



CITY OF
BIG BEAR LAKE *California*

RESOLUTION NO. 2022-70

RESOLUTION CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION BALLOT FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE AMENDING THE CITY'S TRANSIENT OCCUPANCY (HOTEL) TAX BY INCREASING THE MAXIMUM RATE FROM 8% TO 9% EFFECTIVE ON JANUARY 1, 2024 AND FROM 9% TO 10% EFFECTIVE ON JANUARY 1, 2025; REQUESTING THE COUNTY OF SAN BERNARDINO TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION OF EVEN DATE; AND SETTING RULES AND DEADLINES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST THE MEASURE.

WHEREAS, pursuant to Chapter 3.20 of Title 3 of the Big Bear Lake Municipal Code (B.B.L.M.0043. §§3.20.010 through 3.20.310), the City currently imposes a Transient Occupancy Tax (Hotel) Tax ("TOT") at the rate of eight percent (8%) upon guests of hotels and other transient accommodations within the City, including vacation rentals; and

WHEREAS, the City Council desires to amend the Big Bear Lake Municipal Code to increase the maximum rate of the TOT from eight percent (8%) to nine percent (9%) effective on January 1, 2024 and from nine percent (9%) to ten percent (10%) effective on January 1, 2025; and

WHEREAS, pursuant to Section 9222 of the California Elections Code and Sections 7280 and 7281 of the California Revenue and Taxation Code, the City Council has the authority to place a measure on the ballot regarding the imposition, extension or increase in a local transient occupancy tax to be considered by the voters at a Municipal Election; and

WHEREAS, the TOT is a general tax the proceeds of which are deposited into the City's general fund and which pay for important City services such as police, street operations and maintenance, parks and trail construction and maintenance, and general municipal services to the public; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIII C), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, pursuant to Proposition 218 (California Constitution Article XIII C, §2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to the Big Bear Lake City Charter §900 and Big Bear Lake Municipal Code §1.12.010, the City's regular general municipal elections for officers are held on the first Tuesday after the first Monday in November of each even-numbered year; therefore, the next regularly

scheduled General Municipal Election for the election of members of the City Council will be held on Tuesday, November 8, 2022; and

WHEREAS, based on the above, the City Council desires to submit a ballot measure to the voters at the November 8, 2022 General Municipal Election seeking voter approval of the proposed TOT maximum rate increase (the “Measure”); the specific terms relating to the Measure are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” and by this reference made an operative part hereof, and in accordance with all applicable laws; and

WHEREAS, pursuant to City Charter §407, “[U]nless otherwise required by the Charter, the affirmative votes of at least three members of the Council shall be required for the enactment of any ordinance, resolution or order for the payment of money”; and

WHEREAS, the City Charter does not otherwise require a supermajority of Councilmembers to enact this Resolution; and

WHEREAS, in *Traders Sports v. City of San Leandro*, (2001) 93 Cal. App. 4th 37, the California Court of Appeal held that the requirement in Government Code §53724(b) (“Proposition 62”) to obtain a two-thirds (2/3) supermajority vote of all members of the City Council to place a general tax measure on the ballot does not apply to charter cities whose charters set a different voting threshold; and

WHEREAS, therefore, the affirmative votes of at least three members of the City Council are required to place this Measure on the November, 8, 2022 ballot; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date, that within the City the precincts, polling places, voting centers and election officers of the two elections be the same, that the San Bernardino County election department canvass the returns of the General Municipal Election, and that the election be held in all respects as if there were only one election; and

WHEREAS, it is also desirable to establish deadlines and rules for the submission of written arguments and rebuttals for and against the Measure in accordance with applicable California Elections Code procedures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct, and are incorporated herein and by this reference are made an operative part hereof.

SECTION 2. Submission of Ballot Measure. Pursuant to City Charter §407, Elections Code §9222, Revenue and Taxation Code §§7280 and 7281, and any other applicable requirements of the laws of the State of California relating to the City, the City Council, **by a minimum of three affirmative votes**, hereby orders the Measure to be submitted to the voters of the City at the General Municipal Election to be held on **Tuesday, November 8, 2022.**

SECTION 3. Ballot Measure. The City Council, pursuant to its right and authority, does hereby order that the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the General Municipal Election to be held on Tuesday, November 8, 2022, in addition to any other matters required by law, there shall be printed substantially the following ballot question:

"Shall a measure be adopted to increase the maximum rate of the City's Transient Occupancy (Hotel) Tax charged to hotel and vacation rental guests from 8% to 9% as of January 1, 2024 and from 9% to 10% , as of January 1, 2025, providing until ended by voters an estimated \$1,300,000 annually for City services including public safety response, street repair and maintenance, park and trail construction and maintenance and for general government use?"	YES	
	NO	

SECTION 4. Election Procedures.

- A. The ballots to be used at the election shall be in the form and content as required by law.
- B. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Bernardino is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2022, for the purpose of submitting to the voters the questions relating to the City's Measure.
- C. The election services which the City of Big Bear Lake requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots; the establishment or appointment of precincts, polling places, voting centers and election officers; the preparation, printing, mailing and furnishing of vote-by-mail ballots; making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths, and other necessary supplies or materials for polling places or voting centers; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of Big Bear Lake; and the performance of such other election services as may be requested by the City Clerk.
- D. The City Clerk is authorized, instructed and directed to procure and furnish, or cause to be procured and furnished through the County of San Bernardino, any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
- E. The polls, voting centers and/or vote-by-mail drop-off boxes shall be open and the procedures for submitting votes-by-mail or votes at polls and vote centers shall be in accordance with those times and procedures established by the County of San

Bernardino, except as otherwise provided in the Elections Code of the State of California.

- F. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.
- G. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.
- H. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.
- I. The San Bernardino County Registrar of Voters is hereby authorized to canvass the returns of said election.
- J. The City Clerk of the City of Big Bear Lake shall receive the canvass from the County as it pertains to the election on the Measures, and shall certify the results to the City Council, as required by law.

SECTION 5. Arguments and Impartial Analysis.

- A. The City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the Measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, which arguments may be changed until and including **Monday July 25, 2022**, after which no arguments for or against the Measure may be submitted to the City Clerk. Arguments in favor of or against the Measure shall each not exceed 300 words in length. Each argument shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.
- B. The City Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.
- C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the Measure. The City Attorney shall transmit such impartial analysis to the City Clerk, who shall cause the analysis to be published in the voter information guide along with the Measure as provided by law. The Impartial Analysis shall be filed by the deadline set for filing of primary arguments as set forth in Subsection 5(A) above. The impartial analysis shall

include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **“The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the Ordinance or Measure, please call the election official’s office at (909) 866-5831 and a copy will be mailed at no cost to you.”**

- D. The provisions of this Section 5 shall apply only to the election to be held on November 8, 2022, and shall then be repealed.

SECTION 6. Rebuttals.

- A. Pursuant to Section 9285 of the Elections Code of the State of California, when the Clerk has selected the arguments for and against the various City initiated measures which will be printed and distributed to the voters, the Clerk shall send copies of the argument in favor of the measures to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than **Friday July 29, 2022**. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.
- B. The provisions of this Section 6 shall apply only to the election to be held on November 8, 2022, and shall then be repealed.

SECTION 7. Placement on the Ballot. The full text of the Measure shall be printed in the voter information guide, and a statement shall be printed in the ballot pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of the Measure at no cost, upon request made to the City Clerk.

SECTION 8. Delivery of Resolution to County. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions. The City Council directs the City Clerk to deliver copies of this Resolution, including the Measure attached hereto as Exhibit “A”, to the Clerk of the Board of Supervisors of San Bernardino County and to the Registrar of Voters of San Bernardino County.

SECTION 9. Public Examination. Pursuant to California Elections Code section 9295, the Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The Clerk shall post notice in the Clerk’s office of the specific dates that the examination period will run.

SECTION 10. CEQA. The City Council hereby finds and determines that the ballot Measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment and, therefore, is not a project within the meaning of

the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, section 15378(b)(5).

SECTION 11. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 12. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 6th day of June 2022.



Rick Herrick, Mayor

ATTEST:



Erica Stephenson, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF BIG BEAR LAKE)

I, Erica Stephenson, City Clerk of the City of Big Bear Lake, California, do hereby certify that the whole number of the City Council of the said City is five; that the foregoing resolution, being Resolution No. 2022-70 was duly passed and adopted by the said City Council and attested by the City Clerk of said City, all at a regular meeting of the said City held on the 6th day of June 2022 and that the same was so passed and adopted by the following vote:

AYES: Putz, Melnick, Herrick
NOES: Mote
ABSTAIN: None
EXCUSED: Lee



Erica Stephenson, City Clerk

EXHIBIT "A"

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF BIG BEAR LAKE, CALIFORNIA, AMENDING SECTION 3.20.030 OF CHAPTER 3.20 OF TITLE 3 OF THE BIG BEAR LAKE MUNICIPAL CODE INCREASING THE MAXIMUM RATE OF THE CITY'S TRANSIENT OCCUPANCY (HOTEL) TAX FROM 8% TO 9% EFFECTIVE ON JANUARY 1, 2024 AND FROM 9% TO 10% EFFECTIVE ON JANUARY 1, 2025.

(NOTE: Additions are highlighted in *bold italics* and deletions are highlighted in ~~strikeout~~)

THE PEOPLE OF THE CITY OF BIG BEAR LAKE DO ORDAIN AS FOLLOWS:

SECTION 1. Subject to the approval of a majority of the voters of the City of Big Bear Lake at the General Municipal Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 3.20.030 of Chapter 3.20 of Title 3 of the Big Bear Lake Municipal Code is hereby amended to read as follows:

"Chapter 3.20 TRANSIENT OCCUPANCY TAX

....

"3.20.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax on the rent charged ~~by an operator~~ *to the transient*, as follows: (a) ~~as of~~ *until* January 1, ~~2009~~*2024*, a tax in the amount of ~~seven~~ *eight* percent; (b) as of January 1, ~~2010~~*2024*, a tax in the *maximum* amount of ~~eight~~ *nine* percent *and (c) as of January 1, 2025, a tax in the maximum amount of ten percent.* Insofar as the transient is concerned, the tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. *This chapter may be repealed or amended by the City Council without a vote of the People of the City of Big Bear Lake. However, as required by California Constitution Article XIIC (Proposition 218), voter approval is required for any amendment or provision that would increase the maximum rate or methodology of any tax levied pursuant to this chapter.*"

SECTION 2 The transient occupancy tax set forth herein shall be collected and administered in the manner set forth in Chapter 3.20 of the City of Big Bear Lake Municipal Code.

SECTION 3. Pursuant to Article XIIB of the California Constitution, the appropriation limit for the City of Big Bear Lake will be increased by the maximum projected aggregate collection authorized by the levy of this general tax, as indicated in Section 1, in each of the years covered by this Ordinance plus the amount, if any, by which the appropriation limit is decreased by law as a result of the levy of the general tax set forth in this Ordinance.

SECTION 4. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and

effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 5. Pursuant to California Constitution Article XIIC §(2)(b) and California Elections Code §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Big Bear Lake voting at the General Municipal Election to be held on November 8, 2022, and shall become effective as of January 1, 2023.

SECTION 6. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 8, 2022, by signing where indicated below.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED AND ADOPTED** by the People of the City of Big Bear Lake on the 8th day of November, 2022.

Dated: _____

RICK HERRICK
MAYOR

ATTEST:

APPROVED AS TO FORM:

ERICA STEPHENSON
CITY CLERK

STEPHEN P. DEITSCH
CITY ATTORNEY