



## Legislation Details (With Text)

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**On agenda:** 9/28/2021      **Final action:** 9/28/2021  
**Title:** Resolution Increasing the Transient Occupancy Tax Rate from 9.5% to 11.5% effective January 1, 2022; and Introduction of an Ordinance Amending Section 3.25.030 of the Santa Clara City Code to Reflect the Increase in the Transient Occupancy Tax Rate

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Resolution increasing the Transient Occupancy Tax rate, 2. Ordinance amending section 3.25.030 of the Santa Clara City Code, 3. PASS TO PRINT ORDINANCE NO. 2033, 4. Resolution No. 21-9003

Date	Ver.	Action By	Action	Result
9/28/2021	1	Council and Authorities Concurrent Meeting	Approved	

## REPORT TO COUNCIL

### SUBJECT

Resolution Increasing the Transient Occupancy Tax Rate from 9.5% to 11.5% effective January 1, 2022; and Introduction of an Ordinance Amending Section 3.25.030 of the Santa Clara City Code to Reflect the Increase in the Transient Occupancy Tax Rate

### COUNCIL PILLAR

Enhance Community Engagement and Transparency

### BACKGROUND

The City's current Transient Occupancy Tax (TOT) rate is 9.5%, which is one of the lowest in the County. On November 3, 2020, Santa Clara voters approved the following ballot measure that allows for an increase of up to four percentage points in the City's TOT.

**Transient Occupancy Tax Rates.** To maintain and protect the level of essential city services including 9-1-1 emergency medical/disaster preparedness, police and fire protection, bicycle and pedestrian safety, roadways and storm drains, and other vital services including parks, recreation, libraries and senior services, shall a measure increasing the hotel tax rate up to 4%, generating up to approximately 7 million dollars annually, paid only by hotel/motel guests, until ended by voters, be adopted?

This ballot measure, approved by 73.57% of Santa Clara voters, supports essential City services, paid by guests staying in hotels. With this measure, the TOT can be increased from the current rate of 9.5% to up to 13.5%.

As part of the adoption of the operating budget on June 22, 2021, staff was directed to bring forward

a separate resolution to increase the TOT rate by two percentage points (of the maximum of four percentage points) effective January 1, 2022. The FY 2021/22 and FY 2022/23 Adopted Operating Budget assumes this increase.

## **DISCUSSION**

The introduction of a resolution to increase the TOT rate by two percentage points from 9.5% to 11.5% is consistent with the City Council direction provided as part of the adoption of the FY 2021/22 and FY 2022/23 Biennial Operating Budget.

The voter-approved tax increase is designed to generate General Fund revenue that is used to continue to deliver high quality City services, prepare for disasters and emergencies, preserve the quality of life in neighborhoods, ensure the safety of our community, and pay for critical infrastructure needs. While up to a four-percentage point increase was approved by the voters, the recommended action increases the TOT rate by two percentage points effective January 2022. This lower increase and later implementation date take into consideration the impacts to the hotel industry as a result of COVID-19 safety precautions. With this increase, the TOT rate would be considered mid-range when compared to other cities in the region as shown in the table below.

<b>Transient Occupancy Tax Rate by City</b>	
<b>City</b>	<b>TOT Rate</b>
Gilroy	9.0%
Saratoga	10.0%
Fremont	10.0%
Mountain View	10.0%
San Jose	10.0%
Morgan Hill	11.0%
<b>Santa Clara (w/o CFD) – Proposed</b>	<b>11.5%</b>
Campbell	12.0%
Cupertino	12.0%
Los Gatos	12.0%
Sunnyvale	12.5%
Los Altos	14.0%
Milpitas	14.0%
Palo Alto	15.5%

Modifications to section 3.25.030 of the Santa Clara City Code are also recommended to reflect the revision to the Transient Occupancy Tax.

Santa Clara City Code 3.25.030 Revisions	
Current Language	Proposed Language
(a) For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax as imposed from time to time by City Council resolution. Said tax shall be a percentage of the rent charged by the operator to the occupant. An increase that exceeds <b>ten percent</b> of the rent charged by the operator shall be authorized only with an amendment to this section.	(a) For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax as imposed from time to time by City Council resolution. Said tax shall be a percentage of the rent charged by the operator to the occupant.
(b) On and as of July 22, 1992, and continuing thereafter until further change by City Council resolution, the amount of the tax imposed is <b>nine and one-half percent</b> of the rent charged by the operator.	(b) On and as of January 1, 2022, and continuing thereafter until further change by City Council resolution, the amount of the tax imposed is <b>eleven and one-half percent</b> of the rent charged by the operator.

To ensure a smooth transition to the new TOT rate, staff has begun outreach with the proposed change recommended in this report. Staff will continue to dialogue proposed revision to the tax rate effective January 1, 2022.

## **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environment Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

## **FISCAL IMPACT**

The FY 2021/22 and FY 2022/23 Adopted Operating Budget factors in additional revenue from a two-percentage point increase effective January 1, 2022. This additional revenue is estimated at \$1.7 million annually and will increase as the Transient Occupancy Tax recovers from the COVID-19-related impacts.

When the ballot measure was approved by voters in 2020, the expected revenue to be generated was estimated at up to \$7 million for an increase of up to 4 percentage points (or \$3.5 million for a two-percentage point increase). This estimate was based on pre-pandemic data, and that was communicated to the voters in the impartial analysis.

## **COORDINATION**

This report has been coordinated with the City Attorney’s Office.

## **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

The hotels citywide were also notified of the Council Agenda date for the consideration of the proposed TOT rate increase.

**RECOMMENDATION**

1. Approve a resolution increasing the Transient Occupancy Tax rate from 9.5% to 11.5% effective January 1, 2022; and
2. Approve the introduction of an ordinance amending section 3.25.030 of the Santa Clara City Code to reflect the increase in the Transient Occupancy Tax rate.

Reviewed by: Kenn Lee, Director of Finance

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Resolution increasing the Transient Occupancy Tax rate
2. Ordinance amending section 3.25.030 of the Santa Clara City Code