

Ordinance No. 1695(22)

**An Ordinance of the City Council of the City of Lompoc
County of Santa Barbara, State of California
Amending Chapter 3.12 Entitled “Transient Occupancy
Tax” of Title 3 of the Lompoc Municipal Code, To
Impose a 1% Special Transient Occupancy Tax for
Police and Fire Purposes, and to Allow a Collection
Discount for Hotel Operators to Recover Tax Collection
Costs**

WHEREAS, Revenue and Taxation Code Section 7280 et seq. authorizes the City of Lompoc (City) to levy a tax upon the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging transient occupancy tax, as defined therein, which is commonly referred to as a “transient occupancy tax”; and

WHEREAS, the purpose of this Ordinance is to amend the current transient occupancy tax, codified at Chapter 3.12 of Title 3 of the Lompoc Municipal Code, as authorized by Revenue and Taxation Code Section 7280 et seq., to impose a special tax of 1% (Special TOT) in addition to the current general tax rate of 10%, for a total maximum rate of 11%, and permit a 2% collection allowable discount for operators, if such transient occupancy taxes are remitted to the City by an operator on time; and

WHEREAS, Article XIII C, Section 2, of the California Constitution provides that any special tax must be submitted to the electorate and approved by a two-thirds vote of the electorate; and

WHEREAS, approving this proposed measure requires approval of two-thirds of voters at either a general or special municipal election.

NOW THEREFORE, ON THE BASIS OF THE FORGOING, THE PEOPLE OF THE CITY OF LOMPOC, AT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 3.12.030 of Chapter 3.12 of the Lompoc Municipal Code is hereby deleted and replaced in its entirety to read as follows:

“Section 3.12.030 – General Purpose Imposition – Amount – Where Payable

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent 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 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. Section 3.12.035 is added to Chapter 3.12 of the Lompoc Municipal Code to read as follows:

"Section 3.12.035 – Special Purpose Imposition – Amount – Where Payable.

In addition to the tax imposed by Section 3.12.030, each transient is subject to and shall pay a tax in the amount of one percent (1%) of the rent charged by the operator, and the tax shall be collected and accounted for separately by the operator from the tax imposed by Section 3.12.030. Such 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. The special tax is imposed for revenue purposes. Revenues from the special tax shall be used as follows: Sixty-five percent (65%) of the revenues shall be used for police purposes, and thirty-five percent (35%) of the revenues shall be used for fire protection purposes."

SECTION 3. Section 3.12.045 is added to Chapter 3.12 of the Lompoc Municipal Code to read as follows:

"Section 3.12.045 – Collection Allowable Discount

An operator may retain two percent (2%) of the sum of the taxes remitted to the City to cover the operator's expense in the collection of the tax; except that, in the event an operator is delinquent or deficient in remitting said tax to the City, other than for unusual circumstances demonstrated to the satisfaction of the Tax Administrator, the operator shall not be allowed to retain any amounts to cover such expenses in collecting the tax. This provision is not intended to decrease the applicable tax rate."

SECTION 4. Section 3.12.060 of Chapter 3.12 of the Lompoc Municipal Code is hereby deleted and replaced in its entirety to read as follows:

"Section 3.12.060 – Reports and Remittances

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator make a return to the Tax Administrator, on forms provided by him or her, of the total rents charged and received and the amount of tax collected for transient occupancies pursuant to Section 3.12.030 and Section 3.12.035. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The tax collected pursuant to Section 3.12.030 and Section 3.12.035 shall be remitted to the Tax Administrator separately. The Tax Administrator may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax and he or she may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator.”

SECTION 5. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the City Council hereby establishes the following accountability measures pertaining to the levy by the City of the Special TOT described in Section 2 above:

(A) Such Special TOT shall be levied for the specific purposes set forth in Section 2 hereof.

(B) The proceeds of the levy of such Special TOT shall be applied only to the specific purposes set forth in Section 2 hereof.

(C) The City shall establish a public safety fund or other fund into which the Special TOT shall be deposited. Within the fund, the City shall maintain two accounts, one for police uses and one for fire protection uses which shall contain the requisite percentage of the proceeds of the Special TOT, i.e. 65% for police uses and 35% for fire protection uses.

(D) The City Manager of the City, the City’s Treasurer, or his or her designee, acting for and on behalf of the City, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

SECTION 6. Council Authority to Amend. This is a City Council-sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City. However, pursuant to Elections Code Section 9217, the City Council shall have and retains the right and authority to amend the Ordinance to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council) in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

SECTION 7. CEQA Exemption. The adoption of this ordinance is not a "project" subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

SECTION 8. Severability. If any section, subsection, sentence, clause or phrase of this ordinance or the application thereof to any person or circumstance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The People of the City of Lompoc hereby declared that they would have passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

SECTION 9. Continuing Effect. Except as amended by this Ordinance, all provisions of Chapter 3.12 of Title 3 of the Lompoc Municipal Code shall remain unchanged and in full force and effect. All applicable provisions of Chapter 3.12 shall apply to the Special TOT.

SECTION 10. Effective Date. If two-thirds of the voters of the City voting at the General Municipal Election of November 8, 2022, vote in favor of this Ordinance, then this Ordinance shall become a valid and binding ordinance of the City, and shall be considered as adopted upon the date that the vote is declared by the City Council, and this Ordinance shall go into effect ten (10) days after that date, pursuant to Elections Code Section 9217.

SECTION 11. Passage and Execution. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the approval thereof and cause same to be published or posted pursuant to law.

PASSED AND ADOPTED by the voters of the City of Lompoc at an election held on November 8, 2022.

Jenelle Osborne, Mayor

ATTEST:

Stacey Haddon, City Clerk