

Resolution No. C-2020-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY SETTING A MEASURE ON THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION BALLOT SEEKING VOTER APPROVAL OF A PROPOSED ORDINANCE INCREASING THE CITY OF HALF MOON BAY'S TRANSIENT OCCUPANCY (HOTEL) TAX ON RENT CHARGED TO HOTEL GUESTS FROM TWELVE PERCENT (12%) TO FOURTEEN PERCENT (14%) COMMENCING JULY 1, 2021 AND TO FIFTEEN PERCENT (15%) COMMENCING JULY 1, 2022

WHEREAS, pursuant to Section 7280 of the California Revenue and Taxation Code, the legislative body of a city may levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging for a period of 30 days or less; and

WHEREAS, Half Moon Bay Municipal Code Section 3.12.030 currently requires persons occupying hotels, campgrounds, and other overnight accommodations for 30 consecutive days or less to pay a transient occupancy (hotel) tax ("TOT") in the amount of twelve percent (12%) of the rent charged by the accommodation operator; and

WHEREAS, 100% of the hotel tax is paid by visitors, tourists, and guests staying at hotels and other short-term overnight accommodations in the City of Half Moon Bay, and not by City residents who are not staying in such short-term accommodations; and

WHEREAS, guests of hotels and other short-term overnight accommodations use City services, including 911 emergency response, roads, City parks, and beaches, and the hotel tax will be spent on services that benefit residents and that visitors use, and addressing the impacts of tourism; and

WHEREAS, the nationwide economic recession resulting from the COVID-19 pandemic has had severe negative economic impacts on businesses and residents in the City of Half Moon Bay, and support for local businesses and residents will be important to the City's economic recovery; and

WHEREAS, the proposed measure includes strict accountability provisions, such as public spending reports and annual independent financial audits, and, all funds must be used only for Half Moon Bay; and

WHEREAS, Half Moon Bay must continue to be effective and self-reliant in addressing our own unique local needs and the City must do more to connect residents in need to local resources as well as support local businesses to push the community towards recovery as a whole; and

WHEREAS, residents are relying on the critical services the City provides – now more than ever, including 911 emergency response and emergency medical services, the City must continue to be prepared for any future natural disaster or public health emergencies; and

WHEREAS, an increase in the TOT rate from twelve percent (12%) to fourteen percent (14%) and ultimately to fifteen percent (15%) would generate revenue be used locally for the City of Half Moon Bay to address community priorities including: keeping public places, healthy, safe and clean, maintaining 911 emergency response times, and keeping the City affordable for nurses, teachers, sheriff's deputies, agricultural workers and others essential to our economy and emergency response; and

WHEREAS, to allow ample time for hotels and other accommodation operators to transition to the increased TOT rate, the City's existing TOT rate would remain at twelve percent (12%) through June 30, 2021, after which the TOT rate would increase to fourteen percent (14%) commencing on July 1, 2021, and to fifteen percent (15%) commencing on July 1, 2022; and

WHEREAS, California Constitution Article XIIC, 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, on June 2, 2020, the City Council adopted Resolution No. C-2020-39, calling a general municipal election on November 3, 2020, and adopted Resolution No. C-2020-40, requesting that the Board of Supervisors of the County of San Mateo consolidate the City's general municipal election with the statewide general election to be held on the same date; and

WHEREAS, the Half Moon Bay City Council is authorized by California Elections Code Section 9222 to submit to the voters propositions for the enactment or amendment of any ordinance, including tax measures; and

WHEREAS, California Government Code Section 53724(b) authorizes the City Council to place a general tax measure before the voters upon a two-thirds vote of all members of the City Council; and

WHEREAS, on the basis of the foregoing, the City Council has determined it is appropriate to place a measure increasing the TOT rate from twelve to fourteen percent commencing July 1, 2021 and to fifteen percent commencing July 1, 2022 before the voters at the general municipal election consolidated with the statewide general election on November 3, 2020; and

WHEREAS, the City Council may amend the TOT provisions or postpone the TOT increase by ordinance without subsequent voter approval, except that the Council cannot extend or increase the tax in excess of the rates set forth in this measure, or change the allowed use for the tax revenues, without voter approval in accordance with California Constitution Article XIII C, Section 2(b);

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Half Moon Bay does hereby declare, determine and order as follows:

Section 1. Ballot Measure

(a) Pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council orders that the following measure be submitted to the voters of the City of Half Moon Bay on the ballot at the general municipal election on November 3, 2020:

<p>CITY OF HALF MOON BAY HOTEL/LODGING TAX MEASURE. To support financial recovery/stability and maintain services, including: 9-1-1 emergency response; disaster preparedness; supporting local businesses/residents; and keeping public areas healthy/safe, shall the measure increasing, until ended by voters, the transient occupancy tax from 12% to 14% on July 1, 2021, and to 15% on July 1, 2022 (paid only by hotel/lodging guests), providing approximately \$1,500,000 annually in locally controlled funding for general revenue purposes, be adopted?</p> <p>Yes _____ No _____</p>
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(b) As the City Council by resolution on June 2, 2020 requested that the County of San Mateo Board of Supervisors consolidate the City’s general municipal election with the statewide general election to be held on November 3, 2020, pursuant to the requirements of Elections Code Section 10403, the City Council hereby requests that the County of San Mateo Board of Supervisors authorize the submission of this ballot measure to the voters of the City of Half Moon Bay in the consolidated municipal and statewide election held on November 3, 2020.

(c) This ballot measure requires the approval of a majority vote of the City of Half Moon Bay electorate voting on the measure at the November 3, 2020 election in order to become effective.

Section 2. Proposed Ordinance

(a) The full text of the proposed Ordinance authorizing the transient occupancy tax is attached to this Resolution as Exhibit A.

(b) The City Council hereby approves the submission of the proposed Ordinance, as set forth in Exhibit A, to the voters of the City at the November 3, 2020 general municipal election.

(c) The proposed Ordinance increases the transient occupancy tax rate from twelve percent (12%) to fourteen percent (14%) of the rent paid by the transient guest commencing July 1, 2021 and further increases the transient occupancy tax rate to fifteen percent (15%) commencing July 1, 2022 . The City of Half Moon Bay will collect the tax from accommodation operators. The proposed tax is for general City purposes and will be deposited in the City's general fund.

(d) The City Council requests the County of San Mateo Board of Supervisors to order the County Clerk to 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, together with the primary arguments for and against the measure, and to provide absent voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

(e) If the above ballot measure is approved by the City of Half Moon Bay electorate as outlined above, then the Ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code Section 9217.

Section 3. Publication of Synopsis

The City Clerk is directed to publish a synopsis of the ballot measure in an official newspaper of general circulation as required by Elections Code Section 12111 at least one week before the November 3, 2020 election.

Section 4. Submission to County Officials

The City Clerk is directed to file a certified copy of this Resolution, with Exhibits, with the County of San Mateo Board of Supervisors and the County Elections Official no later than close of business on August 7, 2020.

Section 5. Impartial Analysis

In accordance with Elections Code Section 9280, the City Clerk is directed to transmit a copy of the ballot measure to the City Attorney, who is directed to prepare an impartial analysis showing the effect of the measure on existing law and the operation of the measure. The analysis shall include a statement indicating that the measure was placed on the ballot by the City Council. The impartial analysis shall not exceed 500 words and shall be filed with the City Clerk by 5:00 p.m. on August 24, 2020.

Section 6. Ballot Arguments

The primary arguments for and against the measure shall be submitted to the City Clerk by 5:00 p.m. on August 14, 2020, and shall not exceed 300 words.

Pursuant to a separate resolution, the City Council has provided for the filing of rebuttal arguments concerning City ballot measures. Rebuttal arguments concerning the measure shall be submitted to the City Clerk by 5:00 p.m. on August 24, 2020, and shall not exceed 250 words.

All 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. No more than five signatures shall appear with any submitted argument. An organization or association submitting an argument shall submit with its argument a copy of one of the organizational documents listed in California Elections Code Section 9287(e). The arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument to be provided by the City Clerk.

Section 7. Severability

If any section, subsection, sentence, clause, phrase or word of this Resolution is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have adopted this Resolution and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 8. CEQA

The City Council hereby finds that the adoption and implementation of the proposed TOT Ordinance is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq., "CEQA," and 14 Cal. Code Regs. Sections 15000 et seq., "CEQA Guidelines") because it can be seen with certainty that there is no possibility the adoption and implementation of the Ordinance may have a significant effect on the environment, and accordingly the adoption of the Ordinance is not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3); additionally, the Ordinance involves the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of CEQA pursuant to CEQA Guidelines Section 15378 (b)(4).

Section 9. Rescind Resolution No. 2020-61

This Resolution rescinds Resolution No. 2020-61 adopted on July 21, 2020.

I, the undersigned, hereby certify that the foregoing resolution was duly passed and adopted on the 29th day of July, 2020 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers: Penrose, Rarback, Ruddock, Brownstone

NOES, Councilmembers:

ABSENT, Councilmembers: Eisen

ABSTAIN, Councilmembers:

ATTEST:

APPROVED:



Jessica Blair, City Clerk

for



Robert Brownstone, Vice Mayor

ORDINANCE NO. C-2020-_____

AN ORDINANCE INCREASING THE CITY OF HALF MOON BAY'S TRANSIENT OCCUPANCY (HOTEL) TAX ON RENT CHARGED TO HOTEL GUESTS FROM TWELVE PERCENT (12%) TO FOURTEEN PERCENT (14%) COMMENCING JULY 1, 2021 AND TO FIFTEEN PERCENT (15%) COMMENCING JULY 1, 2022

WHEREAS, pursuant to Section 7280 of the California Revenue and Taxation Code, the legislative body of a city may levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging for a period of 30 days or less; and

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WHEREAS, 100% of the hotel tax is paid by visitors, tourists, and guests staying at hotels and other short-term overnight accommodations in the City of Half Moon Bay, and not by City residents who are not staying in such short-term accommodations; and

WHEREAS, guests of hotels and other short-term overnight accommodations use City services, including 911 emergency response, roads, City parks, and beaches, and the hotel tax will be spent on services that benefit residents and that visitors use, and addressing the impacts of tourism; and

WHEREAS, the nationwide economic recession resulting from the COVID-19 pandemic has had severe negative economic impacts on businesses and residents in the City of Half Moon Bay, and support for local businesses and residents will be important to the City's economic recovery; and

WHEREAS, the proposed measure includes strict accountability provisions, such as public spending reports and annual independent financial audits, and, all funds must be used only for Half Moon Bay; and

WHEREAS, Half Moon Bay must continue to be effective and self-reliant in addressing our own unique local needs and the City must do more to connect residents in need to local resources as well as support local businesses to push the community towards recovery as a whole; and

WHEREAS, residents are relying on the critical services the City provides – now more than ever, including 911 emergency response and emergency medical services, the City must continue to be prepared for any future natural disaster or public health emergencies; and

WHEREAS, an increase in the TOT rate from twelve percent (12%) to fourteen percent (14%) and ultimately to fifteen percent (15%) would generate revenue be used locally for the City of Half Moon Bay to address community priorities including: keeping public places, healthy, safe and clean, maintaining 911 emergency response times, and keeping the City affordable for nurses, teachers, sheriff's deputies, agricultural workers and others essential to our economy and emergency response; and

WHEREAS, to allow ample time for hotels and other lodging operators to transition to the increased TOT rate, the City's existing TOT rate would remain at twelve percent (12%) through June 30, 2021, after which the TOT rate would increase to fourteen percent (14%) commencing on July 1, 2021, and to fifteen percent (15%) commencing on July 1, 2022; and

WHEREAS, the City Council may amend the TOT provisions or postpone the TOT increase by ordinance without subsequent voter approval, except that the Council cannot extend or increase the tax in excess of the rates set forth in this measure, or change the allowed use for the tax revenues, without voter approval in accordance with California Constitution Article XIII C, Section 2(b);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HALF MOON BAY, SUBJECT TO VOTER APPROVAL, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals

The City Council of the City of Half Moon Bay, subject to voter approval, finds that all Recitals contained in this Ordinance are true and correct.

Section 2. City Council Approval

By Resolution No. C-2020-78, the City Council of the City of Half Moon Bay by a two-thirds vote approved this Ordinance for placement on the ballot in the general municipal election consolidated with the November 3, 2020 statewide general election.

Section 3. Half Moon Bay Municipal Code Section 3.12.030 Amended

Subject to voter approval, Half Moon Bay Municipal Code Title 3 (Revenue and Finance), Chapter 12 (Transient Occupancy Tax), Section 030 (Tax Imposed) is amended to read as follows (amended text in **bold**), and this amendment shall be codified in the Municipal Code:

Sec. 3.12.030 Tax imposed

For the privilege of occupancy in any hotel or campground, **until June 30, 2021** each transient is subject to and shall pay a tax in the amount of twelve percent of the rent charged by the operator, or fifty cents per day, whichever is greater. **Commencing July 1, 2021, each transient is subject to and shall pay a tax in the amount of fourteen**

percent of the rent charged by the operator or fifty cents per day, whichever is greater. Commencing July 1, 2022, each transient is subject to and shall pay a tax in the amount of fifteen percent of the rent charged by the operator or fifty cents per day, whichever is greater. The tax constitutes a debt owed by the transient to the city which is extinguished only by the payment by the operator to the city. The transient shall pay the tax to the operator of the hotel or campground 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 is due upon the transient's ceasing to occupy space in the hotel or campground. If for any reason the tax due is not paid to the operator of the hotel or campground, the tax administrator may require that such tax be paid directly to the tax administrator.

Section 4. Expenditure of Revenues

(a) The revenues from the increase in the transient occupancy tax imposed by this Ordinance may be spent for unrestricted general revenue purposes of the City of Half Moon Bay.

(b) The revenues from the portion of the transient occupancy tax imposed before the effective date of this Ordinance may be spent for unrestricted general revenue purposes of the City of Half Moon Bay.

Section 5. Voter Approval Required.

This Ordinance shall only become operative if the general tax increase imposed is approved by a simple majority of voters voting on the question at the general municipal election consolidated with the November 3, 2020 statewide general election.

Section 6. Effective Date.

Pursuant to Elections Code Section 9217, this Ordinance shall be in full force and effect ten (10) days after the certification by the City Council of the election returns indicating passage of the Ordinance in the election of November 3, 2020, by the margin of votes required by California Constitution Article XIII C, Section 2(b) for general tax measures. Pursuant to the Ordinance, the City's existing TOT rate shall be maintained at twelve percent (12%) through June 30, 2021, an increased TOT rate of fourteen percent (14%) shall take effect on July 1, 2021, and a further TOT rate increase to fifteen percent (15%) shall take effect on July 1, 2022.

Section 7. Amendment

(a) The tax adopted herein may be extended or increased only by a vote of the people of the City of Half Moon Bay in accordance with California Constitution Article XIII C, Section 2(b).

(b) The City Council may, by ordinance and without voter approval, amend the tax provisions hereby adopted, provided that the amendment does not increase the amount or rate of tax paid by any taxpayer, or otherwise constitute a tax increase for which voter approval would be required by Article XIII A or Article XIII C of the California Constitution. For example, the City Council may by ordinance postpone the transient occupancy tax increase hereby set to commence July 1, 2021 and/or the subsequent tax increase hereby set to commence July 1, 2022, without voter approval of the postponement.

Section 8. Severability

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that, subject to voter approval, it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 9. Publication.

The City Clerk is directed to cause this Ordinance to be published in a newspaper of general circulation within 15 days after passage in the manner required by Government Code Section 36933.

This Ordinance was approved and adopted by the People of the City of Half Moon Bay at the municipal election consolidated with the November 3, 2020 statewide election.

ATTEST:

APPROVED:

Jessica Blair, City Clerk

Adam Eisen, Mayor