

RESOLUTION NO. 68-2024

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA
(1) CALLING AND GIVING NOTICE FOR HOLDING A GENERAL MUNICIPAL ELECTION
TO BE CONSOLIDATED WITH THE CITY'S NEXT GENERAL MUNICIPAL ELECTION ON
NOVEMBER 5, 2024 AND SUBMITTING TO THE ELECTORS A BALLOT MEASURE TO
UPDATE THE CITY'S TRANSIENT OCCUPANCY (HOTEL/LODGING) TAX BY INCREASING
TO FIFTEEN PERCENT (15%) BY AMENDING SECTION 3-7.03 (TAX IMPOSED) OF THE
PACIFICA MUNICIPAL CODE; (2) ESTABLISHING THE POLICIES AND PROCEDURES
FOR SUCH AN ELECTION; (3) REQUESTING THAT SAN MATEO COUNTY
TO CONSOLIDATE WITH THE CITY'S GENERAL MUNICIPAL ELECTION, STATEWIDE
GENERAL ELECTION AND TO PROVIDE ELECTION SERVICES;
DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS;
AND (4) AUTHORIZING THE FILING OF REBUTTAL ARGUMENT**

WHEREAS, the City of Pacifica provides excellent community services and maintains a strong quality of life for local residents; and

WHEREAS, Title 3, Chapter 7 of the City of Pacifica 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 3-7.02(b), must pay the current TOT rate of twelve percent (12%) for the privilege of occupying the hotel; 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; 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, Pacifica's parks, beaches, coastline, trails and recreation opportunities are what makes the City unique, but as erosion, pollution and flooding increase, this measure will allow us to protect these resources for current and future generations to enjoy; and

WHEREAS, this measure will reduce the impact on local taxpayers so local residents do not shoulder the cost and visitors and tourists also contribute to the services they utilize; and

WHEREAS, this measure will provide funding to address community-identified priorities such as police, fire and 911 emergency response services, street and pothole repair, youth and senior programs, and adapting to sea-level rise and keeping trash off of the beaches; and

WHEREAS, the proposed measure will include accountability requirements such as annual financial audits and public spending reports; and

WHEREAS, the City Council believes that it is in the best interests of the City to submit the proposed 3% upward adjustment to the TOT to the voters of City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pacifica that the City of Pacifica 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 Pacifica, a measure that, if approved, would increase the Transient Occupancy Tax from twelve percent (12%) to fifteen percent (15%) to fund general services in the City. This measure shall be designated by letter by the San Mateo County Registrar of Voters. If a majority of qualified electors shall vote in favor of the proposed measure, it shall be deemed enacted and shall read as provided in Exhibit "A", attached hereto and hereinafter incorporated by reference.
2. **Ballot Language.** The ballot question for the proposed measure shall be as follows:

<i>Shall an Ordinance updating a transient occupancy tax (paid only by hotel and other short term lodging guests) to a 15% rate to continue funding vital Pacifica services, such as police, fire, 911 emergency response; street/pothole repair; youth/senior programs; adapting to sea-level rise; keeping trash off beaches; and generating approximately \$720,000 annually in additional revenue until ended by voters and subject to annual audits, be adopted?</i>	YES	
	NO	

3. **Approval of Ordinance and Placement of Ordinance No. _____ on Ballot.** Pursuant to Elections Code section 9222, the City Council of the City of Pacifica hereby approves Ordinance No. _____, attached in Exhibit A to this Resolution. The City Council hereby approves the proposed measure, 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: www.cityofpacifica.org
4. **Publication of Measure.** The City Clerk is hereby directed to cause notice of the measure to be published in the official newspaper of the City of Pacifica, 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 City's General Municipal election and 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 Pacifica 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 Pacifica on November 5, 2024, as required by law, and the County is authorized to canvass the returns of the election with respect to the votes cast in the City of Pacifica and certify the results to the City Council of the City of Pacifica.

(d) At the next regular meeting of the City Council of the City of Pacifica 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) Pursuant to Elections Code section 9286(b), 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. If the City Clerk receives more than one argument for and/or against, the priorities established by Elections Code section 9287 shall control.

(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.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 8th day of July, 2024, by the following vote:

AYES, Councilmembers: *Beckmeyer, Bier, Bigstych, Boles, Vaterlaus.*

NOES, Councilmembers: *n/a*

ABSENT, Councilmembers: *n/a*

ABSTAIN, Councilmembers: *n/a*


Sue Vaterlaus, Mayor

ATTEST:


Sarah Coffey, City Clerk

APPROVED AS TO FORM:


Michelle Kenyon, City Attorney

EXHIBIT A

[PROPOSED ORDINANCE AMENDING PMC SECTION 3-7.03]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PACIFICA AMENDING SECTION 3-7.03 (TAX IMPOSED) WITHIN CHAPTER 7 (TRANSIENT OCCUPANCY TAX) OF TITLE 3 (FINANCE) OF THE PACIFICA MUNICIPAL CODE TO UPDATE THE CITY'S TRANSIENT OCCUPANCY (HOTEL/LODGING) TAX BY INCREASING TO FIFTEEN PERCENT (15%)

WHEREAS, Title 3, Chapter 7 of the City of Pacifica 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 3-7.02(b), must pay the TOT rate of twelve percent (12%) for the privilege of occupying the hotel; 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; 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 of Pacifica provides excellent community services and maintains a strong quality of life for local residents; and

WHEREAS, Pacifica's parks, beaches, coastline, trails and recreation opportunities are what makes the City unique, but as erosion, pollution and flooding increase, this measure will allow us to protect these resources for current and future generations to enjoy; and

WHEREAS, this measure will reduce the impact on local taxpayers so local residents do not shoulder the cost and visitors and tourists also contribute to the services they utilize; and

WHEREAS, this measure will provide funding to address community identified priorities such as police, fire and 911 emergency response services, street and pothole repair, youth and senior programs, adapting to sea-level rise and keeping trash off of the beaches; and

WHEREAS, the proposed measure will include accountability requirements such as annual financial audits; and

WHEREAS, the City Council believes that it is in the best interests of the City to submit the proposed 3% upward adjustment to the TOT to the voters of City.

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

Section 1. Amendment. Section 3-7.03 (Tax Imposed) within Chapter 7, (Transient Occupancy Tax) of Title 3, (Revenue) of the Pacifica Municipal Code is hereby amended by repealing and replacing it in its entirety to read as follows:

“Sec. 3-7.03. - Tax imposed.

For the privilege of occupancy in any hotel, each transient shall be subject to and shall pay a tax in the amount of fifteen percent (15%) of the rent charged by the operator. Such tax shall constitute a debt owed by the transient to the City, which debt shall be 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.”

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 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. Passage. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

Section 6. 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 Pacifica 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 in Chapter 7 within Title 3 of the Pacifica Municipal Code.

PASSED AND ADOPTED by the voters of the City of Pacifica 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 _____ by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Sue Vaterlaus, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Marchetta Kenyon, City Attorney