

ORDINANCE NO. 2022-502

AN ORDINANCE OF THE CITY OF GUADALUPE, CALIFORNIA, AMENDING PORTIONS OF CHAPTER 3.20 OF TITLE 3 OF THE GUADALUPE MUNICIPAL CODE RELATED TO TRANSIENT OCCUPANCY TAX TO INCREASE THE TAX RATE FROM 6% TO 10% AS WELL AS INCREASE THE TYPES OF OCCUPANCY CATEGORIES SUBJECT TO THE TAX

WHEREAS, under the provisions of the laws in the State of California, a general municipal election shall be held on November 8, 2022, for the election of municipal officers; and

WHEREAS, the City Council also desires to allow the voters of the City of Guadalupe the opportunity to increase the rate of the City's Transient Occupancy Tax (TOT) from 6% to 10% to remain in effect until ended by voters; and

WHEREAS, the City Council also wishes to change the definition of "hotel" (which is not limited to hotels only, but includes other types of transient occupancies) to a definition of "lodging" which will include the same transient occupancies listed under the current definition of "hotel" to also include additional occupancies such as short-term rentals, campsites, and recreational vehicle parks.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUADALUPE DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3.20.010 of Chapter 3.20 of Title 3 of the Guadalupe Municipal Code is hereby amended as follows:

3.20.010 Definitions.

For purposes of this chapter, the following words and phrases are defined as follows:

A. "Lodging" means any structure, or any portion of any structure, reserved outdoor space, or other premises or area, which is occupied or intended or designated for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, short-term rental (as defined in Section 18.55.02.D), bed and breakfast, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof, recreational vehicle park, campground, or parking area, or any other property rented to a "transient" as defined below.

B. "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms, or portions thereof, in any lodging for dwelling, lodging, or sleeping purposes.

C. "Operator" means the person who is proprietor of any lodging, whether in the capacity owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. "Tax Administrator" means the Director of Finance.

G. "Transient" means any person having occupancy of a lodging for a period of 30 consecutive calendar days or less regardless of the form of agreement, license, permit or entitlement. Any person occupying a lodging shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing, between the operator and the occupant, providing for a longer period of occupancy.

SECTION 2. Section 3.20.020 of Chapter 3.20 of Title 3 of the Guadalupe Municipal Code is hereby amended as follows:

3.20.020 Tax imposed—Amount—Payment.

For the privilege of occupancy in any lodging, each transient is subject to and shall pay a tax in the amount of 10% of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or the City. The transient shall pay the tax to the operator of the lodging 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 lodging, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

SECTION 3. Section 3.20.030 of Chapter 3.20 of Title 3 of the Guadalupe Municipal Code is hereby amended as follows:

3.20.030 Exemptions.

A. No tax shall be imposed upon:

1. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax herein provided;

2. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

3. An "organized camp" as defined in California Health & Safety Code section 18897.

4. Housing operated by or used exclusively for religious, charitable, or educational purposes by any organization which has obtained exemption from property taxes under the laws of California for the period the tax would otherwise be imposed.

5. Any campsite in a unit of the state park system.

B. No exemption shall be granted except upon a claim therefor made under penalty of perjury at the time rent is collected, upon a form prescribed by the Tax Administrator.

SECTION 4. Section 3.20.040 of Chapter 3.20 of Title 3 of the Guadalupe Municipal Code is hereby amended as follows:

3.20.040 Registration of lodgings.

Within 30 days after the effective date of the ordinance codified in this chapter, or within 30 days after commencing business, whichever is later, each operator of any lodging renting occupancy to transients shall register such lodging with the Tax Administrator and obtain from him or 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 lodging;

C. The date upon which the certificate was issued;

D. "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 lodging 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.”

SECTION 5. Section 3.20.050 of Chapter 3.20 of Title 3 of the Guadalupe Municipal Code is hereby amended as follows:

3.20.050 Operator’s collection 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 lodging 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.

SECTION 6. **USE OF TAX PROCEEDS.** The proceeds of the tax approved by this Ordinance may be used for unrestricted general revenue purposes.

SECTION 7. **SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 8. **ELECTION REQUIRED.** This Ordinance shall not become operative unless and until a majority of the electors voting on this measure vote to approve the imposition of the tax at the General Election to be held on November 8, 2022.

SECTION 9. **EFFECTIVE DATE.** This Ordinance relates to the levying and collecting of the City’s transient occupancy tax and shall take effect immediately.

SECTION 10. **COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.** This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and the City’s environmental procedures, and has been found to be exempt pursuant to § 15601(b)(3) (general rule) and § 15378(b)(4) of the CEQA Guidelines. The transient occupancy tax imposed by the adoption of this Ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. The City Council hereby finds with certainty that there is no possibility the passage of this Ordinance will have a significant effect on the environment. Additionally, it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project at the earliest feasible date.

SECTION 11. CLERICAL CORRECTION. The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

INTRODUCED at a regular meeting of the City Council held this 14th day of June 2022, by the following roll call vote, subject to voter approval at the November 8, 2022, General Municipal Election.

MOTION: TONY RAMIREZ / LILIANA CARDENAS


AYES: 5 Councilmembers: Ramirez, Cardenas, Julian, Robles, Costa Jr.
NOES: 0
ABSENT: 0
ABSTAINED: 0

PASSED AND ADOPTED at a regular meeting of the City Council held this 28th day of June 2022, by the following roll call vote, subject to voter approval at the November 8, 2022, General Municipal Election.

MOTION: TONY RAMIREZ / EUGENE COSTA JR.

AYES: 5 Councilmembers: Ramirez, Cardenas, Julian, Robles, Costa Jr.
NOES: 0
ABSENT: 0
ABSTAINED: 0

ATTEST:

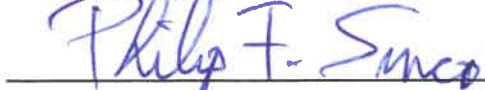


Amelia M. Villegas, City Clerk



Ariston Julian, Mayor

APPROVED AS TO FORM:



Philip F. Sinco, City Attorney