

## ORDINANCE NO.

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY AMENDING SECTION 3.32.030 OF THE NAPA COUNTY CODE FOR THE PURPOSE OF INCREASING THE TRANSIENT OCCUPANCY (HOTEL) TAX RATE FROM TWELVE PERCENT TO THIRTEEN PERCENT, AND REQUIRING ANY FUNDS GENERATED AS A RESULT OF THE IMPOSITION OF THIS INCREASE IN THE TRANSIENT OCCUPANCY (HOTEL) TAX TO BE TREATED AS THE PROCEEDS OF A SPECIAL TAX AND SPENT FOR WORKFORCE HOUSING AND AFFORDABLE HOUSING PURPOSES.**

The Board of Supervisors of Napa County ordains as follows:

**SECTION 1. Findings.** The Board of Supervisors of Napa County finds that:

(a) Insufficient public funds at the state and federal level have created an unprecedented housing crisis for California. To help alleviate the housing need, and to help improve the quality of life for those working in Napa County, it is important the County find other sources of revenues for workforce and affordable housing.

(b) Under current state laws and regulations, the Transient Occupancy Tax (hereafter “TOT”), a local tax, is not subject to appropriation by the State of California. Increasing the TOT from 12.0% to 13.0% would be in the best interests of County residents since this source of revenue would be used in the coming years for workforce and affordable housing programs and services as determined by the Board of Supervisors.

(c) Napa County collects TOT paid by tourists who stay at the hotels within the unincorporated areas. It is not paid by the businesses running the local hotels or the citizens.

(d) The County has an obligation to provide housing opportunities that are affordable to low income and very low income wage earners. Napa’s tourism industry creates jobs at various income levels, including very low and low income, as well as moderate and above moderate income. Because tourists benefit directly from the hospitality and services provided by the workforce in the lodging industry, and demand for lodging and hospitality workers continues to increase, it is appropriate that tourists visiting Napa pay some of the County’s costs for providing housing for the workforce.

(e) State law, including but not limited to Sections 53722 et seq. of the Government Code and Article XIII C of the California Constitution (more commonly known as Proposition 218), provides that special taxes may not be imposed unless approved by two thirds vote of the electorate voting on the matter.

**SECTION 2. Purpose and Intent.** The Board finds that in adopting this increase in the transient occupancy tax, its intent is that the tax revenues to be generated by this increase in the transient

occupancy tax be deemed the proceeds of a special tax and used for workforce and affordable housing.

**SECTION 3. Increase in TOT.** Commencing January 1, 2019, the transient occupancy tax imposed by Section 3.32.030 is increased from 12% to 13.0% pursuant to the authority set forth in Section 7280 of the California Revenue and Taxation Code and related statutory and constitutional authority. Accordingly, Section 3.32.030, entitled “Tax Imposed-Amount” of Chapter 3.32 (Uniform Transient Occupancy Tax” of Title 3 (Revenue and Finance) of the Napa County Code is hereby revised to read in full as follows (underlined text indicates insertion, crossed out text indicates deletion):

**3.32.030 Tax Imposed-Amount.**

A. For the privilege of occupancy or the right to occupancy by nonrefundable deposit or guaranteed no-show fee in any hotel, each transient is subject to and shall pay a tax in the amount of ~~twelve~~thirteen percent of the rent charged by the operator ~~(effective as of January 1, 2005 with ten and one half percent per annum being the applicable rate for TOT owed prior to that date)~~. The TOT constitutes a debt owed by the transient to the county which is extinguished only by payment to the operator or to the county. The transient shall pay the TOT to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the TOT shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy or failing to occupy the space in the hotel. If for any reason the TOT due is not paid to the operator of the hotel by the transient, the tax administrator may require the operator to pay the TOT directly to the tax administrator.

B. Any tax imposed by this chapter shall be remitted to the county. The amount allocated to room rental rates, number of rooms rented, tax, and products or services shall be readily identifiable in the operator's accounting records. The allocation to non-rent items shall not exceed the prices normally charged for those items.

C. Any operator offering a package rate must assess tax on the entire package rate unless the separate components of the package are clearly identified. Allocation of room rents from the package rate shall not be below prevailing room rates.

D. If for any reason the operator fails to collect tax due at the time of occupancy, the operator becomes liable for the TOT due.

E. Revenues generated from the thirteen percent TOT shall be allocated as follows: twelve percent shall be allocated to the county's general fund discretionary revenues, and one percent shall be deposited and maintained in a segregated account to be used for affordable and workforce housing programs and services.

**SECTION 4.** An election shall be ordered to enable the voters of Napa County to approve or reject this ordinance. The date of the election shall be November 6, 2018.

**SECTION 5.** This ordinance shall be considered as adopted in accordance with State law and take effect only after securing an approval by two-thirds of the voters voting on the matter at an election called for that purpose. By its terms, the proposed increase in the TOT would not be implemented, if approved by the voters, until January 1, 2019.

**SECTION 6.** If any provision of this ordinance or the application thereof to any person or

circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are severable.

**SECTION 7.** Consideration and adoption of the proposed ordinance is not a project as defined by 14 California Code of Regulations 15378(b)(4)(State CEQA Guidelines), which excludes from the definition of “project” the “creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment,” and therefore CEQA is not applicable. Additionally, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. (See State CEQA Guidelines 14 CCR 15061(b)(3).)

**SECTION 8.** A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing ordinance was introduced and read at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the 10<sup>th</sup> day of July, 2018, and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 31st day of July, 2018, by the following vote:

- AYES: SUPERVISORS
- NOES: SUPERVISORS
- ABSTAIN: SUPERVISORS
- ABSENT: SUPERVISORS

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**BRAD WAGENKNECHT, CHAIR**  
 Napa County Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <i>S. Darbinian</i> Deputy County Counsel</p> <p>Date: July 23, 2018</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: Clerk of the Board of Supervisors</p> <p>By: _____</p>
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As required by State law, including but not limited to Government Code Section 53722, the foregoing ordinance was approved by no less than a two-thirds vote of the people of Napa County, on November 6, 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

The vote on this ordinance was declared by the Board of Supervisors on \_\_\_\_, 2018.

\_\_\_\_\_  
 BRAD WAGENKNECHT, Chair  
 Board of Supervisors

<p>APPROVED AS TO FORM          Office of County Counsel</p> <p>By: <i>S. Darbinian</i>          Deputy County Counsel</p> <p>Date: July 23, 2018</p>	<p>APPROVED BY THE NAPA COUNTY          BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST:          Clerk of the Board of Supervisors</p> <p>By: _____</p>
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