

**FULL TEXT OF MEASURE HH
CITY OF TUSTIN**

ORDINANCE NO. ___

AN ORDINANCE OF THE PEOPLE OF THE CITY OF TUSTIN, AMENDING SECTIONS 2702 AND 2703 OF CHAPTER 7 OF ARTICLE 2 OF THE TUSTIN CITY CODE CONCERNING THE UNIFORM TRANSIENT OCCUPANCY TAX

The People of the City of Tustin hereby ordain as follows:

SECTION 1. The People of the City of Tustin find and determine as follows:

- A. That the Uniform Transient Occupancy Tax was adopted by the City Council in 1978 and has remained unchanged at 6% since that time.
- B. That Tustin's Uniform Transient Occupancy Tax is the lowest of any city in Orange County that has such a tax and that twenty Orange County cities have a tax of at least 10% and as much as 15%.
- C. That changes in circumstances since 1978 require clarifying language in the Uniform Transient Occupancy Tax ordinance.

SECTION 2. Code Amendment. Section 2702 of Chapter 7 of Article 2 is hereby amended to add or amend the following definitions to read in their entirety as follows:

2702 DEFINITIONS

Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter.

"Block Reservation" means an arrangement whereby a person reserves, whether on an exclusive or non-exclusive basis, a room or block/group of rooms for a defined period of time under a written or oral agreement with an operator, intending for such for such room(s) to be occupied by that person's employees or agents on an intermittent, periodic or "as needed" basis during that defined period of time. A Block Reservation arrangement shall not constitute a Qualifying Rental Agreement.

"Person" — the term person shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Hotel" — the term hotel shall mean any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, hostel, bed and breakfast, time-share project rental unit, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

"Occupancy" — the term occupancy shall mean the use or possession, or the right to use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

"Transient" — the term transient shall mean any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying or entitled to occupy space in a hotel shall be deemed to be a transient until the period of thirty (30) consecutive and uninterrupted days of occupancy has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. Any break of interruption in occupancy shall start a new thirty (30) day period subject to the tax. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.

In the case of a block reservation, a person's employee or agent shall be deemed a transient if that employee or agent exercises or is entitled to occupancy of a room for a period of thirty (30) consecutive calendar days or less, regardless of the duration of any block reservation agreement. By way of example, if a corporation enters into a one-year block reservation agreement with an operator and one of the corporation's employees occupies a room for thirty (30) calendar days, the employee shall be deemed a transient whose occupancy is subject to the tax, notwithstanding the fact that the block reservation agreement has a duration longer than thirty (30) calendar days.

"Rent" — the term rent shall mean the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Operator" — the term operator shall mean the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, time-share project owner's association licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

"Time-Share Project" means a structure or real property (including airspace) in which either a time-share estate or a time-share use (as those terms are defined in Section 11212 of the Business and Professions Code) and any similar form of ownership involving a right in perpetuity, for life, or for a term of years, to occupy any room, place or area has been sold.

SECTION 3. Code Amendment. Section 2703 of Chapter 7 of Article 2 is hereby amended to read in its entirety as follows:

2703 TAX IMPOSED

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. The tax constitutes a debt owned 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 City Treasurer may require that such tax shall be paid directly to the City Treasurer.

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
CITY OF TUSTIN
MEASURE HH**

The hotel room tax (also referred to as a "transient occupancy tax") is a tax paid by a guest who stays for a period of 30 days or less in a hotel, motel, bed and breakfast or similar accommodation (collectively "hotels") located in the City of Tustin. The current hotel room tax rate in Tustin is 6% of the rent charged by the operator. The tax revenues generated are used for general City of Tustin governmental purposes such as police, fire, street maintenance and park and recreation services.

If approved by a majority of the voters, this measure will enact an ordinance increasing the hotel room tax rate from 6% to 10%. This measure would also clarify and update language in the Tustin City Code regarding the scope and application of the hotel room tax.

In order to enact the amendments to the City's Municipal Code described above, Measure HH must be approved by a majority of the votes cast by the voters on the ballot measure.

A "yes" vote on Measure HH will approve the amendments to the Tustin City Code described above.

A "no" vote on Measure HH will disapprove the amendments to the Tustin City Code described above.

At the request of the Tustin Chamber of Commerce, the City Council placed the item on the ballot.

ARGUMENT IN FAVOR OF MEASURE HH

Tustin has a growing presence in Orange County. Its Central location is bringing an increased number of visitors enjoying the benefits of Tustin and its close proximity to Orange County attractions. The proposed increase in the Transient Occupancy Tax (TOT) on nightly hotel room rates will help to offset the cost of services received by visitors to the Tustin area.

The current Tustin Municipal TOT rate of 6% is the lowest in Orange County. This rate has been in effect for over 25 years without change. Passage of the measure would increase the rate to 10%. The average rate in Orange County municipalities is 10% with some cities as high as 15%. The TOT applies only to hotels, motels and bed and breakfast locations within the City and will not increase any other taxes that Tustin City residents currently pay.

The TOT ensures that future hotel visitors who travel the City streets, frequent Tustin restaurants and retail areas, and rely on Police and other City services help pay for those services. If approved the revenue generated from the increased rate would accrue to the City's general fund. As such the funds would be used to bolster City programs in the areas of public safety, community policing, graffiti removal, street maintenance, parks and recreation, code enforcement and capital improvements.

The Tustin Chamber of Commerce and its Board of Directors and the hundreds of small and large business that it represents ask you to please vote YES on this measure. Please help assist the Chamber and the City by passing this important ballot measure.

s/ Jon Kimbrell
Chairman of the Board- Tustin Chamber of Commerce

s/ Dan Trznadel
Immediate Past Chair

s/ Jonathan Stone
Past Chair

s/ Ned T. Smith
Past Chair

No argument against this measure was submitted.