument*, which can be obtained from the Office of the City Clerk. Rebuttal arguments shall be printed in the same manner as the direct arguments, and rebuttal argument shall immediately follow the direct argument which it seeks to rebut; and, be it, further

**RESOLVED**, that all previous resolutions providing for the filing of rebuttal arguments for city measures are hereby repealed and the provisions of this resolution providing for the filing of rebuttal arguments regarding Measure E to approve a Transient Occupancy Tax Ordinance shall only apply to the election to be held on November 6, 2018, and shall thereafter be repealed; and, be it, further

**RESOLVED**, the City Council elected to author ballot argument in support of Measure E and to permit rebuttal argument, and as authorized by California Elections Code §9285, the City Council wishes to authorize the release of the City Council's rebuttal argument to individual voters and thus hereby authorizes each individual member of the City Council to release rebuttal argument in writing to any other person or persons to prepare, submit, or sign the rebuttal argument; and, be it, further

**RESOLVED**, should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid; and, be it, further

**RESOLVED**, the City Council hereby finds that the proposed 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 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, it is noted that future affordable and workforce housing development projects or programs funded by the Transient Occupancy Tax Ordinance 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 §§15004 and 15352.

**PASSED, APPROVED and ADOPTED** at a regular meeting of the City Council of the City of St. Helena held on the 26<sup>th</sup> of June, 2018 by the following vote:

Mayor Galbraith:	<u>Yes</u>
Vice Mayor White:	<u>Yes</u>
Councilmember Koberstein:	<u>Yes</u>
Councilmember Dohring:	<u>Yes</u>
Councilmember Ellsworth:	<u>Yes</u>

I hereby certify that this is a true and exact copy of the original record on file with the City of St. Helena, County of Napa, State of California.

Attest:

Cindy Tzafopoulos  
Cindy Tzafopoulos, City Clerk

Date: 7/3/18

APPROVED:

P. G. H.

Peter White, Vice Mayor for  
Alan Galbraith, Mayor

ATTEST:

Cindy Tzafopoulos  
Cindy Tzafopoulos, City Clerk



## **EXHIBIT "A"**

**THE PEOPLE OF THE CITY OF ST HELENA DO ORDAIN AS FOLLOWS:**

**AN ORDINANCE AMENDING  
THE CITY OF ST HELENA MUNICIPAL CODE PROVIDING FOR AN INCREASE IN  
THE TRANSIENT OCCUPANCY TAX RATE BY ONE PERCENT TO THIRTEEN  
PERCENT AND RESTRICTING THE PROCEEDS OF THE ONE PERCENT  
INCREASE FOR AFFORDABLE AND WORKFORCE HOUSING SERVICES AND  
PROGRAMS**

**SECTION ONE. AMENDING SECTION 3.28.020 OF CHAPTER 3.28 OF TITLE 3 OF THE CITY OF ST HELENA MUNICIPAL CODE.** Section 3.28.020 of Chapter 3.28 of Title 3 of the City of St. Helena Municipal Code titled "Tax Imposed" is hereby amended in its entirety to read as follows:

Section 3.28.020. Tax Imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of thirteen percent (13%) of the rent charged by the operator. This 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.

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 3.28.025 and designated for the use for the provision of affordable and workforce housing services and programs.

**SECTION TWO. ADDING SECTION 3.28.025 TO CHAPTER 3.28 OF TITLE 3 OF THE CITY OF ST HELENA MUNICIPAL CODE.** Section 3.28.025 is hereby added to Chapter 3.28 of Title 3 of the City of St. Helena Municipal Code titled "Affordable And Workforce Housing Special Fund" to read as follows:

Section 3.28.025. Affordable And Workforce Housing Special Fund.

There is hereby created the Affordable and Workforce Housing Special Fund into which the taxes identified in Section 3.28.020 shall be deposited and thereafter used for the sole purpose of affordable and workforce housing services and programs.

The Finance Director 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 THREE. AMENDING SECTION 3.28.010 OF CHAPTER 3.28 OF TITLE 3 OF THE CITY OF ST HELENA MUNICIPAL CODE.** Section 3.28.010 of Chapter 3.28 of Title 3 of the City of St. Helena Municipal Code titled "Definitions" is hereby amended to add the following definition as follows:

"Affordable and workforce housing services and programs" 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 Council 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; and
4. Acquisition of real property to achieve any of the purposes set forth above.

"Affordable and workforce households" shall mean a household with an annual household income of up to 120% of area median income, and 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 household" 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" shall mean 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 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.

"Affordable rent" shall mean monthly rent (including an allowance for tenant paid utilities as determined on an annual basis by the City Manager, or his or her designee, and all mandatory tenant paid fees for housing services) that does not exceed (i) 30% of 110% of area median monthly income for moderate income households or median income households, (ii) 30% of 60% of area median monthly income for low income households or lower income households, (iii) 30% of 50% of area median monthly income for very low income households, and (iv) 30% of 30% of area median monthly income for extremely low income households. Affordable rent shall be based on presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter, or such other standard that applies pursuant to federal rules applicable to project financing.

"Affordable sales price" means the maximum purchase price that will be affordable to households of the specified target income level. A maximum purchase price shall be considered affordable only if each monthly owner-occupied housing payment (including mortgage, taxes, insurance, utilities, and maintenance reserve) is equal to or less than (i) one-twelfth of 35% of the annual household income for a moderate income household or a median income household, and (ii) one-twelfth of 30% of the annual household income level for a low income household, lower income household, very low income household, and extremely low income household. The assumptions used to set the affordable sales price, including utilities, maintenance reserve, down payment, mortgage interest rate and loan term shall be determined on an annual basis by the City Manager, or his or her designee. Affordable sales price shall be based upon presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

"Annual household income" means the combined gross income for all adult persons living in a dwelling unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

"Area median income" means the median income, adjusted for family size appropriate to the unit, applicable to Napa County, as determined annually by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937 and as published from time to time by the State of California Department of Housing and Community Development in Section 6932 of Title 25 of the California Code of Regulations, or successor provision published pursuant to California Health and Safety Code Section 50093(c).



**SECTION FOUR. 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 St. Helena.

**SECTION FIVE. SEVERABILITY.** 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 SIX. CODIFICATION.** Sections One, Two and Three of this ordinance shall be codified in the City of St. Helena municipal code. Sections Four, Five, Six, Seven and Eight of this ordinance shall not be codified.

**SECTION SEVEN. 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 §§15004 and 15352.

**SECTION EIGHT. EFFECTIVE DATE.** This ordinance relates to the increase of the City of St. Helena 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 St. Helena electorate at an election called for November 6, 2018. This ordinance proposes a special tax and thus may only be approved by a two-thirds vote of the City of St. Helena electorate voting on the measure at the election. If this ordinance is approved by the City of St. Helena 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.

IT IS HERBY CERTIFIED that the foregoing Ordinance was APPROVED by the following vote of the People of the City of St. Helena on November 6, 2018:

Yes: \_\_\_\_\_ No: \_\_\_\_\_ Total: \_\_\_\_\_

IT IS HEREBY FURTHER CERTIFIED that the foregoing Ordinance was adopted by Declaration of the November 6, 2018 election results by the City Council of the City of St. Helena at a meeting held on \_\_\_\_\_, 2018, by the following vote

Mayor Galbraith: \_\_\_\_\_  
Vice Mayor White: \_\_\_\_\_  
Councilmember Dohring: \_\_\_\_\_  
Councilmember Ellsworth: \_\_\_\_\_  
Councilmember Koberstein: \_\_\_\_\_

APPROVED:

ATTEST:

\_\_\_\_\_  
Alan Galbraith, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, City Clerk