

JUN 27 2018

RESOLUTION NO. 2018 - 062

MA [REDACTED]
By: [REDACTED]
DEPUTY CLERK

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS
SETTING A MEASURE ON THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION
BALLOT SEEKING VOTER APPROVAL OF A PROPOSED ORDINANCE AMENDING
SAN CARLOS MUNICIPAL CODE CHAPTER 3.24 – UNIFORM TRANSIENT OCCUPANCY
TAX, INCREASING THE TRANSIENT OCCUPANCY TAX BY 2% EFFECTIVE JANUARY 1,
2019, AND AUTHORIZING ADDITIONAL 0.5% INCREASES EACH SUBSEQUENT
JANUARY 1 UP TO A MAXIMUM OF 14% FOR UNRESTRICTED GENERAL REVENUE
PURPOSES AND MAKING OTHER CHANGES; AND AUTHORIZING THE CITY ATTORNEY
TO PREPARE AN IMPARTIAL ANALYSIS.**

WHEREAS, a General Municipal Election on Tuesday, November 6, 2018 has been called by Resolution 2018-055 adopted by the San Carlos City Council on June 11, 2018; and

WHEREAS, California Constitution Article XIII C, Section 2, provides that no local government may increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote, and that a measure proposing to adopt a general tax must be consolidated with a regularly scheduled General Municipal Election for members of the City Council; and

WHEREAS, the City Council desires, on its own motion, to amend San Carlos Municipal Code Chapter 3.24, particularly Section 3.24.030, to increase the Transient Occupancy Tax ("TOT") rate and to make other changes, with the funds to be deposited in the City's General Fund and to be used for unrestricted general revenue purposes and services including but not limited to offset the City's costs of public safety, community development and parks and recreation; and

WHEREAS, the San Carlos City Council is authorized by California Elections Code Section 9222 to place measures before the voters; and

WHEREAS, on the basis of the foregoing, the City Council determines it is appropriate to place a measure before the voters at the November 6, 2018 General Municipal Election regarding increasing the TOT rate.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Carlos hereby approves as follows:

SECTION 1. Findings. Ordinance 722 was adopted in 1972, setting the TOT rate at 1%. In 1977, the TOT rate was increased to 6%. The latest rate increase from 6% to 10% was adopted in 1989. The City's existing TOT rate has remained at 10% for the last 29 years and ranks the lowest amongst the cities in San Mateo County.

SECTION 2. Placement of Measure on the Ballot. Pursuant to California Elections Code Section 9222, the City Council hereby resolves to submit to the voters at the November 6, 2018 General Municipal Election the following ballot question:

SAN CARLOS TRANSIENT OCCUPANCY TAX MEASURE

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To maintain the quality of life in San Carlos by providing services and improvements to accommodate visitors and residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted increasing the ongoing tax on hotel guests from 10% to 12% with a 0.5% increase per year for subsequent years up to a maximum rate of 14% adding approximately \$1,650,000 annually?	Yes
	No

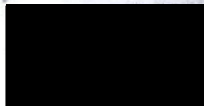
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SECTION 3. Proposed Ordinance. The Ordinance authorizing an increase to the Transient Occupancy Tax rate as approved by the voters pursuant to Section 2 is as set forth in Exhibit 1 hereto. The City Council hereby approves the Ordinance, the form thereof, and its submission to the voters of the City at the November 6, 2018 General Municipal Election. The Ordinance specifies that the TOT would be imposed for unrestricted general revenue purposes on the people using hotels, as defined in the ordinance; the tax rate would be increased from ten percent (10%) to twelve percent (12%) of the amount paid for lodging and related services, effective January 1, 2019; the rate would be increased by one-half of one percent (0.5%) each January 1 thereafter, to a maximum rate of fourteen percent (14%); the tax would be collected by hotel operators and remitted to the City; and the tax shall be approved if the measure receives at least a simple majority of affirmative votes at the November 6, 2018 general municipal election.

SECTION 4. Consolidation with Statewide General Election. The Board of Supervisors of San Mateo County is hereby requested, pursuant to Election Code Sections 10400 *et seq.*, to consolidate the election on the proposed measure with the Statewide General Election to be conducted on November 6, 2018, and to conduct the election on behalf of the City. This measure shall be designated by letter by the County Elections Office. The City requests that the County Elections Office set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance as set forth below, together with the primary arguments and rebuttal arguments (if any) for and against the measure.

Jurisdiction does not want to publish in bold and all caps. Please see amendment attached.

THE ORDINANCE WOULD AUTHORIZE AN INCREASE TO THE TRANSIENT OCCUPANCY TAX (TOT) RATE FROM TEN PERCENT (10%) TO TWELVE PERCENT (12%) EFFECTIVE JANUARY 1, 2019 WITH ONE-HALF PERCENT (0.5%) INCREASES PER YEAR EACH JANUARY 1 FOR SUBSEQUENT YEARS UP TO A MAXIMUM RATE OF FOURTEEN PERCENT (14%) FOR UNRESTRICTED GENERAL REVENUE PURPOSES. THE CITY COUNCIL IS ALLOWED TO IMPOSE A LOWER RATE THAN AUTHORIZED BY THE VOTERS BY DULY ADOPTED RESOLUTION. THE CITY COUNCIL MAY AMEND THE ORDINANCE UNLESS THE AMENDMENT WOULD RESULT IN THE TAX BEING IMPOSED, EXTENDED OR INCREASED. THE ORDINANCE SPECIFIES THAT THE TOT WOULD BE IMPOSED ON PEOPLE USING HOTELS, AS DEFINED IN THE ORDINANCE. THE TAX WOULD BE COLLECTED BY HOTEL OPERATORS AND REMITTED TO THE CITY. THE TAX IS APPROVED IF THE MEASURE RECEIVES AT LEAST A SIMPLE MAJORITY OF VOTES (FIFTY PERCENT PLUS ONE) AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION. ADDITIONAL INFORMATION ON THIS MEASURE CAN BE FOUND AT WWW.CITYOFSANCARLOS.ORG/TOTMEASURE.



SECTION 5. Conduct of Election. The City Clerk is authorized, instructed and directed to work with the County Elections Office as needed to properly and lawfully conduct the election on the measure. The ballots to be used in the election shall be in the form and content as required by law. The County Elections Office is authorized to canvass the returns of the General Municipal Election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. Elections Services. The Board of Supervisors is requested to instruct the County Elections Office to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

SECTION 7. Filing of Resolution with County. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the Elections Office of the County of San Mateo, together with the attached ballot measure.

SECTION 8. No Change in City's Boundaries. The jurisdictional boundaries of the City have not changed since the last general municipal election.

SECTION 9. Compliance with the California Environmental Quality Act. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

SECTION 10. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in an official newspaper of general circulation for the City of San Carlos, in accordance with Section 12111 of the Elections Code and Section 6081 of the Government Code.

SECTION 11. Impartial Analysis. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected.

- a. The City Attorney shall 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.

- b. The analysis shall include a statement indicating that the measure was placed on the ballot by the governing body of the City.
- c. The impartial analysis shall be filed by August 17, 2018.

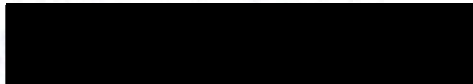
SECTION 12. Effective Date. This Resolution shall become effective immediately upon its passage and adoption and the City Clerk is directed to send certified copies of this Resolution to the San Mateo County Board of Supervisors, County Clerk-Recorder and County of San Mateo Election Department.

I, Crystal Mui, hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 11th day of June 2018, by the following vote:

AYES, COUNCILMEMBERS: COLLINS, JOHNSON, OLBERT, GRASSILLI

NOES, COUNCILMEMBERS: GROCOTT

ABSENT, COUNCILMEMBERS: NONE


CITY CLERK of the City of San Carlos

APPROVED:


MAYOR of the City of San Carlos

I hereby certify this to be a full, true and correct copy of the document it purports to be as the same is on file in my office.

Dated June 25, 2018


City Clerk of the City of San Carlos

San Carlos Transient Occupancy Tax Measure's Full Text Amended

<Starts here>

The Ordinance would authorize an increase to the Transient Occupancy Tax (TOT) rate from ten percent (10%) to twelve percent (12%) effective January 1, 2019 with one-half percent (0.5%) increases per year each January 1 for subsequent years up to a maximum rate of fourteen percent (14%) for unrestricted general revenue purposes. The City Council is allowed to impose a lower rate than authorized by the voters by duly adopted Resolution. The City Council may amend the Ordinance unless the amendment would result in the tax being imposed, extended or increased. The Ordinance specifies that the TOT would be imposed on people using hotels, as defined in the Ordinance. The tax would be collected by hotel operators and remitted to the City. The tax is approved if the Measure receives at least a simple majority of votes (fifty percent plus one) at the November 6, 2018 General Municipal Election. Additional information on this Measure can be found at www.CityofSanCarlos.org/TOTMeasure.

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FILED IN THE OFFICE OF THE
CHIEF ELECTIONS OFFICER
OF SAN MATEO COUNTY, CALIF.

JUL 12 2018

MARK CHURCH, Chief Elections Officer

By _____

DEPUTY CLERK

ORDINANCE NO. 1532

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS
AMENDING SAN CARLOS MUNICIPAL CODE CHAPTER 3.24 – UNIFORM TRANSIENT
OCCUPANCY TAX, INCREASING THE TAX RATE BY 2% EFFECTIVE JANUARY 1, 2019
AND AUTHORIZING ADDITIONAL 0.5% INCREASES EACH SUBSEQUENT JANUARY 1 UP
TO A MAXIMUM OF 14%, AND MAKING OTHER CHANGES.**

WHEREAS, the proposed increase in the Transient Occupancy Tax ("TOT") if adopted by the voters, once fully implemented, would generate approximately \$850,000 to \$1,650,000 per year of additional unrestricted general revenue to the City. The additional revenue can be used to enhance City streets, traffic circulation, provide public safety, community development and parks and recreation programs; and

WHEREAS, Ordinance 722 was adopted in 1972, setting the TOT rate at 1%. In 1977, the TOT rate was increased to 6%. The latest rate increase from 6% to 10% was adopted in 1989. The City's existing TOT rate has remained at 10% for the last 29 years and ranks as the lowest rate amongst the cities in San Mateo County; and

WHEREAS, the tax to be submitted to the voters, if approved, would be imposed on the people using hotels, as defined in the Ordinance; the tax rate would be increased from 10% to 12% of the amount paid for lodging and related services, effective January 1, 2019; the rate would be increased by 0.5% each January 1 thereafter, to a maximum rate of 14%; the tax would be collected by hotel operators and remitted to the City; and the tax shall be approved if the measure receives at least a simple majority of affirmative votes at the November 6, 2018 election; and

WHEREAS, the TOT is not levied against the City's residents or property owners; rather, it is levied on guests who occupy a hotel in the City of San Carlos for thirty calendar days or less; and

WHEREAS, there are currently seven hotels in operation with 378 rooms within the City limits. This number will increase to 10 hotels and an additional 452 rooms expected by late 2020; and

WHEREAS, the increase in the TOT rate will produce the additional benefit of helping to recoup costs associated with the impacts travelers and visitors have on the City's many amenities, such as but not limited to, police services, traffic circulation, parks and recreation and public roads. It also will reduce the per capita cost of general municipal program and services paid by local residents and businesses.

The City Council of the City of San Carlos does ordain as follows:

SECTION 1. The San Carlos Municipal Code is hereby amended by enacting and adopting Chapter 3.24 as set forth in Exhibit A.

SECTION 2. Use of Tax Revenue. The tax authorized by this Ordinance is a general tax, revenue from which may be spent for unrestricted general revenue purposes.

SECTION 3. Amendment. This Ordinance may only be amended by a vote of the People of the City of San Carlos, if the amendment would result in the tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the People. The City Council may establish rules that are necessary and desirable for implementation of this Ordinance and may amend any aspect of the Ordinance as long as such amendment does not result in an increase in the authorized tax rate or imposition of the tax on someone not previously subject to it.

SECTION 4. 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.

SECTION 5. Effective Date. This Ordinance shall become effective 10 days after the certification by the City Council of the election returns indicating passage of the Ordinance codified in this article by a majority of the voters casting votes in the November 6, 2018 election.

SECTION 6. Compliance with the California Environmental Quality Act. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The Transient Occupancy Tax imposed by the adoption of this Ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

SECTION 7. City Council Approval. The City Council of the City of San Carlos approved this Ordinance for placement on the November 6, 2018 ballot by Resolution 2018- 062 adopted by a two-thirds vote of all members.

This Ordinance was introduced by the City Council of the City of San Carlos on the 11th day of June, 2018, and was submitted to the People of the City of San Carlos at the November 6, 2018 election. It was adopted by the following vote of the People:

YESES: _____

NOES: _____

Adopted as an Ordinance of the City of San Carlos at a regular meeting of the City Council held the ____ day of _____, 2018, by Declaration of the results of the November 6, 2018, by the following vote of the City Council of the City of San Carlos:

AYES COUNCILMEMBERS: _____

NOES COUNCILMEMBERS: _____

ABSTAIN COUNCILMEMBERS: _____

ABSENT COUNCILMEMBERS: _____

CITY CLERK of the City of San Carlos

APPROVED:

MAYOR of the City of San Carlos

Chapter 3.24
UNIFORM TRANSIENT OCCUPANCY TAX

Sections:

- 3.24.010 Short title.**
- 3.24.020 Definitions.**
- 3.24.030 Tax imposed—Rate.**
- 3.24.040 Collection—Receipt required for payment.**
- 3.24.050 Certificate of registration required—Form—Fee.**
- 3.24.060 Reporting requirements—Form of returns—Payments.**
- 3.24.070 Delinquent returns and nonpayment.**
- 3.24.080 Failure to file returns.**
- 3.24.090 Recordkeeping.**
- 3.24.100 Overpayments—Refunds.**
- 3.24.110 Debt deemed owed to City.**
- 3.24.120 Appeal procedures.**
- 3.24.130 Violation—Penalty.**

3.24.010 Short title.

This chapter shall be known as and may be cited as “The Uniform Transient Occupancy Tax Ordinance of the City of San Carlos.”

3.24.020 Definitions.

Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter:

A. “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for Occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, short term rental reserved through an online service, mobile home or house trailer at a fixed location, or other similar structure or portion thereof. “Hotel” does not mean any of the following: any hospital, sanitarium, medical clinic, convalescent homes, rest home, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint; any housing owned or controlled by any educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar

facilities occupied exclusively by students and employees of such educational institution, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by any organization having qualifications for exemption from property taxes under the laws of the State; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by an employer exclusively for employees.

B. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any Hotel for dwelling, lodging or sleeping purposes.

C. "Operator" means the Person who is proprietor of the Hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the Operator performs his or her functions through a managing agency of any type or character other than an employee, the managing agent shall also be deemed an Operator for the purposes of this chapter, and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agency shall, however, be considered to be compliance by both.

D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

E. "Rent" means the consideration charged, whether or not received, for the Occupancy of space in a Hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property, parking charges and services of any kind or nature, without any deduction therefrom whatsoever.

F. "Tax Administrator" means the Administrative Services Director of the City or his or her designee.

G. "Transient" means any Person who exercises Occupancy or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such Person so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty days has expired. A Person is not a Transient who continues to occupy space beyond the thirty-day period. In determining whether a Person is a Transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.

3.24.030 Tax imposed—Rate.

For the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the Rent charged by the Operator, effective January 1, 2019. This rate shall automatically increase each January 1 after the effective date at a rate of one-half of one percent ($\frac{1}{2}\%$) tax per year up to a maximum rate of fourteen percent (14%) of the Rent charged by the Operator. The 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 Rent is paid. If 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.

3.24.040 Collection—Receipt required for payment.

Each Operator shall collect the tax imposed by this chapter to the same extent and at the same time as the Rent is collected from every Transient. The amount of tax shall be separately stated from the amount of the Rent charged, and each Transient shall receive a receipt for payment from the Operator. No Operator of a Hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the Operator, or that it will not be added to the Rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

3.24.050 Certificate of registration required—Form—Fee.

A. Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each Operator of any Hotel renting Occupancy to Transients shall register such Hotel with the City Clerk and obtain from her/him a Transient Occupancy Registration Certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

1. The name of the Operator;
2. The address of the Hotel;
3. The date upon which the certificate was issued;
4. The following statement: "This Transient Occupancy Registration Certificate signifies that the Person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the City Clerk of San Carlos for the purpose of

collecting from Transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. The certificate does not authorize any Person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a Hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit.”

B. There shall be no fee for such certificate.

3.24.060 Reporting requirements—Form of returns—Payments.

Each Operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by her or him, of the total Rents charged and received and the amount of tax collected for Transient occupancies for that calendar quarter or reporting period. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he/she deems it necessary in order to insure collection of the tax and he/she may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by Operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator. Failure to pay the tax when due shall automatically shorten the time for filing of the return and payment of tax from quarterly to weekly.

3.24.070 Delinquent returns and nonpayment.

A. Late Payment Penalty. Any Operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Second Delinquency Penalty. Any Operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. Penalty for Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any Operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalty Part of Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid by this chapter.

F. Recording Certificate—Lien. If any amount required to be paid to the City under this chapter is not paid when due, the Tax Administrator, may within three years after the amount is due, file for record in the office of the County Recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the Tax Administrator of the Operator liable for the same and the fact that the Tax Administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest, constitutes a lien upon all real property in the County owned by the Operator or afterwards and before the lien expires acquired by it, her or him. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged.

G. Priority and Lien of Tax.

1. The amounts required to be paid by any Operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:

- a. Whenever the Person is insolvent;
- b. Whenever the Person makes a voluntary assignment of his/her assets;
- c. Whenever the estate of the Person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased;
- d. Whenever the estate and effects of an absconding, concealed or absent Person required to pay any amount under this chapter are levied upon by process of law. This chapter does not give the City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

2. The preference given to the City by this subsection shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

H. Warrant for Collection of Tax. At any time within three years after any Operator is delinquent in the payment of any amount required in this chapter to be paid or within three years after the last recording of a certificate of lien under Section 6011(b), the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this chapter. The warrant shall be directed to any Sheriff, Marshal or Constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the Sheriff, Marshal or Constable, the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The Tax Administrator, and not the court, shall approve the fees for publication in a newspaper.

I. Seizure and Sale. At any time within three years after any Operator is delinquent in the payment of any amount, the Tax Administrator may forthwith collect the amount in the following manner: The Tax Administrator shall seize any property, real and/or personal, of the Operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of the property of the Operator not exempt from execution under the provisions of the Code of Civil Procedure.

J. Successor's Liability—Withholding by Purchaser. If any Operator liable for any amount under this chapter sells out his/her business or quits the business, his/her successor or assignee shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Tax Administrator showing that it has been paid or a certificate stating that no amount is due.

K. Liability of Purchaser—Release. If the purchaser of a Hotel fails to withhold purchase price as required, he/she shall become personally liable for the payment of the amount required to be withheld by him/her to the extent of the purchase price, valued in money. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records are made available for audit, whichever period expires later, but in any event not later than ninety days after receiving the request, the Tax Administrator shall either issue the certificate or mail notice to the purchaser at his/her address as it appears on the records of the Tax Administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the Tax Administrator to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the

obligation of the successor may be enforced shall start to run at the time the Operator sells his/her business or at the times that the determination against the Operator becomes final, whichever event occurs later.

3.24.080 Failure to file returns.

If any Operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the Tax Administrator shall proceed in such manner as he/she may deem best to obtain facts and information on which to base his/her estimate of the tax due. As soon as the Tax Administrator procures such facts and information as he/she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any Operator who has failed or refused to collect the same to make such report and remittance, she or he shall proceed to determine and assess against such Operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the Operator so assessed at his/her last known place of address. Such Operator may within ten days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the Operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Operator shall first pay the tax as determined by the Tax Administrator. After receipt of the payment, the Tax Administrator shall give not less than five days written notice in the manner prescribed in this chapter to the Operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the Operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the Person in the manner prescribed in this chapter of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable within fifteen days unless an appeal is taken as provided in Section 3.24.120 of this chapter.

3.24.090 Recordkeeping.

It shall be the duty of every Operator liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the

collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times.

3.24.100 Overpayments—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 ground upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

B. An Operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the Person from whom the tax has been collected was not a Transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the Transient or credited to Rent subsequently payable by the Transient to the Operator.

C. A Transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the Transient directly to the Tax Administrator, or when the Transient having paid the tax to the Operator, establishes to the satisfaction of the Tax Administrator that the Transient has been unable to obtain a refund from the Operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his/her right thereto by written records showing entitlement thereto.

3.24.110 Debt deemed owed to City.

Any tax required to be paid by any Transient under the provisions of this chapter shall be deemed a debt owed by the Transient to the City. Any such tax collectible by an Operator which has not been paid to the City shall be deemed a debt owed by the Operator to the City. Any Person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of San Carlos for the recovery of such amount.

3.24.120 Appeal procedures.

Any Operator aggrieved by a decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of

appeal with the City Clerk within fifteen days of the serving or mailing of the determination of tax due. The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such Operator at his/her last known place of address. The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any unpaid amount found to be due shall be immediately due and payable upon the service of notice.

3.24.130 Violation—Penalty.

A. Any Person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punishable therefor as provided in Chapter 1.20 of this Code.

B. Any Operator or other Person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as provided in Chapter 1.20 of this Code.

C. Any Person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as set out in Chapter 1.20 of this Code.

JUN 27 2018

By: [REDACTED]
DEPUTY CLERK

RESOLUTION NO. 2018 - 063

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS
SETTING PRIORITIES FOR THE FILING OF WRITTEN ARGUMENTS RELATING TO A
MEASURE TO BE SUBMITTED TO THE VOTERS OF THE CITY AT THE CONSOLIDATED
MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, PROPOSING A
2% INCREASE TO THE TRANSIENT OCCUPANCY TAX, EFFECTIVE JANUARY 1, 2019,
WITH AN ADDITIONAL 0.5% INCREASE EACH SUBSEQUENT JANUARY 1,
UP TO A MAXIMUM OF 14%.**

WHEREAS, a General Municipal Election is to be held in the City of San Carlos, California, on November 6, 2018, at which there will be submitted to the voters the following measure:

SAN CARLOS TRANSIENT OCCUPANCY TAX MEASURE	
To maintain the quality of life in San Carlos by providing services and improvements to accommodate visitors and residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted increasing the ongoing tax on hotel guests from 10% to 12% with a 0.5% increase per year for subsequent years up to a maximum rate of 14% adding approximately \$1,650,000 annually?	Yes
	No

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Carlos, California, does declare, determine and order as follows:

SECTION 1. That the City Council authorizes the following member(s) of its body:

Councilmembers Ron Collins and Cameron Johnson and Mayor Bob Grassilli

to file a written argument not exceeding 300 words regarding the City measure 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. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, 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.

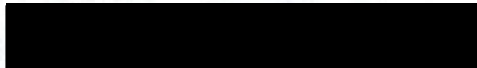
In the event that the City Council approves the filing of rebuttal arguments and arguments for and against the measure are filed, the Councilmember(s) designated above is/are also authorized to submit a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.

I, Crystal Mui, hereby certify the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 11th day of June, 2018, by the following vote:

AYES, COUNCILMEMBERS: COLLINS, JOHNSON, OLBERT, GRASSILLI

NOES, COUNCILMEMBERS: GROCOTT

ABSENT, COUNCILMEMBERS: NONE



CITY CLERK of the City of San Carlos

APPROVED:


MAYOR of the City of San Carlos

I hereby certify this to be a full, true and correct copy of the document it purports to be as the same is on file in my office.

Dated June 25, 2018


City Clerk of the City of San Carlos

JUN 27 2018

RESOLUTION NO. 2018 - 064

By: [REDACTED]
DEPUTY CLERK

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS RELATING TO A MEASURE TO BE SUBMITTED TO THE VOTERS OF THE CITY AT THE CONSOLIDATED MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, PROPOSING A 2% INCREASE TO THE TRANSIENT OCCUPANCY TAX, EFFECTIVE JANUARY 1, 2019, WITH AN ADDITIONAL 0.5% INCREASE EACH SUBSEQUENT JANUARY 1, UP TO A MAXIMUM OF 14%.

WHEREAS, a General Municipal Election is to be held in the City of San Carlos, California, on November 6, 2018, at which there will be submitted to the voters the following measure:

SAN CARLOS TRANSIENT OCCUPANCY TAX MEASURE	
To maintain the quality of life in San Carlos by providing services and improvements to accommodate visitors and residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted increasing the ongoing tax on hotel guests from 10% to 12% with a 0.5% increase per year for subsequent years up to a maximum rate of 14% adding approximately \$1,650,000 annually?	Yes
	No

WHEREAS, § 9282 of the Elections Code of the State of California provides for written arguments to be filed in favor of or against city measures not to exceed 300 words in length; and

WHEREAS, § 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of San Carlos, California does hereby declare, determine and order as follows:

SECTION 1. That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure (not exceeding 300 words each) which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

- a. The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.
- b. A rebuttal argument may not be signed by more than five authors.

- c. The rebuttal arguments shall be filed with the City Clerk, 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, not more than 10 days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement to be filed by author(s) of argument.
- d. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

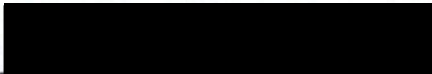
SECTION 3. That the provisions of Section 1 shall apply only to the election to be held on November 6, 2018, and shall then be of no further force and effect.

I, Crystal Mui, hereby certify the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 11th day of June, 2018, by the following vote:

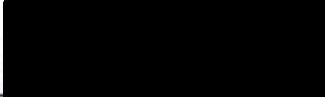
AYES, COUNCILMEMBERS: COLLINS, JOHNSON, OLBERT, GRASSILLI

NOES, COUNCILMEMBERS: GROCOTT

ABSENT, COUNCILMEMBERS: NONE


CITY CLERK of the City of San Carlos

APPROVED:


MAYOR of the City of San Carlos

I hereby certify this to be a full, true and correct copy of the document it purports to be as the same is on file in my office.

Dated June 25, 2018


City Clerk of the City of San Carlos