

**THE CITY COUNCIL  
OF THE CITY OF SONORA**

**ORDINANCE NO. 871**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA AMENDING CHAPTER 3.20,  
TRANSIENT OCCUPANCY TAX, OF TITLE 3, REVENUE AND FINANCE, OF THE SONORA  
MUNICIPAL CODE TO INCREASE THE TRANSIENT OCCUPANCY TAX RATE FROM TEN PERCENT  
(10%) TO TWELVE PERCENT (12%) AND APPLYING THE TAX TO CAMPGROUNDS AND  
RECREATIONAL VEHICLE PARKS TO TAKE EFFECT UPON VOTER APPROVAL**

**WHEREAS**, historically the City of Sonora (the "City") has aligned its transient occupancy tax rate with the County of Tuolumne (the "County") to ensure equal distribution of cost in promoting tourism between the City and the County; and

**WHEREAS**, the County Board of Supervisors has submitted a ballot measure to County voters to increase the County transient occupancy tax from ten percent (10%) to twelve percent (12%) and to apply the County transient occupancy tax to campgrounds and recreational vehicle parks; and

**WHEREAS**, if the City does not align the City's transient occupancy tax rate with the County's rate, the City will bear an unequal distribution of the cost in promoting tourism between the City and the County, resulting in reduction in vital City services; and

**WHEREAS**, pursuant to the California Constitution, Article XIII C, the City Council, by resolution, unanimously finds that there is a fiscal emergency requiring the City to submit this proposed ordinance (the "Ordinance") to increase the City transient occupancy tax to City voters at the November 3, 2020, special municipal election (the "Election"), and that the City cannot wait until the March 8, 2022, general municipal election; and

**WHEREAS**, pursuant to Elections Code section 9222, and Government Code sections 53723 and 53724, the City Council, by resolution, approved this Ordinance by a two-thirds (2/3) vote and submits this Ordinance to the City voters at the Election; and

**WHEREAS**, the increase in the City's transient occupancy tax will provide the City approximately an additional eighty thousand dollars (\$80,000) annually to fund vital City services; and

**WHEREAS**, pursuant to the California Constitution, Article XIII C and Government Code section 53723, the increase in the City's transient occupancy tax is a general tax which must be approved by a majority of City voters.

studio hotel, lodging house, rooming house, apartment house, dormitory, public or private club, camping site, space at a recreational vehicle park, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

“Hotel” does not mean any of the following:

1. Any hospital, sanitarium, medical clinic, convalescent home, rest home, home for aged people, foster home, or other similar facility operated for the care or treatment of human beings;
  2. Any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint;
  3. Any housing owned or controlled by an education institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such education institution, and officially recognized or approved by it;
  4. Any housing owned by a governmental agency and used for governmental purposes;
  5. Any facilities operated by a local government entity;
  6. Any camp as defined in the Labor Code or other housing furnished by an employer, exclusively for employees;
  7. Any housing occupied by persons under the age of eighteen (18) years which is owned or controlled by an organization having qualifications for exemption from property taxes under the laws of California, and which is operated or used exclusively for religious, charitable or educational purposes; provided, that the burden of establishing that the housing or facility is not a “Hotel” as defined in this Section shall be upon the operator thereof, who shall file with the Tax Administrator such information as Tax Administrator requires to establish and maintain such status;
  8. Any lodging excluded pursuant to Revenue and Taxation Code section 7280(b); and
  9. Any campsite in a unit of the state park system.
- B. "Occupancy" means the use or possession, or the right to the use or possession, of one or more rooms, sites, or spaces, or portions thereof, in any hotel for dwelling, lodging, or sleeping purposes.
- C. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, concessionaire or any other capacity. Where the operator performs his/her functions through a managing agent of

or operator of the mobile home.

**3.20.050 Exemptions.**

- A. No tax shall be imposed upon any officer or employee of a foreign government who is exempt by reason of express provision of any law or international treaty of the United States of America.
- B. No exemption as provided in this Section shall be granted, except on a claim made therefor at the time rent is collected, and under penalty of perjury, upon a form prescribed by the Tax Administrator.

**3.20.060 Operator's Duties.**

Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner hereinafter provided.

**3.20.070 Hotel Registration.**

Within thirty (30) days after the effective date of the Ordinance codified in this Chapter, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the Tax Administrator and obtain from him/her a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued; and
- D. That "this 'Transient Occupancy Registration Certificate' signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the transient occupancy tax, and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of this City. This certificate does not constitute a permit."

the Tax Administrator shall proceed in such manner as he/she may deem best to obtain facts and information on which to base his/her estimate of the tax due. As soon as the Tax Administrator procures such facts and information as he/she is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Tax Administrator shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his/her last known place of address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the operator for hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Tax Administrator, shall become final and conclusive, and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five (5) days' written notice in the manner prescribed in this Section to the operator to show cause at a time and place fixed in said notice, why the amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest, and penalties should not be so fixed. After such hearing, the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this Section of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after fifteen (15) days, unless an appeal is taken as provided in Section 3.20.110.

### **3.20.110 Appeal to the City Council.**

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest, and penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The City Council shall fix a time and place for hearing such appeal and the City Clerk shall give notice, in writing, to such operator at his/her last known place of address. The finding of the City Council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed in this Chapter of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

### **3.20.120 Records.**

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times.

### **3.20.130 Refund and Credit—Procedures.**

**SECTION 2. CODIFICATION.** Subject to voter approval, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this Ordinance into the Sonora Municipal Code.

**SECTION 3. AMENDMENT OR REPEAL.** The City Council may repeal Chapter 3.20 of the Sonora Municipal Code or amend that Chapter without a vote of the people except that any amendment to Chapter 3.20 that increases the amount or rate of tax due from any person beyond the amounts and rates authorized by this Ordinance may not take effect unless approved by a vote of the people.

**SECTION 4. EFFECTIVE DATE.** This Ordinance imposes a general tax that can be used for any lawful general governmental purpose. Pursuant to California Constitution Article XIII C, section 2(b), Government Code section 53723 and Elections Code section 9217, this Ordinance shall take effect only if approved by a majority of eligible voters in the City of Sonora at the November 3, 2020, special municipal election, and shall be considered as adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

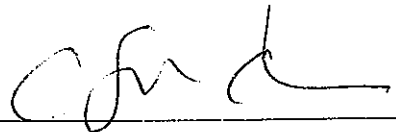
**SECTION 5. SEVERABILITY.** If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof and shall continue to be in full force and effect.

**SECTION 6. CERTIFICATION OF ADOPTION AND APPROVAL.** This Ordinance was submitted to the people of the City of Sonora at the November 3, 2020, special municipal election. It was approved by the following vote of the people:

**YES:** 1,333 votes or 57.11%

**NO:** 1,001 votes or 42.89%

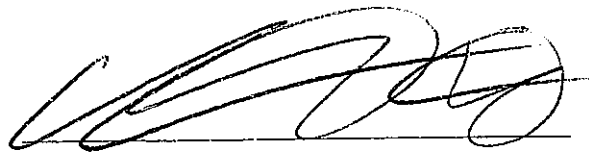
ATTEST:



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Colette Such  
City Clerk Pro Tempore

APPROVED:



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Matt Hawkins  
Mayor