

ORDINANCE NUMBER 19307 (NEW SERIES)

ADOPTED ON AUG 03 2004

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2004, ONE PROPOSITION, AMENDING ARTICLE VII OF THE CITY CHARTER BY ADDING SECTION 77c AND AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 3, ARTICLE 5, DIVISION 1 BY REPEALING SECTIONS 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, 35.0108, 35.0128, 35.0129, 35.0130, 35.0131, 35.0132, AND 35.0133; AND BY ADDING NEW SECTIONS 35.0103 AND 35.0130, ALL RELATING TO INCREASING THE CITY'S TRANSIENT OCCUPANCY TAX FROM 10.5 PERCENT TO 13 PERCENT.

WHEREAS, pursuant to Section 9222 of the California Elections Code, and Section 27.1001 of the San Diego Municipal Code, the City Council has authority to place propositions on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-19307, adopted on AUG 03 2004, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the California State General Election on November 2, 2004, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, the City of San Diego currently imposes a 10.5 percent transient occupancy tax upon the guests of hotels and other transient accommodations located throughout the City; and

WHEREAS, the City Council desires to raise the transient occupancy tax by means of a general tax to a total of 13 percent for general governmental purposes; and

WHEREAS, the City Council desires to submit to the voters at that Municipal Election one ballot proposition, entitled "Transient Occupancy Tax Increase"; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One ballot proposition amending the San Diego City Charter and the San Diego Municipal Code is hereby submitted to the qualified voters of the City at the Municipal Election to be held November 2, 2004, the proposition to read as follows:

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**PROPOSITION**

That Article VII of the City Charter is amended by adding section 77c to read as follows:

**Section 77c: General Tax Increase to Transient Occupancy Tax**

Notwithstanding any provision of law to the contrary, and in addition to any transient occupancy tax being imposed by the City as of the effective date of this section, commencing on February 1, 2005, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of two and one-half percent (2.5%) of the Rent charged by operators of such Hotels. Such tax to be imposed and administered consistent with Chapter 3, Article 5, Division 1, of the San Diego Municipal Code.

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That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, and 35.0108, which collectively have imposed a 10.5 percent transient occupancy tax for the privilege of occupancy in hotels, recreational vehicle parks, and campgrounds.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new section 35.0103, to read as follows:

**§ 35.0103 Tax Imposed**

For the privilege of Occupancy in any Hotel, any Recreational Vehicle Park, or any Campground, each Transient is subject to and shall pay a tax in the amount of 13 percent (13%) of the Rent charged by the Operator.

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That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0128, 35.0129, 35.0130, 35.0131, 35.0132, and 35.0133, which collectively have established the process for utilizing revenues collected from transient occupancy taxes.

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That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new sections 35.0130 to read as follows:

**§ 35.0130 Utilization of Revenues from Tax Imposed by Section 35.0103**

All revenues collected pursuant to the tax imposed by the City under section 35.0103 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's Annual Appropriation Ordinance.

That the amendments to Article VII of the City Charter and Chapter 3, Article 5, Division 1, of the San Diego Municipal Code described in this proposition shall not take effect until February 1, 2005.

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If, at the time this ballot measure is presented to the people for their approval, there is on the same ballot any additional ballot measures relating to an increase in transient occupancy taxes, and more than one ballot measure relating to an increase in transient occupancy taxes is approved by the voters, the ballot measure receiving the most votes shall be declared the prevailing measure, and shall be given full force and effect.

**END OF PROPOSITION**

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Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<p><b>PROPOSITION ____ . TRANSIENT OCCUPANCY TAX</b></p> <p>Shall the City Charter and the San Diego Municipal Code be amended to increase the transient occupancy tax (TOT) paid solely by hotel and motel visitors from 10.5 % to 13 % to be used for general governmental purposes?</p>	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the proposition.

Section 5. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance adoption by the City Council.

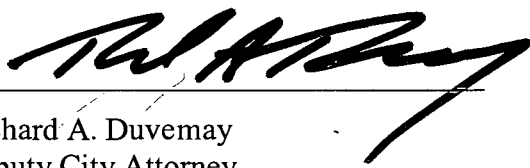
Section 6. Pursuant to Section 9295 of the California Elections Code, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City

may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice in his office the specific dates that the examination period will run.

Section 7. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 8. Pursuant to Section 17 of the Charter of the City of San Diego, this ordinance relating to elections shall take effect on AUG 03 2004, which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By   
Richard A. DuveMay  
Deputy City Attorney

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07/23/2004  
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Or.Dept: Rules,Fin.&Intergov.Relations  
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