

RESOLUTION NO. 6919

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK CALLING AN ELECTION IN THE CITY OF MENLO PARK TO BE CONSOLIDATED WITH THE CITY'S NEXT GENERAL MUNICIPAL ELECTION ON NOVEMBER 5, 2024 AND SUBMITTING TO THE ELECTORS A BALLOT MEASURE TO INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX FROM TWELVE PERCENT (12%) TO FIFTEEN AND ONE HALF PERCENT (15.5%) BY AMENDING MENLO PARK MUNICIPAL CODE CHAPTER 3.16 (TRANSIENT OCCUPANCY TAX), ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION, REQUESTING THAT SAN MATEO COUNTY PROVIDE ELECTION SERVICES; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND AUTHORIZING THE FILING OF REBUTTAL ARGUMENT

WHEREAS, the City of Menlo Park seeks to continue providing excellent local services, maintain our record of strong fiscal accountability, and a recent community survey shows residents want core services maintained and our high-quality of life protected; and

WHEREAS, Chapter 3.16 of the Menlo Park Municipal Code, establishes the City of Menlo Park's Transient Occupancy Tax (TOT) paid by hotel, motel and short-term rental guests staying in Menlo Park for thirty days or less; and

WHEREAS, the proposed TOT measure would not increase taxes for Menlo Park residents but would only be paid by guests who stay in local hotel/motel rooms and short-term rentals; and

WHEREAS, if enacted, this measure will give Menlo Park control over local funds for local needs – allowing Menlo Park to remain self-reliant and requiring this proposed voter-approved funding to be spent for Menlo Park residents, that cannot be taken by Sacramento; and

WHEREAS, the City will continue its high standards for fiscal accountability and transparency with citizen oversight, independent financial audits, and yearly reports to the community to ensure City funds are spent responsibly for the community's priorities; and

WHEREAS, additional funding is needed to ensure the City can continue providing well maintained libraries and parks; and

WHEREAS, money raised by this measure would be used for community priorities; and

WHEREAS, funds from this measure would support local priorities identified by residents over several months of community discussion, including: maintaining street and pothole repair; enhancing emergency preparedness for storms, flooding, and wildfires; maintaining parks, open spaces, sports fields and children's play structures; keeping public areas healthy, safe, and clean; maintaining park and recreation programs; and maintaining 911 emergency response and preparedness; and

WHEREAS, Article XIIC, 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; 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 a statewide general election at which members of the City Council will be elected; and

WHEREAS, November 5, 2024 is the date of the statewide general election at which members of the City Council will be elected; and

WHEREAS, the City Council believes that it is in the best interests of the City to submit the proposed 3.5% upward adjustment to the TOT to the voters of City.

NOW, THEREFORE BE IT RESOLVED that the City of Menlo Park orders as follows:

1. Call for election. Pursuant to Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of Menlo Park, a measure that, if approved, would increase the Transient Occupancy Tax from twelve percent (12%) to fifteen and one half percent (15.5%) to fund general services in the City. This measure shall be designated by letter by the San Mateo County Registrar of Voters.

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

To maintain critical City services, such as: street/ pothole repair; park/ recreation programs; enhance emergency preparedness for storms, flooding, wildfires; police 911 emergency response/ preparedness; storm drain maintenance; and for general government use; shall the City of Menlo Park measure be adopted raising the transient occupancy (hotel) tax from 12 percent to 15.5 percent, paid only by hotel/ lodging guests until ended by voters, providing an estimated \$3,600,000 annually, that cannot be taken by Sacramento, including citizen oversight?	YES	
	NO	

3. Text of measure. The proposed measure submitted to the voters is as attached in Exhibit A to this Resolution, which is incorporated herein by reference. The City Council hereby approves the proposed ordinance, in the form thereof, and its submission to the voters of the City at the November 5, 2024 election. The full text of the measure shall be printed in the ballot materials and be available for public inspection in the city clerk’s office and on the City’s website menlopark.gov/2024election.

4. Publication of measure. The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Menlo Park, in accordance with Section 12111 of the California Elections Code.

5. Request to consolidate and conduct election and canvass returns.
(a) Pursuant to California Elections Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 5, 2024. The City Council hereby requests that the San Mateo Board of Supervisors consolidate the election called by this Resolution with the statewide election to be conducted on November 5, 2024 and order the election to be conducted by the Chief Elections Officer & Assessor-County Clerk-Recorder. The City Council of the City of Menlo Park acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City Council recognizes that additional cost will be incurred by the County of San Mateo by reason of the consolidation of the election with the Statewide election and agrees to reimburse the County of San Mateo for any costs that are not

reimbursed by the State, and the City Council hereby authorizes the City Manager to pay the County of San Mateo for said services in full. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of San Mateo and the Chief Elections Officer & Assessor-County Clerk-Recorder of San Mateo County on or before August 9, 2024.

(b) The election on the measure set forth in Section 3 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided herein. 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 3 shall be held in San Mateo County in the City of Menlo Park on November 5, 2024, as required by law, and the Board of Supervisors of San Mateo County is authorized to canvass the returns of the election with respect to the votes cast in the City of Menlo Park and certify the results to the City Council of the City of Menlo Park.

(d) At the next regular meeting of the City Council of the City of Menlo Park occurring after the returns of the election for the measure set forth in Section 3 have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

6. Submission of ballot arguments.

(a) Arguments in favor and against the measure shall be filed with the City Clerk no later than 5:00 p.m. on August 13, 2024, 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.

(b) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(c) Pursuant to California Elections Code Section 9285(b), the City Council is hereby adopting provisions for the filing of rebuttal arguments for this measure. Accordingly, 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 it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall not exceed 250 words and shall be filed no later than 5:00 p.m. on August 20, 2024, accompanied by the printed names and signatures of the persons 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. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

7. Impartial analysis. In accordance with California Elections Code Section 9280, the City Council directs the City Clerk to transmit a copy of this Measure to the City Attorney, who shall prepare an impartial analysis showing the effect of the measure on the existing law and the operation of the measure. The City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than 5:00 p.m. on August 20, 2024.

8. Services of city clerk. The City 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 measure shall be made available to any voter upon request.

9. Severance. Should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it

being expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid.

10. Compliance with CEQA. The City Council finds and determines that this activity is not a "Project" as defined under Section 15378(b)(4) of the California Environmental Quality Act (CEQA) Guidelines because it is a financing decision without commitment to a specific project that may result in a potentially significant physical impact on the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the actions proposed are not subject to CEQA.

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting of said City Council on the ninth day of July, 2024, by the following votes:

AYES: Combs, Doerr, Nash, Taylor

NOES: None

ABSENT: Wolosin

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of July, 2024.

39280A20D0BE491

Judi A. Herren, City Clerk

Exhibits

A. Proposed measure submitted to the voters

ORDINANCE NO. XXXX

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING SECTION 3.16.030 (IMPOSITION) WITHIN CHAPTER 3.16
(TRANSIENT OCCUPANCY TAX) OF TITLE 3 (REVENUE AND FINANCE) OF
THE MENLO PARK MUNICIPAL CODE TO UPDATE THE CITY'S TRANSIENT
OCCUPANCY TAX BY INCREASING TO FIFTEEN AND ONE HALF PERCENT
(15.5%)**

WHEREAS, the City of Menlo Park seeks to continue providing excellent local services, maintain our record of strong fiscal accountability, and a recent community survey shows residents want core services maintained and our high-quality of life protected; and

WHEREAS, Title 3, Chapter 3.16 of the City of Menlo Park Municipal Code, establishes the City's Transient Occupancy Tax (TOT) regulations which require that each "transient" who occupies a "hotel", as those terms are defined in section 3.16.020, must pay the TOT rate of twelve percent (12%) for the privilege of occupying the hotel; and

WHEREAS, the proposed TOT measure would not increase taxes for Menlo Park residents but would only be paid by guests who stay in local hotel/motel rooms and short-term rentals; and

WHEREAS, if enacted, this measure will give Menlo Park control over local funds for local needs – allowing Menlo Park to remain self-reliant and requiring this proposed voter-approved funding to be spent for Menlo Park residents, that cannot be taken by Sacramento; and

WHEREAS, the City will continue its high standards for fiscal accountability and transparency with citizen oversight, independent financial audits, and yearly reports to the community to ensure City funds are spent responsibly for the community's priorities; and

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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; 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 a statewide general election at which members of the City Council will be elected; and

WHEREAS, November 5, 2024 is the date of the statewide general election at which members of the City Council will be elected; and
WHEREAS, the City Council believes that it is in the best interests of the City to submit the proposed 3.5% upward adjustment to the TOT to the voters of City.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF MENLO PARK DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 3.16.030 (Imposition) within Chapter 3.16, (Transient Occupancy Tax) of Title 3, (Revenue and Finance) of the Menlo Park Municipal Code is hereby amended by repealing and replacing it in its entirety to read as follows:
“3.16.030 Imposition.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of fourteen percent (14%) of the rent charged by the operator beginning on January 1, 2025 and increasing to the amount of fifteen and one half percent (15.5%) of the rent charged by the operator beginning January 1, 2026. Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time 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. The City Council may by resolution adjust the rate of the tax upwardly or downwardly without a vote of the People provided that the rate does not exceed 15.5%.”

Section 2. Audits. Proceeds resulting from the TOT shall be deposited into the City’s general fund and become subject to the same audit requirements as other general fund revenues. Any auditor’s report shall include an accounting of the revenues received from the TOT and shall be presented to applicable commissioners and the City Council annually and made available for public review.

Section 3. Compliance with CEQA. The City Council finds and determines that this ordinance is not a “Project” as defined under Section 15378(b)(4) of the California Environmental Quality Act (CEQA) Guidelines because it is a financing decision without commitment to a specific project that may result in a potentially significant physical impact on the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the actions proposed are not subject to CEQA.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 5. Effective date. This Ordinance shall go into effect in accordance with Elections Code Section 9217 and shall be deemed adopted and become effective only if approved by a majority of the eligible voters of the City of Menlo Park voting thereon, at an election to be held on November 5, 2024, and shall take effect ten (10) days after the City Council has certified the results of that election by resolution. The levying and collection of the TOT shall be as specified

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in Chapter 3.16 within Title 3 of the Menlo Park Municipal Code and as directed by the City Council.

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PASSED AND ADOPTED by the voters of the City of Menlo Park this November 5, 2024. It is hereby certified that this Ordinance was duly adopted by the voters at the November 5, 2024 election, and that the City Council declared the results of such election, in the manner required by law, at a meeting of the City Council held on December __, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Cecilia Taylor, Mayor

ATTEST:

Judi A. Herren, City Clerk