

# ATTACHMENT 1

## ORDINANCE O2018-\_\_

### ORDINANCE OF THE CITY COUNCIL AND THE PEOPLE OF THE CITY OF NAPA, STATE OF CALIFORNIA, AMENDING NAPA MUNICIPAL CODE TITLE 3 BY ENACTING A NEW CHAPTER 3.22 TO ESTABLISH A ONE PERCENT TRANSIENT OCCUPANCY SPECIAL TAX FOR AFFORDABLE AND WORKFORCE HOUSING

WHEREAS, at the City Council meeting of May 15, 2018, the City Council directed City staff to prepare a proposed ordinance to establish a one percent transient occupancy special tax, with revenue from the special tax to be used for the sole purpose of providing programs and services for affordable and workforce housing, with an acknowledgment that any such proposed ordinance will require approval by at least 2/3 of the voters at the General Municipal Election on November 6, 2018; and

WHEREAS, City staff prepared this proposed ordinance to achieve the goals as directed by City Council at the meeting of May 15, 2018; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED, by the City Council and the People of the City of Napa as follows:

**SECTION 1: Amendment.** Napa Municipal Code Title 3 is hereby amended by enacting a new Chapter 3.22, "Transient Occupancy Special Tax for Affordable and Workforce Housing," which is hereby adopted to read as set forth on Exhibit "A" attached hereto and incorporated herein by reference.

**SECTION 2: Severability.** If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 4: Effective Date.** If two-thirds of the qualified electors of the City at the General Municipal Election on November 6, 2018, approve the Transient Occupancy Special Tax for Affordable and Workforce Housing set forth in this ordinance (in accordance with California Constitution Article XIII D, Section 4), this ordinance shall become effective ten (10) days after the results of the election are declared by the City Council (in accordance with California Elections Code Section 9217).

**ATTACHMENT 1**

City of Napa, a municipal corporation

MAYOR: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA }  
COUNTY OF NAPA } SS:  
CITY OF NAPA }

I, Dorothy Roberts, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 19<sup>th</sup> day of June, 2018, and had its second reading and was adopted and passed during the public meeting of the City Council on the \_\_\_ day of \_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Dorothy Roberts  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Michael W. Barrett  
City Attorney

# EXHIBIT A

## Chapter 3.22

### TRANSIENT OCCUPANCY SPECIAL TAX FOR AFFORDABLE AND WORKFORCE HOUSING

#### Sections:

- 3.22.010 Purpose and scope**
- 3.22.020 Definitions and interpretation**
- 3.22.030 Special Tax imposed**
- 3.22.040 Authorized expenditures of Special Tax**
- 3.22.050 Effective date and administration**

#### **3.22.010 Purpose and scope.**

- A. In accordance with Ordinance No. 1645, adopted by City Council on December 7, 1964, which is currently codified at Chapter 3.20 of this code, the City has historically imposed a transient occupancy tax (“TOT”) as a general tax, with TOT revenue allocated to the general fund to be expended for any proper municipal purpose, in accordance with Section 3.36.020 of this code.
- B. In accordance with Ordinance No. O93-024, adopted by City Council on July 27, 1993, the general tax TOT (imposed pursuant to Chapter 3.20 of this code) has been and is imposed on each transient in the amount of 12% of the rent charged by the operator of each hotel. (See Section 3.20.020.)
- C. The transient occupancy special tax that is imposed pursuant to this Chapter 3.22 (“Special Tax”) is imposed on each transient in the amount of 1% of the rent charged by the operator of each hotel.
- D. The 1% Special Tax is in addition to the 12% general tax TOT, for a total effective tax on each transient in the amount of 13% of the rent charged by the operator of each hotel.
- E. The revenue generated from the Special Tax imposed in accordance with this chapter shall be spent for the sole purpose of providing programs and services that increase, improve, or preserve the availability of Affordable and Workforce Housing to Affordable and Workforce Households.

#### **3.22.020 Definitions and interpretation.**

- A. Unless otherwise specified herein, all terms used in this chapter related to the imposition and collection of the Special Tax (including the processes for payment; the registration, records, and reporting; calculation of exemptions, refunds, penalties, and interest; processes for appeals and challenges; and enforcement of violations) shall be interpreted in accordance with their use in Chapter 3.20. All terms defined in Chapter 3.20 shall apply to the interpretation of terms used in this Chapter 3.22, specifically including “hotel,” “occupancy,” “operator,” “person,” “rent,” and “transient.”

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- B. Unless otherwise specified herein, all terms used in this chapter related to the provision of programs and services for Affordable and Workforce Housing shall be interpreted in accordance with their use in Chapter 15.94 and Title 17. All terms defined in Chapter 15.94 shall apply to the interpretation of terms used in this Chapter 3.22, specifically including “affordable rent,” “affordable sales price,” “affordable unit,” “annual household income,” “area median income,” “dwelling unit,” and “market rate units” (including “median income households” and “moderate income households”).
- C. As used in this chapter:

“Affordable and Workforce Household” is each household with an annual household income of up to 120% of area median income. An “Affordable and Workforce Household” specifically includes a “moderate income household” (up to 120% of area median income), a “median income household” (up to 100% of area median income), a “low-income (or “lower income”) household” (up to 80% of area median income), a “very low-income household” (up to 50% of area median income), or an “extremely low income household” (up to 30% of area median income).

“Affordable and Workforce Housing” includes each dwelling unit that is required to be rented or sold to an Affordable and Workforce Household, including any of the following:

1. A dwelling unit for sale to a moderate income household or a median income household, at a maximum monthly owner-occupied housing payment (including mortgage, taxes, and insurance) equal to or less than one-twelfth of 35% of the specified target household income.
2. A dwelling unit for sale at an affordable sales price in accordance with the requirements of Chapter 15.94.
3. A dwelling unit for rent to a moderate income household or a median income household, at a maximum monthly rent that does not exceed 30% of 110% of area median income.
4. A dwelling unit for rent at an affordable rent in accordance with the requirements of Chapter 15.94.

“Special Tax” means the one percent transient occupancy special tax imposed and implemented in accordance with this chapter, for the sole purpose of providing programs and services that increase, improve, or preserve Affordable and Workforce Housing for Affordable and Workforce Households.

### **3.22.030 Special Tax imposed.**

- A. For the privilege of occupancy in any hotel, each transient is subject to and shall pay the Special Tax in the amount of 1% of the rent charged by the operator.
- B. The City will impose and collect the Special Tax in accordance with the processes used by the City to impose and collect the general tax TOT, as set forth in Chapter 3.20.
- C. Each transient must pay the Special Tax in accordance with the requirements,

## EXHIBIT A

processes, and definitions that apply to the general tax TOT set forth in Chapter 3.20.

- D. Each operator must collect, register, report, and pay the Special Tax in accordance with the requirements, processes, and definitions that apply to the general tax TOT set forth in Chapter 3.20.

### **3.22.040 Authorized expenditures of Special Tax.**

- A. All Special Tax revenue received by the City shall be deposited in a special fund for Affordable and Workforce Housing (“Housing Special Tax Fund”). All revenue deposited in the Housing Special Tax Fund, along with any interest earned thereon, must be used for the sole purpose of providing programs and services to Affordable and Workforce Households to obtain Affordable and Workforce Housing, as defined in this chapter.
- B. Revenue in the Housing Special Tax Fund shall be used for the sole purpose of providing programs and services which the City Council determines increase, improve, or preserve the availability of Affordable and Workforce Housing to Affordable and Workforce Households, including
  1. Construction of new Affordable and Workforce Housing.
  2. Conversion of existing market rate dwelling units to Affordable and Workforce Housing.
  3. Preservation, rehabilitation, or maintenance of Affordable and Workforce Housing.
  4. Any expenditure that is an authorized expenditure of affordable housing impact fee revenue, under Chapter 15.94.
  5. Acquisition of real property to achieve any of the purposes set forth in this section.

### **3.22.050 Effective date and administration.**

- A. This chapter shall take effect on January 1, 2019.
- B. The finance director shall file an annual report with the City Council, in accordance with the requirements of California Government Code Section 50075.3, documenting the amount of funds collected and expended, and the status of any project required or authorized to be funded in accordance with this chapter.”