



Legislation Text

File #: 2022-1014, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Auditor-Controller-Treasurer-Tax Collector

Staff Name and Phone Number: Brooke Koop, 707-565-1294

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

Adopt Transient Occupancy Tax Ordinance (Chapter 12, Article III of the Sonoma County Code) Amendment - Second Reading

Recommended Action:

Adopt an Ordinance amending the Transient Occupancy Tax Ordinance (Chapter 12, Article III of the Sonoma County Code) - Second Reading, Ready for Adoption.

Executive Summary:

On September 27, 2022, staff introduced an Ordinance amending the County's Transient Occupancy Tax Ordinance, codified in Sonoma County Code Chapter 12, Article III. This Ordinance accomplishes the following:

- Amends language for consistency and clarification, including clarifying language regarding the definition of rent, and the operator's responsibility to retain records and comply with information requests made by the Tax Collector;
- Supports the Auditor-Controller-Treasurer-Tax Collector's collection and enforcement efforts to ensure all operators are remitting TOT taxes timely and accurately.

Staff recommends your Board adopt this Ordinance to amend the County's Transient Occupancy Tax Ordinance, which will go into effect 30 days after adoption.

Discussion:

Transient Occupancy Tax (TOT) is authorized to be levied under California Revenue and Taxation Code Section 7280 as an additional source of non-property tax revenue to local government. Sonoma County's TOT is a general tax levied in the unincorporated area at a rate of 12% on all guests staying at hotels, bed and breakfasts, campgrounds, vacation rentals and other overnight stay establishments unless occupancy is for a period of more than 30 days. In 2016, voters approved Measure L, which established the County's Transient Occupancy Rate at 12%. TOT funds are allocated as follows: Of the first 9% of the 12% TOT rate, one-third is allocated to the General Fund as discretionary revenue and two-thirds is allocated to the Community Investment Fund to encourage tourism, economic development, community engagement, and community services in the County including public safety, and provides funding to several County departments including Regional Parks, the Economic Development Department, and a number of others; the remaining 3% of the 12% TOT rate are Measure L funds, which are tracked separately and used to support fire services, road repair and improvement, affordable housing, tourism impact fund, event facilities improvements, and code

enforcement and compliance.

The proposed ordinance amendment includes administrative changes only, intended for consistency and clarity.

Below are the key proposed changes to this Ordinance.

- Amend the definition of “Rent” in Sec. 12-10 to simplify the language and clarify that all charges paid by a transient are subject to TOT unless explicitly exempted in the Ordinance. This clarification is in line with the original intent and interpretation of what should be included in “rent” for TOT purposes.
- Amend the language in Sec. 12-14 regarding registration to clarify that all lodging operators are required to register with the Tax Collector and obtain a TOT registration certificate. A provision was also added requiring the registration certificate number be included on all contracts, rental agreements, advertising materials and websites.
- Amend the language in Sec. 12-15 regarding reports and remittances to clarify the operator’s requirement to comply with the Tax Collector’s requests for forms and supporting documentation as well as add language regarding steps the Tax Collector may take to cure a TOT return that is deemed incomplete.
- Amend the language in Sec. 12-16.1 regarding penalties for delinquent payment to clarify when the first and second 10% penalties apply.
- Add provision in Sec. 12-16.2 for waiver of penalties and interest. This proposed language is in line with property tax collection procedures and cannabis tax collection procedures and would expand the authority of the Tax Collector to approve the waiver of penalties and interest under specific circumstances.
- Add language in Sec. 12-17 to allow the Tax Collector to give notice of tax assessment via email.
- Amend the language in Sec. 12-18.1 regarding records to be kept to clarify the Tax Collector’s right to audit operator records, which is in line with existing practice; and added language setting forth options if operator does not keep adequate records and/or does not comply.
- Amend language in Sec. 12-19 regarding the County’s policy on TOT refunds.
- Change language of when an amount determined to be due by the Tax Collector is payable to clarify payment is due within 30 calendar days.
- Amend language in Sec. 12-21.2 regarding appeals to the Board of Supervisors to file notices of appeal with the Tax Collector, rather than the Clerk of the Board, to provide efficiencies in the appeal process.
- Add provision in Sec. 12-21.3 regarding the appointment of County hearing officer to provide efficiencies in the appeal process.
- Make various clerical edits in multiple sections.

Strategic Plan:

N/A

Prior Board Actions:

9/27/22: Introduction and Waiving of Further Reading of Ordinance Amending Transient Occupancy Tax Ordinance

1/1/17: The Board approved amendments to Chapter 12, Article III of the Sonoma County Code to increase the TOT tax from 9% to 12%

1/6/09: The Board approved amendments to Chapter 12, Article III of the Sonoma County Code to clarify the

intent and purpose of the provisions contained therein.

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

N/A

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Attachment A - Proposed Transient Occupancy Tax Ordinance

Related Items "On File" with the Clerk of the Board:

None