

Agenda Report Review By:  
City Manager 

CITY OF SEBASTOPOL  
CITY COUNCIL  
STAFF REPORT

Meeting Date: July 17, 2018  
To: Honorable Mayor and City Councilmembers  
From: Finance Director/Muni Services (Consultant)/City Administration  
Subject: Consideration of the Following:  
1. Approval of Resolutions for Consolidation of the Municipal Election with the Consolidated General Election to be held on November 6, 2018 for the purpose of submitting to the electors of the City of Sebastopol Two Ballot Measures;  
2. Direct City Attorney to prepare Impartial Analysis not to exceed 500 words on all City measures;  
3. Directing and Approving Identification of author of said arguments and rebuttal arguments on behalf of the City of Sebastopol;  
4. Requesting the Sonoma County Registrar of Voters to Conduct the Elections

Recommendation : That the City Council approve language for both ballot measures and direct City staff to execute any documents and to perform all acts necessary to place the measures on the ballot for the November 6, 2018 Election

Funding: Currently Budgeted: XXX (YES)      \_\_\_(NO)    \_\_\_(N/A)  
Net General Fund Cost: \$25,000  
If Cost to Other Fund(s):

**INTRODUCTION:**

This item is for consideration of adoption of Resolutions to Place Two Ballot Measures on the November 6, 2018 City Election for Consolidation of the Municipal Election with the Consolidated General Election. The measures are to amend two existing City ordinances (Transactions and Use Tax [Sales tax] and Transient Occupancy Tax [TOT]). The proposed language for amendment to the existing ordinances is contained in the boxes below.

**Ballot Measure A – Title: AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING ORDINANCE NO. 1052, INCREASE IN THE SEBASTOPOL COMMUNITY TRANSACTIONS AND USE TAX, TO EXTEND THE ORDINANCE UNTIL REPEALED BY THE VOTERS.**

Section 1. Amendment to Section 18 of Ordinance No. 1052. Section 18 of Ordinance No. 1052 is amended as follows:  
Section 18. ~~TERMINATION DATE~~ DURATION. The authority to levy the tax imposed by this ordinance shall continue until repealed by the voters of the City. ~~expire on the eighth (8th) anniversary of the Operative Date, unless extended by a majority of the voters of the City.~~

Ballot Measure B – Title: AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING SECTION 3.12.030 and 3.12.120 (A) OF THE SEBASTOPOL MUNICIPAL CODE, WHICH IMPOSES THE CITY'S TRANSIENT OCCUPANCY TAX, TO INCREASE THE TAX RATE BY 2%, TO CLARIFY THE MEASURE OF THE TAX, AND TO ADJUST THE REFUND CLAIM PERIOD.

Section 1. Amendment to Section 3.12.030 of the City's Municipal Code.

Section 3.12.030 of the City's Municipal Code is amended as follows:

3.12.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of 1012 percent of the rent ~~charged by the operator~~ paid by the transient. Said 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.

Section 2. Amendment to Section 3.12.120(A) of the City's Municipal Code.

Section 3.12.120, subsection A, is amended as follows:

3.12.120 Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections B and C of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within ~~three~~ one years of the date of payment. The claim shall be on forms furnished by the Tax Collector.

**BACKGROUND:**

A City measure is any question put before voters at any election in the City. On May 15, 2018, the City Council discussed and approved moving forward with two ballot measures for the November 6, 2018 Ballot Election: 1) To extend Measure Y (1/2 cent) sales tax; and 2) To increase the City's TOT and authorized the City Manager to execute contract with Muni Services to prepare ballot measure language.

As noted in the staff report from that meeting, Measure Y, the existing half-cent local transactions and use (sales) tax measure passed by voters in 2012, has helped the City stay solvent, maintain essential services and rebuild reserve funds; however, this measure is set to expire on March 31, 2021. As a locally enacted measure, the sales tax created a funding stream that could not be taken by other entities such as the State of California.

Based on City budget projections, should Measure Y expire, the City will lose approximately \$1.4 million annually. This revenue generated by Measure Y represents approximately 15% of the City's annual resources. The General Fund supports many programs and services including police, fire, public works, and administration.

The Transient Occupancy Tax (TOT) is charged to visitors who stay overnight in a hotel room, based on a percentage of the cost of the room night. Currently, the TOT in Sebastopol is equivalent to 10% the cost of a room night and generated approximately \$514,000 in FY 2016/17. In addition, the City has a Sonoma County Tourism Business Improvement Area, which charges an assessment of 2% of rent charged by lodging operators. This 2% is then transmitted to the Sonoma County Tax Collector for the purpose of promoting tourism in Sonoma County.

Raising the TOT will help align the City with what many of our neighboring cities are charging. Transient Occupancy Tax amounts in the region vary significantly, with more frequented tourist destinations charging higher TOT. Also, clarifying the measure of the TOT from the rent charged by the operator to the rent paid by the transient will put all transients on equal footing. Currently, when a transient books a room directly with a hotel, that transient will pay more TOT than a transient that books the same room at the same price through a third party, such as an online travel agency. By changing the measure of the tax to the rent paid by the transient, all transients will pay the tax at the same rate.

Additionally, adjusting the claim period from three years to one year will more closely align the claim period with the statutory claim period established by the Government Claims Act. (Gov. Code § 810 *et seq.*)

#### **FISCAL ANALYSIS**

Continuing Measure Y at the current rate of ½ cent will provide approximately \$1.4 million per year in revenue to the City of Sebastopol to continue to provide programs and services to residents, businesses and visitors in order to maintain service levels and achieve fiscal viability.

A transient occupancy tax assessment is charged to travelers when they rent accommodations (i.e., a room, rooms, entire home, or other living space) in a hotel, inn, tourist home / house, or other lodging for a period of less than 30 days. Currently, City of Sebastopol's TOT rate is set at 10%, and by increasing the City's TOT rate by 2% (to 12%) would be a revenue enhancement that would generate approximately \$550,000 in revenue annually.

#### **DISCUSSION:**

Whether the ballot measure requires a simple majority (50% + 1 vote) or a super majority (two-thirds of those voting in the affirmative) depends upon the ballot language and whether the question is placed upon the ballot as a general tax increase or a special tax increase.

A "general tax" may be used for any public purpose — the funds are fully discretionary and may be deposited into the General Fund. A majority vote (50% + 1) of the electorate is required to impose, increase, or extend a general tax. A general tax may only be put on the ballot at the same general election when the City Council election is held, unless the Council unanimously finds that there is an urgent need to impose the tax measure. Upon such unanimous declaration, the general tax measure may be put before the voters at a special election.

A "special tax" is a tax imposed for a specific purpose. For example, some cities dedicate tax revenues for the payment of law enforcement or street maintenance costs rather than using the taxes for the general operations of government. A two-thirds majority of votes is required for special taxes. Special taxes may be placed before the electorate at any time, either during a general election or in a special election.

The City Council can put a tax measure on the ballot by either resolution or ordinance. If it is a general tax, the resolution or ordinance must be approved by two-thirds of the City Council. A general tax can only be put on the ballot in a general election in which councilmembers are elected. The proposed ordinances are attached and ballot questions are listed below for discussion/approval for the November 6, 2018 Municipal Election.

The election must be held at least 88 days after the City Council calls the election. If the election is consolidated with a statewide general election, the request to include the measure in the election must be filed with the county at least 88 days before the election. The last day to file a measure with the County Elections is August 10, 2018.

The ballot question, which is the question that is directly put to the voters on the actual ballot, must use the following specific language: "Shall the measure (stating the nature thereof) be adopted?" It must also state the

amount of revenue to be raised annually and the rate and duration of the tax. It is also limited to 75 words. To the extent City Council would like to suggest alternative wording, the City Council may modify the ballot question, provided, however, it may not exceed 75 words total. For purposes of calculating the number of words, names of places such as "City of Sebastopol" each count as one word.

Sales Tax Extension:

Ballot Proposition. The City Council hereby submits a measure to the qualified voters of the City, at the regular election to be held on November 6, 2018, pertaining to Ordinance XXXX (the "Ordinance"), .....

The exact form of the measure to appear on the ballot is as follows:

Shall the measure to extend until repealed by the voters, the previously approved City of Sebastopol's 0.5% increase in transactions and use tax, which annually raises \$1,400,000, be adopted?	<input type="checkbox"/> YES <input type="checkbox"/> NO
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TOT:

Ballot Proposition. The City Council hereby submits a measure to the qualified voters of the City, at the regular election to be held on November 6, 2018, pertaining to Ordinance XXXX (the "Ordinance"), .....

The exact form of the measure to appear on the ballot is as follows:

Shall the measure to clarify and increase the City of Sebastopol's transient occupancy tax by 2%, until repealed by the voters, which is estimated to annually raise \$514,000, be adopted?	<input type="checkbox"/> YES <input type="checkbox"/> NO
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Impartial Analysis

Elections Code §9280 allows the City Council to direct the city attorney to prepare an impartial analysis of the measure showing the effect of the measure on the existing law and on the operation of the measure. The impartial analysis would be printed preceding the arguments for and against the measure in the voter pamphlet and shall not exceed 500 words in length. The city attorney prepares the impartial analysis (unless the measure affects the organization or salaries of the city attorney's office), which is published in the ballot pamphlet and is an important source of information for the voters. Pursuant to Section 9280 of the California Elections Code, the City Clerk shall be directed to submit a copy of this ordinance to the City Attorney, and the City Attorney or a designee shall be hereby authorized and directed to prepare an impartial analysis. Such analysis shall be submitted by the City Attorney on or before **August 20, 2018**, shall not exceed 500 words in length and shall comply in all respects with applicable provisions of the California Elections Code.

Ballot Argument(s):

As provided in Section 9282 of the California Elections Code, any and all members of the City Council are authorized to act as an author of any ballot argument prepared in connection with the election. The City Council may prepare a ballot argument for or against the measure, limited to 300 words. If multiple arguments are submitted, priority is given to the city's argument. The city council can also submit a rebuttal argument, limited to 250 words. The

Mayor shall hereby be authorized to select two members of the City Council to prepare a written argument in favor of the proposed Measure, not to exceed 300 words, on behalf of the City Council.

**Rebuttal Argument:**

In the event that an argument is filed against the Measure, the Mayor may be authorized to select two members of the City Council to prepare a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote.

**Deadlines for Ballot Arguments:**

The City establishes August 10, 2018 as the deadline to file arguments for or against the measure with the City Clerk and August 20, 2018 as the deadline to file rebuttal arguments with the City Clerk.

The rebuttal arguments shall be filed with the City Clerk by August 20, 2018 and shall not exceed 250 words in length. Furthermore, the City Clerk shall transmit a copy of the Measures and proposed ordinances to the City Attorney, who shall prepare an impartial analysis of the Measure by August 20, 2018, showing the effect of the Measures on the existing law and the operation of the Measures in accordance with Section 9280 of the Elections Code. Cities have broad discretion to make public expenditures, subject to the limitations that the expenditure be for a public purpose and not expressly forbidden by law; however; local agency officers, employees, and consultants may not expend, or authorize the expenditure of, any local agency funds to support or oppose a local ballot measure. The restriction is based on the implicit recognition that such expenditures raise potentially serious constitutional questions and would interfere with our nation's democratic electoral process in which the government cannot take sides or give one side an unfair advantage. At the same time, public funds may be expended for the purpose of giving voters relevant facts to aid them in reaching an informed judgment when voting upon a measure. Staff would recommend that an informational effort be generated to provide voters with information about the use of funds. An independent committee campaign could be formed to promote the passage of this measure.

Finally, the City Clerk will make available for public inspection: (a) the arguments filed For or Against the Measures during the period commencing August 11, 2018 and ending on August 21, 2018; and (b) the rebuttals to the arguments filed For or Against the Measures and the City Attorney's Impartial Analysis during the period commencing August 21, 2018 and ending August 31, 2018.

The City Clerk will maintain a copy of the Measures and the related proposed ordinances and make them available for public inspection upon request.

Notwithstanding any other provision of law, whenever a date prescribed by law falls on a weekend or holiday, such act may be performed on the next business day.

**RECOMMENDATION:**

Staff is requesting City Council authorization to move forward with the process to place two ballot measures as listed below on the November 2018 ballot.

**Attachment:**

- Resolution Call for Consolidation of Election for TUT Ballot Measure
- Sales Tax Ordinance
- Resolution Call for Consolidation of Election for TOT Ballot Measure
- TOT Ordinance

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY OF SEBASTOPOL REQUESTING CONSOLIDATION OF THE MUNICIPAL ELECTION WITH THE CONSOLIDATED GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY OF SEBASTOPOL A BALLOT MEASURE KNOWN AS THE "EXTENSION IN SALES TAX" AND SETTING DEADLINES FOR SUBMISSION OF ARGUMENTS AND REBUTTAL ARGUMENTS AND PROVIDING FOR AN IMPARTIAL ANALYSIS BY THE CITY ATTORNEY

WHEREAS, the City Council of the City of Sebastopol has determined pursuant to California Elections Code section 10400 et seq. to consolidate the Municipal Election with the Statewide General Consolidated Election and has contracted with the County of Sonoma to conduct the election on the City's behalf; and

WHEREAS, the City Council also desires to submit to the electors the ballot measure known as "Extension in Sales Tax"; and

NOW, THEREFORE, the City Council of the City of Sebastopol does resolve, declare, determine and order as follows:

1. Pursuant to California Elections Code Section 9222, the City of Sebastopol City Council hereby calls an election at which it shall submit to the qualified voters of the City of Sebastopol, a measure that, if approved, would extend the ordinance until repealed by the voter. This measure shall be designated by letter by the Sonoma County Registrar of Voters.
2. By this resolution, the City of Sebastopol orders an election to be held and requests consolidation with the November 6, 2018 Consolidated General Election.
3. Ballot Language. That the City Council, pursuant to its right and authority, does order the following ballot measure shall be presented to the electors of the City during the Consolidated General Election to be held on November 6, 2018:

"Shall the measure to extend until repealed by the voters, the previously approved City of Sebastopol's 0.5% increase in transactions and use tax, which annually raises \$1,400,000, be adopted?"

[ ] Yes

[ ] No

The proposed amended ordinance is attached hereto as Exhibit "A" and is incorporated herein by reference and shall be published in the ballot materials provided to the voters;

4. That the City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Sebastopol, in accordance with Section 12111 of the California Elections Code and Section 6061 of the California Government Code.
5. If the majority of qualified electors voting on the initiative measure shall vote in favor thereof, the initiative measure shall become a valid and binding ordinance of the City of Sebastopol and shall be considered adopted upon the date that the vote is declared by the City Council of said City.
6. That the Board of Supervisors of the County of Sonoma, State of California is hereby requested pursuant to Section 10403 of the California Elections Code, to order the consolidation of said General

Municipal Election to be held on November 6, 2018 for the purpose of submitting a measure to the voters with the Consolidated General Election to be held on the same date.

7. The City Clerk is hereby directed to file with the Board of Supervisors and the County Clerk of Sonoma certified copies of this resolution at least 88 days prior to the date of said election.
8. That the City Manager is hereby authorized to reimburse the County of Sonoma in full for the costs of conducting said election and services actually performed, upon presentation of a bill from Santa Clara County.
9. That the Mayor, the City Manager, the Finance Director, the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the measure on the ballot.

BE IT FURTHER RESOLVED, that the City Council wishes to establish deadlines for the filing of arguments for and against said measure, and to provide for rebuttal arguments, and that the Council further desires that its City Attorney prepare an impartial analysis of said measure, as follows:

1. Arguments in favor of or in opposition to the "Extension in Sales Tax" may not exceed 300 words in length and shall be filed at the office of the Sebastopol City Clerk not later than August 10, 2018.
2. Rebuttal arguments not to exceed 250 words shall be filed at the Office of the City Clerk no later than August 20, 2018.
3. The Sebastopol City Attorney is directed to prepare an impartial analysis of said measure to be filed not later than August 20, 2018. Such analysis shall be submitted by the City Attorney and shall not exceed 500 words in length and shall comply in all respects with applicable provisions of the California Elections Code.
4. Any measure, city attorney's impartial analysis, or primary argument filed will be available for public examination in the City Clerk's Office for not less than ten calendar days from the deadline for the filing of the arguments and analyses. Any rebuttal argument filed will be available for public examination in the City Clerk's office for not less than ten calendar days from the deadline for filing rebuttal arguments.
5. As provided in Section 9282 of the California Elections Code, any and all members of the City Council are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument, and the City establishes August 10, 2018 as the deadline to file arguments for or against the measure with the City Clerk, and August 20, 2018 as the deadline to file rebuttal arguments with the City Clerk.
6. The deadline for public examination of all ballot measure material is August 31, 2018.
7. Arguments may be changed or withdrawn up to the filing deadline. Arguments received prior to the deadline are confidential until the deadline.

IN COUNCIL DULY PASSED this 17<sup>th</sup> day of July, 2018.

VOTE:  
AYES:  
NOES:

ABSENT:  
ABSTAIN:

APPROVED: \_\_\_\_\_  
Mayor Patrick Slayter

ATTEST: \_\_\_\_\_  
Mary Gourley, MMC, Assistant City Manager/City Clerk

EXHIBIT A

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING ORDINANCE NO. 1052, "INCREASE IN THE SEBASTOPOL COMMUNITY TRANSACTIONS AND USE TAX," TO EXTEND THE ORDINANCE UNTIL REPEALED BY THE VOTERS

Sections:

Findings

1. Amendment to Section 18 of Ordinance No. 1052
2. Effect on Ordinance No. 1052
3. Voters' Power

FINDINGS

The voters of the City of Sebastopol hereby find, declare and do ordain as follows:

In 2012, the voters approved Measure Y, which authorized a 0.5% increase in the City's transactions and use tax. Measure Y has helped the City stay solvent, maintain essential services, and rebuild reserve funds.

Measure Y generates approximately 15% of the City's annual revenue. This revenue is used for the general governmental needs of the City, and it supports many programs and services including police, fire, public works, and administration. Additionally, as a locally enacted measure, Measure Y creates a funding stream that cannot be taken by other entities, such as the State of California.

Measure Y is set to expire on March 31, 2021.

Based on the City's budget projections, if Measure Y expires, the City will lose approximately \$1.4 million annually. While the City continues to be fiscally prudent, without Measure Y revenues, the City will face a budget shortfall, which will require additional permanent budget reductions, and will further reduce the City's ability to provide for community programs and current services. Without the continuation of Measure Y, the City's ability to maintain public service levels, roads and infrastructure will be uncertain.

Section 1. Amendment to Section 18 of Ordinance No. 1052. Section 18 of Ordinance No. 1052 is amended as follows:

Section 18. ~~TERMINATION DATE DURATION.~~ The authority to levy the tax imposed by this ordinance shall continue until repealed by the voters of the City ~~expire on the eighth (8th) anniversary of the Operative Date, unless extended by a majority of the voters of the City.~~

Section 2. Effect on Ordinance No. 1052. Ordinance No. 1052 otherwise remains in full force and effect, including, but not limited to, the method of collection for said tax.

Section 3. Voters' Power. By approving this ordinance, the voters authorize the City Council to amend this tax without subsequent voter approval so long as such amendment does not increase the amount of the tax paid by any taxpayer. This tax shall remain in effect until repealed or amended by the voters.

THE FOREGOING ORDINANCE was adopted by Declaration of the vote of the Sebastopol City Council on the \_\_\_ day of \_\_\_\_\_, 2018, at a regular meeting of the Sebastopol City Council by the following vote, to wit:

City of Sebastopol City Council:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

*Approved by the Voters of the City of Sebastopol at the November 6, 2018 Election*

If the majority of the qualified electors voting on the initiative measure shall vote in favor thereof, the initiative measure shall become a valid and binding ordinance of the City of Sebastopol and shall be considered adopted upon the date that the vote is declared by the City Council of said City.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY OF SEBASTOPOL REQUESTING CONSOLIDATION OF THE MUNICIPAL ELECTION WITH THE CONSOLIDATED GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY OF SEBASTOPOL A BALLOT MEASURE KNOWN AS THE "INCREASE IN TRANSIENT OCCUPANCY TAX" AND SETTING DEADLINES FOR SUBMISSION OF ARGUMENTS AND REBUTTAL ARGUMENTS AND PROVIDING FOR AN IMPARTIAL ANALYSIS BY THE CITY ATTORNEY

WHEREAS, the City Council of the City of Sebastopol has determined pursuant to California Elections Code section 10400 et seq. to consolidate the Municipal Election with the Statewide General Consolidated Election and has contracted with the County of Sonoma to conduct the election on the City's behalf; and

WHEREAS, the City Council also desires to submit to the electors the ballot measure known as "Increase in Transient Occupancy Tax"; and

NOW, THEREFORE, the City Council of the City of Sebastopol does resolve, declare, determine and order as follows:

1. Pursuant to California Elections Code Section 9222, the City of Sebastopol City Council hereby calls an election at which it shall submit to the qualified voters of the City of Sebastopol, a measure that, if approved, would increase the City's Transient Occupancy Tax by 2%, clarify the measure of the tax, and adjust the refund claim period. This measure shall be designated by letter by the Sonoma County Registrar of Voters.
2. By this resolution, the City of Sebastopol orders an election to be held and requests consolidation with the November 6, 2018 Consolidated General Election.
3. The following ballot measure shall be presented to the electors of the City during the Consolidated General Election to be held on November 6, 2018:

"Shall the measure to clarify and increase the City of Sebastopol's transient occupancy tax by 2%, until repealed by the voters, which is estimated to annually raise \$514,000, be adopted?"

[ ] Yes

[ ] No

The proposed amended ordinance is attached hereto as Exhibit "B" and is incorporated herein by reference and shall be published in the ballot materials provided to the voters;

4. That the City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Sebastopol, in accordance with Section 12111 of the California Elections Code and Section 6061 of the California Government Code.
5. If the majority of qualified electors voting on the initiative measure shall vote in favor thereof, the initiative measure shall become a valid and binding ordinance of the City of Sebastopol and shall be considered adopted upon the date that the vote is declared by the City Council of said City.
6. That the Board of Supervisors of the County of Sonoma, State of California is hereby requested pursuant to Section 10403 of the California Elections Code, to order the consolidation of said General Municipal Election to be held on November 6, 2018 with the Consolidated General Election

to be held on the same date.

7. The City Clerk is hereby directed to file with the Board of Supervisors and the County Clerk of Sonoma certified copies of this resolution at least 88 days prior to the date of said election.
8. That the City Manager is hereby authorized to reimburse the County of Sonoma in full for the costs of conducting said election and services actually performed, upon presentation of a bill from Santa Clara County.
9. That the Mayor, the City Manager, the Finance Director, the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the measure on the ballot.

BE IT FURTHER RESOLVED, that the City Council wishes to establish deadlines for the filing of arguments for and against said measure, and to provide for rebuttal arguments, and that the Council further desires that its City Attorney prepare an impartial analysis of said measure, as follows:

1. Arguments in favor of or in opposition to the "Increase in Transient Occupancy Tax" may not exceed 300 words in length and shall be filed at the office of the Sebastopol City Clerk not later than August 10, 2018.
2. Rebuttal arguments not to exceed 250 words shall be filed at the Office of the City Clerk no later than August 20, 2018.
3. The Sebastopol City Attorney is directed to prepare an impartial analysis of said measure to be filed not later than August 20, 2018. Such analysis shall be submitted by the City Attorney and shall not exceed 500 words in length and shall comply in all respects with applicable provisions of the California Elections Code.
4. Any measure, city attorney's impartial analysis, or primary argument filed will be available for public examination in the City Clerk's Office for not less than ten calendar days from the deadline for the filing of the arguments and analyses. Any rebuttal argument filed will be available for public examination in the City Clerk's office for not less than ten calendar days from the deadline for filing rebuttal arguments.
5. As provided in Section 9282 of the California Elections Code, any and all members of the City Council are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument, and the City establishes August 10, 2018 as the deadline to file arguments for or against the measure with the City Clerk, and August 20, 2018 as the deadline to file rebuttal arguments with the City Clerk.
6. The deadline for public examination of all ballot measure material is August 31, 2018.
7. Arguments may be changed or withdrawn up to the filing deadline. Arguments received prior to the deadline are confidential until the deadline.

IN COUNCIL DULY PASSED this 17<sup>th</sup> day of July, 2018.

VOTE:  
AYES:  
NOES:

ABSENT:  
ABSTAIN:

APPROVED: \_\_\_\_\_  
Mayor Patrick Slayter

ATTEST: \_\_\_\_\_  
Mary Gourley, MMC, Assistant City Manager/City Clerk

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING SECTIONS 3.12.030 AND 3.12.120(A) OF THE SEBASTOPOL MUNICIPAL CODE, WHICH IMPOSES THE CITY'S TRANSIENT OCCUPANCY TAX, TO INCREASE THE TAX RATE BY 2%, CLARIFY THE MEASURE OF THE TAX, AND TO ADJUST THE REFUND CLAIM PERIOD

Sections:

Findings

1. Amendment to Section 3.12.030 of the City's Municipal Code
2. Amendment to Section 3.12.120(A) of the City's Municipal Code
3. Effect on Chapter 3.12 of the City's Municipal Code
4. Voters' Power

FINDINGS

The voters of the City of Sebastopol hereby find, declare and do ordain as follows:

The City's transient occupancy tax (TOT) is charged to visitors who stay overnight in a hotel room. It is currently set at 10% of the rent charged by the operator. In fiscal year 2016-17, the TOT generated approximately \$514,000.

Increasing the TOT by 2% will help align the City with the TOT rates of many neighboring cities. Annual revenue is expected to grow moderately in the near term and then increase significantly in the future when new proposed hotel establishments are built.

Changing the measure of the TOT from the rent charged by the operator to the rent paid by the transient will put all transients on an equal footing. Currently, when a transient books a room directly with a hotel, that transient will pay more transient occupancy tax than a transient that books the same room at the same price through a third party, such as an online travel agency. This issue has become more prominent in recent years due to the rise of online travel agencies. By changing the measure of the tax to the rent paid by the transient, from the rent charged by the operator, all transients will pay the tax at the same rate.

Additionally, adjusting the refund claim period from three years to one year will more closely align the claim period with the statutory claim period established by the Government Claims Act.

Section 1. Amendment to Section 3.12.030 of the City's Municipal Code. Section 3.12.030 of the City's Municipal Code is amended as follows:

3.12.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~10~~12 percent of the rent ~~charged by the operator~~ paid by the transient. Said 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.

Section 2. Amendment to Section 3.12.120(A) of the City's Municipal Code. Section 3.12.120, subsection A, is amended as follows:

3.12.120 Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections B and C of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within ~~three~~ one years of the date of payment. The claim shall be on forms furnished by the Tax Collector.

Section 3. Effect on Chapter 3.12 of the City's Municipal Code. Chapter 3.12 of the City's Municipal Code, which sets forth the City's transient occupancy tax, otherwise remains in full force and effect, including, but not limited to, the method of collection for the transient occupancy tax.

Section 4. Voters' Power. By approving this ordinance, the voters authorize the City Council to amend this tax without subsequent voter approval so long as such amendment does not increase the amount of the tax paid by any taxpayer. This tax shall remain in effect until repealed or amended by the voters.

THE FOREGOING ORDINANCE was adopted by Declaration of the vote of the Sebastopol City Council on the \_\_\_ day of \_\_\_\_\_, 2018, at a regular meeting of the Sebastopol City Council by the following vote, to wit:

City of Sebastopol City Council:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

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City Attorney

*Approved by the Voters of the City of Sebastopol at the November 6, 2018 Election*

If the majority of the qualified electors voting on the initiative measure shall vote in favor thereof, the initiative measure shall become a valid and binding ordinance of the City of Sebastopol and shall be considered adopted upon the date that the vote is declared by the City Council of said City.