



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

JUL 18 2018

By: [REDACTED] CBP
DEPUTY CLERK

DOCUMENT CERTIFICATION

RESOLUTION NO. 2018-09

RESOLUTION CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE TO BE HELD AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE ENACTING A TWELVE PERCENT (12%) TRANSIENT OCCUPANCY TAX ON HOTEL OCCUPANCIES WITHIN THE TOWN OF COLMA UNTIL ENDED BY VOTERS, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

As keeper of the records for the Town of Colma,
I hereby verify that the attached document is
a true and correct copy of **RESOLUTION NO. 2018-09.**
as it was adopted by Colma City Council February 28, 2018.

[REDACTED]

Caitlin Corley
City Clerk

7/12/18

Date

**TOWN OF COLMA
OFFICE OF THE CITY CLERK
1198 EL CAMINO REAL
COLMA, CALIFORNIA 94014
(650) 997-8300**

**RESOLUTION NO. 2018-09
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

RESOLUTION CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE TO BE HELD AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE ENACTING A TWELVE PERCENT (12%) TRANSIENT OCCUPANCY TAX ON HOTEL OCCUPANCIES WITHIN THE TOWN OF COLMA UNTIL ENDED BY VOTERS, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

The City Council of the Town of Colma does hereby resolve as follows:

Background

In 2012, the Town commissioned Bay Area Economics (BAE) to prepare an economic study for the Town. The study recommended that the Town consider other types of businesses, including hotels, to diversify revenue types coming into the general fund. The Town's general fund is currently heavily dependent on sales tax revenue.

The addition of hotels to Colma will benefit local businesses such as the cardroom and cemeteries by providing lodging in close proximity to them, and may encourage visitors to stay within the Town for more than just a few hours.

Transient Occupancy Tax revenue generated by hotels will be used to maintain and improve existing services provided by the Town including police, street maintenance and repair, and sewer line maintenance and repair.

Pursuant to Section 9222 of the California Elections Code, the City Council has authority to place measures/propositions on the ballot to be considered by local voters at a municipal election. For the reasons set forth above, the Town Council would like to submit to the voters a measure enacting a twelve percent (12%) transient occupancy tax ("TOT") on hotel occupancies within the Town of Colma.

The TOT is a general tax the proceeds of which would be placed in the Town's general fund. The general fund pays for important Town services such as police services, street operations, improvement and maintenance, parks and recreation services and general municipal services to the public.

On November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIIIC), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be approved by a majority of voters voting at an election called for that purpose.

Pursuant to Proposition 218, any general tax measure submitted to the voters must be consolidated with a regularly scheduled general election for members of the City Council. The next regularly scheduled general election at which City Council members are to be elected is November 6, 2018.

Pursuant to Government Code Section 53724 ("Proposition 62"), a two-thirds (2/3) vote of all members of the City Council (four affirmative votes) is required to place the Measure on the November 6, 2018 ballot.

Order

Findings. The City Council finds that all of the preceding background facts are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

Submission of Measure. Pursuant to Elections Code §9222, Government Code §53724 and any other applicable requirements of the laws of the State of California relating to general law cities, the City Council, **by a two-thirds (2/3) supermajority vote**, hereby orders the ordinance attached hereto as Exhibit "A" and by this reference incorporated herein and made an operative part hereof, to be submitted to the voters of the Town at the General Municipal Election to be held on **Tuesday, November 6, 2018**.

The ballot measure shall be presented and printed upon the ballot submitted to the voters in the manner and form set forth in this paragraph. On the ballot to be submitted to the qualified voters at the Town General Municipal Election to be held on Tuesday, November 6, 2018, in addition to any other matters required by law, there shall be printed substantially the following:

<p>"Colma Transient Occupancy ("Hotel") Tax Measure. To maintain and improve general Town services, such as police service levels, street operations and maintenance, as well as parks, community buildings and infrastructure; shall the Town of Colma adopt an ordinance establishing a 12% Transient Occupancy ("Hotel") Tax generating approximately \$ 319,000 annually until ended by voters, if a hotel is developed, requiring annual audits and no tax rate increase without voter approval?" 3</p>	<p>6 9 8 8 8 6 10 9</p>	<p>YES</p>
<p>[67 words] ✓</p>	<p>NO</p>	

Conduct of Election. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Notice of Election. Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Impartial Analysis. Pursuant to California Elections Code §9280, the City Council hereby directs the City Clerk to transmit a copy of the measure as set forth herein to the City Attorney.

The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within fourteen (14) days following the adoption of this Resolution. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, or in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **"The above statement is an impartial analysis of Ordinance or Measure ____". If you desire a copy of the ordinance or measure, please call the election official's office at (650) 363-4988 and a copy will be mailed at no cost to you."**

Certification. The City Clerk shall certify to the adoption of this Resolution.

Filing with County. The City Clerk shall, not later than the 88th day prior to the General Municipal Election to be held on Tuesday, November 6, 2018, file with the Board of Supervisors and the County Clerk – Registrar of Voters of the County of San Mateo, State of California, a certified copy of this Resolution.

Public Examination. Pursuant to California Elections Code §9295, this measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election. The Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

3. Effective Date

This resolution shall take effect immediately.

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Certification of Adoption

I certify that the foregoing Resolution No. 2018-09 was duly adopted at a regular meeting of the City Council of the Town of Colma held on February 28, 2018 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor	X				
Helen Fisicaro	X				
Joanne del Rosario	X				
Diana Colvin	X				
John Irish Goodwin	X				
Voting Tally	5	0			

Dated 3/14/18



Raquel "Rae" Gonzalez, Mayor

Attest: 

Caitlin Corley, City Clerk

Full text starts

ORDINANCE NO. _____
OF THE PEOPLE OF THE TOWN OF COLMA

MEASURE "____"

**ORDINANCE ADDING COLMA MUNICIPAL CODE CHAPTER 7.04 ENACTING A
TWELVE PERCENT (12%) TRANSIENT OCCUPANCY TAX ON HOTEL
OCCUPANCIES WITHIN THE TOWN OF COLMA UNTIL ENDED BY VOTERS**

The People of the Town of Colma does ordain as follows:

ARTICLE 1. RECITALS.

In 2012, the Town commissioned Bay Area Economics (BAE) to prepare an economic study for the Town. The study recommended that the Town consider other types of businesses, including hotels, to diversify revenue types coming into the general fund. The Town's general fund is currently heavily dependent on sales tax revenue.

The addition of hotels to Colma will benefit local businesses such as the cardroom and cemeteries by providing lodging in close proximity to them, and may encourage visitors to stay within the Town for more than just a few hours.

Transient Occupancy Tax revenue generated by hotels will be used to maintain and improve existing services provided by the Town including police, street maintenance and repair, and sewer line maintenance and repair.

After careful consideration, the City Council has determined that the best means to address the funding issues outlined above is for the Town to enact a twelve percent (12%) transient occupancy tax ("TOT") on hotel occupancies within the Town of Colma.

Pursuant to California Proposition 218 (Calif. Const. Article XIII C, Sec. 2(b)), any new, increased or extended local general tax requires majority approval of Colma voters voting at an election called for that purpose.

On February 28, 2018 the City Council adopted Resolution No. 2018-09 placing this ordinance on the November 6, 2018 general municipal election ballot to submit to Colma voters the question of enacting a twelve percent (12%) transient occupancy tax ("TOT") on hotel occupancies within the Town of Colma.

As stated in more detail herein, this Ordinance will become effective only upon its approval by a majority of Colma voters voting at the November 6, 2018 election.

ARTICLE 2. INCORPORATION OF RECITALS.

The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

ARTICLE 3. CMC CHAPTER 7.04 ADDED.

Chapter 7.04 shall be and hereby is added to the Colma Municipal Code as follows:

"Chapter 7.04

TRANSIENT OCCUPANCY TAX

Section:

7.04.010	Short Title
7.04.020	Definitions
7.04.030	Tax Rate, Payment
7.04.040	Exemptions
7.04.050	Operator Duties
7.04.060	Registration
7.04.070	Third Party Rental Transactions
7.04.080	Reporting and Remitting
7.04.090	Delinquency, Penalties and Interest
7.04.100	Failure to Collect and Report
7.04.110	Appeal
7.04.120	Records
7.04.130	Refunds
7.04.140	Debt to Town/Actions to Collect
7.04.150	Use of Tax Proceeds
7.04.160	Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure
7.04.170	Amendment or Repeal – Adjustment of Taxing Rate or Methodology
7.04.180	Violations; Misdemeanor
7.04.190	Sunset of Tax
7.04.200	Independent Citizens' Advisory Committee

7.04.010 Short Title.

This chapter shall be known as the Town of Colma Transient Occupancy Tax Ordinance.

7.04.020 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel means any structure, or any portion of any structure, in the Town of Colma, 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, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, even if such structure is also used for other purposes, including residential purposes.

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, whether or not the person entitled to the use or possession actually uses or possesses such room or rooms or portion thereof. The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or as exhibition, sample or display space shall not be considered "occupancy" unless the person uses or possesses, or has the right to use or possess all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.

Online Short Term Rental Company shall mean any person, whether operating for profit or not for profit, which facilitates the connection between transient and operator to purchase occupancy in any hotel via the Internet, or by similar electronic means.

Online Travel Company shall mean any person, whether operating for profit or not for profit, which enables transients to purchase occupancy in a hotel via the Internet, or by similar electronic means.

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

Person shall mean 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.

Rent means the total consideration charged to the transient, including but not limited to, room rates, service charges, parking fees, purchase price, advance registration, block or group reservation charges, assessments, retail markup, commission, processing fees, cancellation charges, attrition fees, or online booking or broker fees, whether charged by an operator or a rental agent, whether or not received, for occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Nothing in this definition shall be construed to mean that rent is charged directly or indirectly for occupancy in a hotel when a room is provided to the transient as a compliment for the operator and where no consideration is charged to or received from any other person. Further, bona fide charges for food and beverages which are subject to tax under the California Sales and Use Tax Law (Revenue and Taxation Code Sections 6001 et. seq.) shall not be deemed rent subject to the tax imposed by this chapter.

Rental agent means any person other than an operator who collects rent from a transient for the transient's occupancy of a hotel, including but not limited to an online travel company or an online short term rental company.

Tax administrator means the Town director of finance, or his or her designee.

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 30 consecutive calendar days or less, counting portions of calendar days as full days. The following rules shall apply to this definition:

Any such person so occupying or entitled to occupy a room in a hotel shall be deemed to be a transient until the period of 30 calendar days has expired. In the event a person exercises or is entitled to occupancy for a continuous and uninterrupted period of longer than 30 calendar days, he or she shall be deemed a transient and subject to the tax for only the first 30 calendar days of occupancy and shall cease being a transient and the tax shall not apply on the 31st calendar day of occupancy and following. However, any break or interruption in occupancy shall start a new 30-day period subject to the tax.

In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.

Any person who exercises or is entitled to occupancy for a period of 30 consecutive calendar days or less shall be deemed to be a transient for that period, regardless of whether the reservation and/or payment for occupancy is made directly by the person exercising or entitled to occupancy or by another person. The intent is to tax the person exercising occupancy or having the entitlement to occupancy of a hotel room.

7.04.030 Tax Rate, Payment.

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 paid by the transient. This tax constitutes a debt owed by the transient to the Town which is extinguished only by payment to the operator, the Town or to a rental agent pursuant to Section 7.04.070. The transient shall pay the tax to the operator or rental agent 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 occupancy. If for any reason the tax due is not paid to the operator or rental agent, the tax administrator may require that such tax shall be paid directly to the tax administrator.

7.04.040 Exemptions.

No tax levied under this chapter shall be imposed upon the following:

Any person as to whom, or any occupancy as to which, it is beyond the power of the Town to impose the tax.

Any federal or State of California officer or employee when occupying a room while on official government business. For purposes of this section, students, non-employee supporters and volunteers of California public universities and colleges shall not be deemed to be officers or employees of the State of California.

Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. Any federal or State of California officer or employee when on official government business claiming such an exemption shall provide to the operator as conclusive evidence that his or her occupancy is for the official business of his or her employer:

Travel orders from his or her government employer; or a government warrant issued by his or her employer to pay for the occupancy; or a government credit card issued by his or her employer to pay for the occupancy; and

proof of his or her governmental employment as an employee or officer as described in paragraph (1) of this subsection B, and proof, consistent with these provisions, that his or her occupancy is for the official business of his or her governmental employer.

It shall be the duty of an operator to keep and maintain for a period of three years written documentation in support of each exemption granted under this section.

7.04.050 Operator Duties.

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 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 provided in this chapter.

7.04.060 Registration.

Within 30 days after commencing business, each operator of a hotel renting occupancy to transients shall register the hotel with the tax administrator and obtain from him or her a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. This certificate shall, among other things, state the following:

The name of the operator.

The address of the hotel.

The date upon which the certificate was issued.

That the transient occupancy registration certificate signifies that the person named on the face thereof has fulfilled the requirements of this chapter by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting such tax to the tax administrator, and that such 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 Town, that such certificate does not constitute a permit and is not transferable to a different operator.

7.04.070 Third Party Rental Transactions.

Any transient who pays rent to a rental agent instead of to an operator shall, at the time the rent is paid, pay the tax to the rental agent in the manner required by section 7.04.030. If for any reason the tax is not paid to the rental agent, it shall be paid to the operator before the transient has ceased occupancy in the hotel or paid directly to the tax administrator pursuant to section 7.04.030. Any transient seeking a refund under section 7.04.130 of taxes paid to a rental agent must establish that the transient has been unable to obtain a refund from the rental agent who collected the tax.

Any rental agent who collects rent shall comply with all obligations of the operator set forth in sections 7.04.050 and 7.04.120 of this chapter. The rental agent shall remit all collected taxes to the operator before the deadline for the operator to remit the taxes to the tax administrator under section 7.04.080, and the rental agent shall provide the operator with copies of all records required to be maintained by the operator pursuant to section 7.04.120 of this chapter, including records necessary for the operator to comply with its obligations under this chapter.

If the tax administrator determines that a rental agent has failed to collect, remit, or report any tax, the tax administrator may take any action against the rental agent that he or she may take against an operator under sections 7.04.090 and 7.04.100 of this chapter subject to the requirements of those sections. If the tax administrator assesses unremitted taxes and penalties against the rental agent, the rental agent shall be subject to the provisions of sections 7.04.100, 7.04.110, 7.04.130 and 7.04.140 of this chapter as if it were an operator. Nothing in this section shall prohibit the tax administrator from assessing the full amount of any unremitted taxes and penalties solely against the operator in lieu of assessing some or all of those taxes and penalties against the rental agent.

7.04.080 Reporting and Remitting.

Each operator 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 shall make a return to the tax administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. If no tax was due or collected during the previous reporting period, the operator shall file a return so stating under penalty of perjury. 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 or she deems it necessary in order to ensure collection of the tax, and he 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 Town until payment thereof is made to the tax administrator.

7.04.090 Delinquency, Penalties and Interest.

Original delinquency. 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.

Continued delinquency. Any operator who fails to remit any delinquent remittance on or before a period of 30 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.

Fraud or Misrepresentation. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to intentional conduct, misrepresentation or fraud, a penalty of 25 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.

Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the maximum rate allowable by law 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.

Penalties merged with tax. Every penalty imposed and such interest as accrues under this section shall become a part of the tax required to be paid.

7.04.100 Failure to Collect and Report.

If any operator shall fail or refuse to collect the tax imposed pursuant to this chapter and to make, within the time provided in this chapter, any report and remittance of this tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he or 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 tax and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. If 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 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 tax administrator shall give not less than ten days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in the notice why the

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 section of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in 7.04.110.

7.04.110 Appeal.

Under this chapter, 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 Town clerk within 15 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 Town clerk shall give notice in writing to such operator at his 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 in this section for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

7.04.120 Records.

It shall be the duty of every operator liable for the collection and payment to the Town 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 may have been liable for the collection of and payment to the Town, which records the tax administrator shall have the right to examine and audit at all reasonable times for the purpose of determining the accuracy thereof.

7.04.130 Refunds.

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 Town under this chapter, it may be refunded as provided in subsections (b) and (c) of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator in compliance with Chapter 1.14. The claim shall be on forms furnished by the tax administrator.

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 had either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the Town 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.

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

7.04.140 Debt to Town/Actions to Collect.

Any tax required to be paid by any transient under this chapter shall be deemed a debt owed by the transient to the Town. Any such tax collected by an operator which has not been paid to the Town shall be deemed a debt owed by the operator to the Town. Any person owing money to the Town under this chapter shall be liable to an action brought in the name of the Town.

7.04.150 Use of Tax Proceeds.

The proceeds arising from the tax imposed by this chapter shall be credited to the general fund of the Town.

7.04.160 Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure.

The City shall annually verify that the taxes owed under this chapter have been properly applied, exempted, collected, and remitted in accordance with this chapter, and properly expended according to applicable municipal law. The verification shall be performed by a qualified independent third party and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits. The verification shall not be required of tax remitters where the cost of the verification may exceed the tax revenues to be review

7.04.170 Amendment or Repeal – Adjustment of Taxing Rate or Methodology.

This chapter may be repealed or amended by the Town Council without a vote of the People of the Town of Colma. However, as required by California Constitution Article XIII C (Proposition 218), voter approval is required for any amendment or provision that would increase the maximum rate or methodology of any tax levied pursuant to this chapter. The people of the Town of Colma affirm that the following actions shall not constitute an increase of the rate or methodology of the transient occupancy tax requiring subsequent voter approval:

The restoration of the rate of the tax to a rate that is no higher than the maximum set by this voter-approved chapter, if the Town Council has previously acted to reduce the rate of the tax;

An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception explicitly set forth in this chapter); and

Resuming collection of the tax imposed by this chapter, even if the Town had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

7.04.180 Violations; Misdemeanor.

Any operator or other person who violates any of the provisions of this chapter or who fails or refuses to register as required herein, or to furnish any returns 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 this Code.”

ARTICLE 4. SEVERABILITY.

Each of the provisions of this Ordinance is severable from all other provisions. If any chapter, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 5. NOT A CEQA PROJECT.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

ARTICLE 6. EXECUTION AND EFFECTIVE DATE.

Following certification that Colma voters have approved this Ordinance, the Mayor shall sign it attesting to its adoption by the People voting thereon at the November 6, 2018 General Municipal Election, and the City Clerk shall cause the same to be entered in the book of original ordinances of said Town; and shall cause the same, or a summary thereof, to be published as required by law.

This Ordinance shall take effect only if approved by a majority of the eligible voters of the Town of Colma voting at a General Municipal election to be held on November 6, 2018. Pursuant to California Elections Code Section 9217, this Ordinance shall be deemed valid and binding and shall be considered as adopted upon the date that the vote is declared by the City Council, and shall take effect ten (10) days after that date.

————— | Full Text Ends

Certificate of Adoption

I certify that the foregoing Ordinance No. _____ (Measure "___") was duly approved and adopted by the People of the Town of Colma, at an election held for that purpose on November 6, 2018:

Dated _____

Raquel "Rae" Gonzalez, Mayor

Attest: _____
Caitlin Corley, City Clerk



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

JUL 18 2018

MARK GHURCH Chief Elections Officer

By: [REDACTED]

DEPUTY CLERK

DOCUMENT CERTIFICATION

RESOLUTION NO. 2018-10

RESOLUTION REQUESTING THE BOARD OF SUPERVISORS OF
SAN MATEO COUNTY TO CONSOLIDATE A GENERAL MUNICIPAL
ELECTION TO BE HELD ON NOVEMBER 6, 2018 WITH THE
STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME
DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

As keeper of the records for the Town of Colma,
I hereby verify that the attached document is
a true and correct copy of **RESOLUTION NO. 2018-10.**
as it was adopted by Colma City Council February 28, 2018.

[REDACTED]

Caitlin Corley
City Clerk

7/12/18

Date

**TOWN OF COLMA
OFFICE OF THE CITY CLERK
1198 EL CAMINO REAL
COLMA, CALIFORNIA 94014
(650) 997-8300**

**RESOLUTION NO. 2018-10
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION REQUESTING THE BOARD OF SUPERVISORS OF SAN MATEO COUNTY
TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6,
2018 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE
PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE**

The City Council of the Town of Colma does hereby resolve as follows:

Background

(a) Pursuant to Colma Municipal Code, Section 1.01.090, the Town of Colma's General Municipal Election for filling elective offices is held on the second Tuesday after the first Monday in November of even-numbered years. The next Colma General Municipal Election is scheduled for November 6, 2018.

(b) The City Council is submitting to the voters a question related to a transient occupancy tax ("TOT") on the same date; and

(c) It is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the Town the precincts, polling places and election officers of the two elections be the same, and that the San Mateo County election department canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

Order

✓ (a) Request for Consolidation. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Mateo is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of submitting to the voters the question relating to the Town's Transient Occupancy ("Hotel") Tax.

(b) Measure Language. The Measure is to appear on the ballot as follows:

"Colma Transient Occupancy ("Hotel") Tax Measure. To maintain and improve general Town services, such as police service levels, street operations and maintenance, as well as parks, community buildings and infrastructure; shall the Town of Colma adopt an ordinance establishing a 12% Transient Occupancy ("Hotel") Tax generating approximately \$ 319,000 annually until ended by voters, if a hotel is developed, requiring annual audits and no tax rate increase without voter approval?"	Yes
	No

(c) Canvass of Returns. The County election department is authorized to canvass the returns and perform all other proceedings incidental to and connected with the General Municipal Election. The Election shall be held in all respects as if there were only one election,

and only one form of ballot shall be used. Pursuant to California Elections Code Sections 10403 and 10418, the election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election.

(d) Necessary Steps. The Board of Supervisors is requested to issue instructions to the County election department to take any and all steps necessary for the holding of the consolidated election.

(e) Costs. The Town of Colma recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

(f) Filing of Resolution. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the election department of the County of San Mateo.

(g) Certification. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

3. Effective Date

This resolution shall take effect immediately.

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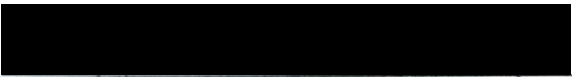
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Certification of Adoption

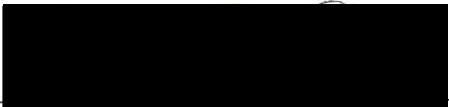
I certify that the foregoing Resolution No. 2018-10 was duly adopted at a regular meeting of the City Council of the Town of Colma held on February 28, 2018 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor	X				
Helen Fisicaro	X				
Joanne del Rosario	X				
Diana Colvin	X				
John Irish Goodwin	X				
Voting Tally	5	0			

Dated 3/14/18



Raquel "Rae" Gonzalez, Mayor

Attest: 

Caitlin Corley, City Clerk



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

JUL 18 2018

By: [REDACTED] Officer
DEPUTY CLERK

DOCUMENT CERTIFICATION

RESOLUTION NO. 2018-11

RESOLUTION PROVIDING FOR THE FILING OF PRIMARY AND REBUTTAL ARGUMENTS AND SETTING RULES FOR THE FILING OF WRITTEN ARGUMENTS REGARDING A TOWN MEASURE TO BE SUBMITTED TO THE QUALIFIED VOTERS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION

As keeper of the records for the Town of Colma,
I hereby verify that the attached document is
a true and correct copy of **RESOLUTION NO. 2018-11.**
as it was adopted by Colma City Council February 28, 2018.

[REDACTED]

Caitlin Corley
City Clerk

7/12/18

Date

**TOWN OF COLMA
OFFICE OF THE CITY CLERK
1198 EL CAMINO REAL
COLMA, CALIFORNIA 94014
(650) 997-8300**

**RESOLUTION NO. 2018-11
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION PROVIDING FOR THE FILING OF PRIMARY AND REBUTTAL
ARGUMENTS AND SETTING RULES FOR THE FILING OF WRITTEN ARGUMENTS
REGARDING A TOWN MEASURE TO BE SUBMITTED TO THE QUALIFIED VOTERS AT
THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION**

The City Council of the Town of Colma does hereby resolve as follows:

Background

(a) A General Municipal Election is to be held in the Town of Colma, California on November 6, 2018, at which there will be submitted to the voters the following Measure:

"Colma Transient Occupancy ("Hotel") Tax Measure. To maintain and improve general Town services, such as police service levels, street operations and maintenance, as well as parks, community buildings and infrastructure; shall the Town of Colma adopt an ordinance establishing a 12% Transient Occupancy ("Hotel") Tax, generating approximately \$ 319,000 annually until ended by voters, if a hotel is developed, requiring annual audits and no tax rate increase without voter approval?"	Yes
	No

Order

(a) Primary Arguments. That the City Council authorizes (i) any or all members of the City Council, (ii) any individual voter eligible to vote on the above Measure, (iii) a bona fide association of such citizens or (iv) any combination thereof, to file a written argument in favor of or against the Town Measure, 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 below by the City Clerk, after which no arguments for or against the Town measure may be submitted to the City Clerk.

For this election, the City Council specifically authorizes the Mayor and Vice Mayor to select the author(s) who may prepare and file a written argument in favor of the Measure on behalf of the City Council.

The deadline to submit arguments for or against the Town Measure pursuant to this Resolution is declared by the City Clerk to be the date and time specified by the San Mateo County Assessor-County Clerk-Recorder and Elections office on the official elections calendar. Each argument shall be filed with the City Clerk, signed, and include 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.

(b) Rebuttal Arguments. Pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the primary arguments for and against the Town Measure(s) which will be printed and distributed to the voters, the Clerk shall send copies of the primary argument in favor of the Measure(s) to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk to be the date and time specified by the San Mateo County Assessor-County Clerk-Recorder and Elections office on the official elections calendar. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument which it seeks to rebut.

(c) Prior Resolutions. That all previous resolutions providing for the filing of primary and rebuttal arguments related to Town measures are repealed.

(d) November 6, 2018 Election. That the provisions of Sections 1 and 2 shall apply only to the election to be held on November 6, 2018, and shall then be repealed.

(e) Certification. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original Resolutions.

3. Effective Date

This resolution shall take effect immediately.

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Certification of Adoption

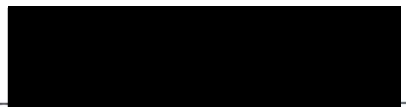
I certify that the foregoing Resolution No. 2018-11 was duly adopted at a regular meeting of the City Council of the Town of Colma held on February 28, 2018 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor	X				
Helen Fisicaro	X				
Joanne del Rosario	X				
Diana Colvin	X				
John Irish Goodwin	X				
Voting Tally	5	0			

Dated 3/14/18



Raquel "Rae" Gonzalez, Mayor

Attest: 

Caitlin Corley, City Clerk



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

JUL 18 2018

MARK CHURCH, Chief Elections Officer
By: [REDACTED] DEPUTY CLERK

DOCUMENT CERTIFICATION

RESOLUTION NO. 2018-23

**RESOLUTION CALLING AND GIVING NOTICE OF GENERAL
MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2017, FOR
THE ELECTION OF TWO CITY COUNCIL MEMBERS AND RELATED
MATTERS**

As keeper of the records for the Town of Colma,
I hereby verify that the attached document is
a true and correct copy of **RESOLUTION NO. 2018-23.**
as it was adopted by Colma City Council June 13, 2018.

[REDACTED]
Caitlin Corley
City Clerk

7/12/18

Date

**TOWN OF COLMA
OFFICE OF THE CITY CLERK
1198 EL CAMINO REAL
COLMA, CALIFORNIA 94014
(650) 997-8300**

**RESOLUTION NO. 2018 - 23
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION CALLING AND GIVING NOTICE OF THE GENERAL MUNICIPAL
ELECTION TO BE HELD ON NOVEMBER 6, 2018, FOR THE ELECTION OF TWO CITY
COUNCIL MEMBERS AND RELATED MATTERS**

The City Council of the Town of Colma does hereby resolve as follows:

1. Background.

- (a) Pursuant to Section 1000 of the California Elections Code, and Section 1.01.090 of the Colma Municipal Code, the General Municipal Election for the Town of Colma will be held on November 6, 2018.
- (b) The offices of two City Council Members will be subject to election.
- (c) The City Council has determined that the County Clerk of San Mateo County should render specified services to the Town of Colma relating to the election.

2. Order. The City Council of the Town of Colma does hereby order, determine, and declare as follows:

- (a) The City Council, pursuant to its right and authority, does hereby call and order a General Municipal Election to be held in the Town of Colma, California, to be consolidated with the Statewide General Election, on Tuesday, November 6, 2018 for the purpose of electing two council members, each for the full term of four years.
- (b) The ballots to be used at the election shall be in the form and content as required by law.
- (c) The County Elections Official is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election, and the City Clerk is hereby authorized, instructed and directed to take all action necessary to place the measure described herein on the general election ballot for the General Municipal Election on Tuesday, November 6, 2018.
- (d) The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously until eight o'clock p.m. of that same day.
- (e) The candidate statements shall be limited to 250 words. As a condition of having the Candidate's Statement published, the candidate shall pay the cost at the time of filing.
- (f) In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.
- (g) Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed and directed to give such further or additional notice, in the time, form

and manner required by law.

3. Request for Election Services and Order Authorizing Agreement

(a) Pursuant to California Elections Code Section 10002, the City Council requests that the Board of Supervisors of San Mateo County permit the County Election Division to render the specified services to the Town of Colma relating to the conduct of the election for the Town of Colma at the General Municipal Election to be held on November 6, 2018.

(b) The City Council hereby authorizes the City Manager to enter into an Agreement between the Town of Colma and San Mateo County Chief Elections Officer for the Provision of Election Services.

(c) The Town of Colma recognizes that additional costs may be incurred by the County by reason of this request for services and agrees to reimburse the County in full for such costs upon presentation of a bill to the Town.

4. Request for Consolidation

(a) Pursuant to the requirements of California Elections Code Section 10403, the City Council of the Town of Colma hereby requests the Board of Supervisors of the County of San Mateo to consent and agree to the consolidation of the Town of Colma General Municipal Election with the Statewide General election on Tuesday, November 6, 2018 for the purpose of electing two council members.

(b) The County Election Division is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used, all in compliance with Elections Code 10418.

(c) The Board of Supervisors is requested to issue instructions to the County Election Division to take any and all steps necessary for the holding of the consolidated election.

(d) The Town of Colma recognizes that additional costs may be incurred by the County by reason of this consolidation and agrees to reimburse the County in full for such costs upon presentation of a bill to the Town.

5. Instructions to City Clerk

The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the Elections Division of the County of San Mateo.

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Certification of Adoption

I certify that the foregoing Resolution No. 2018 - 23 was duly adopted at a regular meeting of the City Council of the Town of Colma held on June 13, 2018, by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor	x				
Joanne del Rosario	x				
John Irish Goodwin	x				
Diana Colvin	x				
Helen Fisicaro	x				
<i>Voting Tally</i>	5	0			

Dated 6/13/18


 Raquel "Rae" Gonzalez, Mayor

Attest: 
 Caitlin Corley, City Clerk