

**RESOLUTION NO. 2313-08**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
ESTABLISHING NOVEMBER 4, 2008 AS THE DATE FOR A MUNICIPAL ELECTION  
ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL  
TO INCREASE THE TOWN'S EXISTING TRANSIENT OCCUPANCY TAX  
FOR GENERAL FUND PURPOSES FROM EIGHT PERCENT (8%)  
TO TWELVE PERCENT (12%), ESTABLISHING POLICIES AND PROCEDURES  
IN CONNECTION WITH SUCH AN ELECTION, AND REQUESTING  
THAT THE SONOMA COUNTY REGISTRAR OF VOTERS CONDUCT SUCH AN  
ELECTION**

**WHEREAS**, on July 1, 1992, pursuant to its authority under California Revenue and Taxation Code sections 7280 et seq., the Town Council of the Town of Windsor ("the Town Council") adopted Ordinance No. 92-05, codified as Title II, Chapter 3 of the Municipal Code, which provided for the imposition and collection of a general excise tax on the privilege of using hotel accommodations in the Town (a "transient occupancy tax" or "TOT") to be paid by hotel users and collected by hotel operators; and

**WHEREAS**, the Town Council subsequently adopted Ordinance No. 2003-173 on November 19, 2003, amending portions of Title II, Chapter 3 of the Municipal Code; and

**WHEREAS**, Article XIII C, section 2(b) of the California Constitution requires that any general tax, such as the TOT, must be approved by a majority vote of the voters voting on the issue of the increase of the tax; and

**WHEREAS**, on July 2, 2008, the Town Council held a public hearing and heard public testimony from the voters regarding authorization of an increase in the TOT in the Town of Windsor; and

**WHEREAS**, Article XIII C, section 2(b) of the California Constitution requires that an election by the voters to approve a general tax must be consolidated with an election for members of the Town Council; and

**WHEREAS**, the November 4, 2008 election includes a regularly scheduled general municipal election for two (2) members of the Town Council; and

**WHEREAS**, it is desirable that the 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

**WHEREAS**, it is desirable that the Sonoma County Registrar of Voters canvass the returns of the General Municipal Election and that the election be handled in all respects as if there were only one election; and

**WHEREAS**, based on all of the information presented at the July 2, 2008, regular Town Council

meeting, both written and oral, including the staff reports, minutes, and other relevant materials (hereafter the "Record"), the Town Council finds that under CEQA Guidelines 15060(c)(2) and 15378(b)(2) and (4), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WINDSOR AS FOLLOWS:**

Section 1. Call for Election. Pursuant to Elections Code Section 9222, the Town Council hereby calls an election at which it shall submit to the qualified voters of the Town of Windsor, a measure that, if approved, would increase the Transient Occupancy Tax from eight percent (8%) to twelve percent (12%) to fund general services in the Town. This measure shall be designated by letter by the Sonoma County Registrar of Voters. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 4, 2008.

Section 2. Ballot Language. The ballot language for the proposed measure shall be as follows for the resolution:

MEASURE:	ADJUSTMENT OF HOTEL (BED) TAX RATE	
"Shall the Town of Windsor Municipal Code be amended to increase the transient occupancy tax, commonly called the "hotel tax," which is charged only on persons who occupy hotel rooms in the Town for 30 days or less, from 8 percent to 12 percent in order to contribute funding towards basic Town services such as police, street repair, park maintenance, and community programs?"	YES	
	NO	

Section 3. Proposed Ordinance. The ordinance authorizing the general tax to be approved by the voters pursuant to Section 2 is as set forth in **Exhibit 1** attached hereto. The Town Council hereby approves the ordinance, the form thereof, and its submission to the voters of the Town at the November 4, 2008 election.

Section 4. Publication of Measure. The Town Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the Town of Windsor, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

Section 5. Request to Consolidate and Conduct Election and Canvass Returns.

(a) The Town Council hereby requests that the Sonoma County Board of Supervisors consolidate the election called by this resolution with the statewide election to be conducted on November 4, 2008 and order the election to be conducted by the Registrar of Voters. The Town Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Sonoma County and the Registrar of Voters of Sonoma County on or before August 8, 2008.

(b) The election on the measure set forth in Section 2 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the measure set forth in Section 2 shall be held in Sonoma County in the Town of Windsor on November 4, 2008, as required by law, and the Board of Supervisors of Sonoma County is authorized to canvass the returns of the election with respect to the votes case in the Town of Windsor and certify the results to the Town Council of the Town of Windsor.

(d) At the next regular meeting of the Town Council of the Town of Windsor occurring after the returns of the election for the measure set forth in Section 2 have been canvassed and the certification of the results to the Town Council, the Town Council shall cause to be entered in its minutes a statement of the results of the election.

Section 6 Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the measure shall be by 6:00 p.m. on Monday, August 18, 2008.

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 6:00 p.m. on Thursday, August 28, 2008.

(c) Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.

(d) Rebuttal arguments shall not exceed two hundred fifty words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The Town Attorney shall prepare by Monday, August 18, 2008, an impartial analysis of the measure showing the effect of the measure.

(f) Councilmembers Steve Allen and Warin Parker are hereby authorized to prepare written arguments in favor of the proposed measure, not to exceed three hundred words, on behalf of the Town Council. At the Mayor's discretion, the argument may also be signed by members of the Town Council or bona fide associations or by individual voters who are eligible to vote. In the event that an argument is filed against the measure, the Mayor and Vice Mayor/Councilmember are also authorized to prepare a rebuttal argument on behalf of the Town Council, which may also be signed by members of the Town Council or bona fide association or by individual voters who are eligible to vote.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected

the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. 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 7. Appropriation of Necessary Funds. The Town Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 8. Services of Town Clerk. The Town Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voters upon request.

**PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of July 2008, by the following vote:**

**AYES: COUNCILMEMBERS ALLEN, GOBLE, PARKER, SALMON AND  
MAYOR FUDGE**  
**NOES: NONE**  
**ABSENT: NONE**  
**ABSTAIN: NONE**

  
\_\_\_\_\_  
**DEBORA FUDGE, MAYOR**

**ATTEST:**

  
\_\_\_\_\_  
**MARIA DE LA O, TOWN CLERK**

Attachment: Exhibit 1

1102953.2

**EXHIBIT 1**

ORDINANCE NO. 2008-\_\_\_\_\_

AN ORDINANCE OF THE PEOPLE OF THE TOWN OF WINDSOR AMENDING TITLE II, CHAPTER 3, ARTICLE II OF THE TOWN OF WINDSOR MUNICIPAL CODE CONCERNING THE EXISTING TRANSIENT OCCUPANCY TAX

THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. Section 2-3-200 Amended.** Section 2-3-200 of the Town of Windsor Municipal Code is hereby amended to read as follows (with text in ~~strikeout~~ indicating deletion and double-underlined text indicating addition):

**2-3-200      Imposition of Tax; Payment of Tax by Transient.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~eight percent (8%)~~ twelve percent (12%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the Town, which is extinguished only by payment to the operator or to the Town. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator by the transient or the operator.

**SECTION 2. Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance, including the application of such part or provisions to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The People of the Town of Windsor hereby declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 3. Election Required for Tax to be Effective.** The tax proposed by this ordinance shall not become effective until approved by a majority of the voters voting on the issue at the November 4, 2008 election.

**SECTION 4. Effective Date of Tax.** If this ordinance is approved by a majority of the voters voting on the issue at the November 4, 2008 election, pursuant to Elections Code Section 9217, this ordinance shall be considered adopted on and the tax shall become effective ten (10) days after the Town Council certifies the results of the election.

**SECTION 5. Publication.** Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published or to be posted in at least three places in the Town of Windsor in accordance with the requirements of California Government Code Section 36933.

APPROVED by the following vote of the People of the Town of Windsor on November 4, 2008:

1103134.1