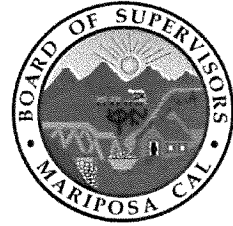




# MARIPOSA COUNTY

Administration • 966-3222



## RESOLUTION - ACTION REQUESTED 2018-640

MEETING: December 18, 2018

TO: The Board of Supervisors

**MINUTE ORDER ATTACHED**

FROM: Dallin Kimble, County Administrative Officer

RE: Measure M Implementation

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### RECOMMENDATION AND JUSTIFICATION:

Adopt a Resolution Implementing a Two (2) Percentage Point Increase in Transient Occupancy Tax (From 10% to 12%) Approved by the Electorate in the November 2018 General Election.

In November 2018, Mariposa County voters approved Measure M, a local proposition that amended Mariposa County Code Chapter 3.36 to state that the transient occupancy (TOT) tax rate shall be twelve percent (12%) rather than the previous ten percent (10%) approved in 1996. The measure did not include an effective date in order to facilitate more discussion with our tourism and lodging partners.

Measure M was sought and approved with a primary focus on improving fire response and prevention, improving county roads and maintaining law enforcement. Other stated uses included protecting water quality and open space, retaining and attracting jobs and businesses and "other general services" identified by the Board of Supervisors, which could include housing, recreation and so on. Per the County's stated values, staff is seeking to implement the tax increase in a way that maximizes collaboration, sustainability, integrity, transparency and overall excellence.

In the spirit of collaboration, staff has spoken with nine lodging establishments large and small who collectively represent more than half of the County's annual TOT collections. Not surprisingly, lodging businesses are particularly concerned about how the amended rate will impact existing reservations. All of those that were contacted reported having reservations twelve to eighteen months in advance and a few commented that they were sold out or nearly sold out through the peak season in July and August.

Tax rates on the majority of existing reservations are, of course, subject to change. Changing the TOT rate at any time would allow lodging establishments to collect the additional taxes from their guests at checkout. Unfortunately, some lodging establishments-- mostly individual vacation rentals-- are not able to amend the rental price and would have to pay the additional taxes from their non-tax revenues. All of those with whom staff spoke stated a preference for delayed implementation rather than changing hundreds of existing reservations.

## Resolution - Action Requested 2018-640

In search of middle ground, staff considered grandfathering existing reservations up to a date certain at the prior tax rate. This is not administratively feasible for our lodging partners, who cannot charge different tax rates based on when reservations are made. Guests checking out on the same day are technologically, and perhaps ethically, required to pay the same rate. This feedback suggests that it is better to pick a date certain for the implementation rather than attempting a phased approach.

Determining which date to use is a balance of priorities. An earlier effective date allows the County to move more quickly to address stated priorities. A later effective date reduces the impact on lodging partners and demonstrates greater generosity and goodwill for the tourism industry.

Of the nine lodging establishments contacted by staff, five stated a preference for implementing the TOT increase on October 1, 2019. This coincides with the fiscal year used by many tourism establishments, would allow sufficient time to update computer systems and marketing materials, and would have minimal impact on existing reservations. Other suggested dates include April 1st, June 1st, and January 1, 2020. Staff also considered July 1, which corresponds with the County's fiscal year.

It is worth noting that 37% of TOT tax revenues are collected in the first quarter of the County fiscal year, which are the months of July through September. Another 33% is collected in the last quarter of the County fiscal year, which are the months of April, May and June. For Measure M revenues, which are estimated to be approximately \$3 million annually, these amounts equal \$1.11 million and \$990,000, respectively.

Although an April 1st implementation date would result in more TOT collected than an October 1st implementation, it is not necessarily more sustainable. Sustainability is focused on the long term and the ability to maintain a service or offering over time without needing additional resources. The gains of an earlier start date are one-time gains that are certainly useful, but sustainability will depend more on how the funds are used than when they begin to be collected.

Ultimately, the implementation date will impact the County most in its ability to deliver on the promises of Measure M. Fire response and prevention, focused on adding staff through Amador station agreements and taking action on the community wildfire prevention plan, could easily cost \$3 million annually on its own. Measure M is expected to allocate approximately \$3 million of revenue between fire, roads, law enforcement and other priorities.

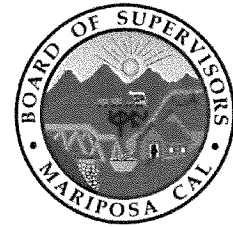
Where an earlier start date could provide a head start of sorts for these efforts, an implementation date beyond the start of the County's fiscal year could result in a dramatically reduced ability to take advantage of the winter months to prepare for the coming fire season. Only time will tell what the next fire season has in store for Mariposa, but clearly the more excellent way forward is to have and use the resources to maximize fire prevention and response. This is a promise that has been made with Measure M.

Accordingly, and with tremendous gratitude to the Yosemite/Mariposa County Tourism Bureau and the individual lodging partners that shared their input during this process, staff recommends approval of the attached resolution implementing an increase in the TOT rate effective July 1,



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## **RESOLUTION - ACTION REQUESTED 2018-640**

2019.

A July 1 start date acknowledges the time needed to update computer systems and marketing materials. This date also reduces by half or more the number of existing reservations needing to be amended at checkout while providing time for staff to continue working towards an Airbnb agreement that is expected to relieve many of the vacation rentals and bed and breakfasts that are currently paying TOT from an all-inclusive rate. This date appears to be the best able to collaboratively meet the needs of tourism and of the County.

A July 1 start date will provide the resources and allow for better budgeting and tracking to ensure the County delivers on the promises of Measure M in the first year and beyond. This solution is at least as sustainable as any other option and allows for a more excellent service delivery from the beginning.

For all the reasons mentioned here, staff recommends a TOT increase implementation date of July 1, 2019.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

Mariposa County Ordinance Code Chapter 3.36 was amended on March 26, 1996, to increase the transient occupancy tax rate to ten percent (10%) of all receipts. The previous rate of nine percent (9%) had been in place since the ordinance was established in 1990. In order to balance the budget, the increase was referred to the primary election ballot with Resolution 95-472. The primary election was held on March 26, 1996, and the new transient occupancy tax rate took effect March 27, 1996.

In 2014, the County sought a one-and-a-quarter percent (1.25%) increase to balance the budget. The proposal was referred to the November 2014 ballot on July 15, 2014, but was defeated at the polls.

After careful study and research, staff proposed a four percent (4%) increase in transient occupancy tax on August 7, 2018. After hearing public input and discussing among themselves, the Board approved Resolution 2018-390, which referred a two percent (2%) increase to the ballot of the upcoming general election. The proposition voters were asked to consider was known as Measure M.

The general election was held on November 6, 2018. Measure M passed with approximately sixty percent (60%) of the vote. This action amended Mariposa County Ordinance Code Chapter 3.36 to state that the transient occupancy tax rate is now twelve percent (12%) of all receipts. For administrative purposes, staff will bring an ordinance amendment to the board following our regular process at a later date.

## Resolution - Action Requested 2018-640

### ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The attached resolution can be amended by the Board. If an alternative is desired, staff is most interested in October 1, 2019, or April 1, 2019, for the reasons explained above.

The Board could also seek to implement a phased approach. Lodging partner technology is not currently capable of handling such an approach, but one such schedule that could be considered might be as follows:

1. Rentals made at any time for the period up to and including March 31, 2019, shall be taxed at a rate of ten percent (10%).
2. Rentals made prior to December 11, 2018, for the period from April 1, 2019, up to and including September 30, 2019, shall be taxed at a rate of ten percent (10%).
3. Rentals made on or after December 11, 2018, for any date on or after April 1, 2019, shall be taxed at a rate of twelve percent (12%).

The Board could choose not to approve the resolution. In this case, staff will need direction on how to proceed.

### FINANCIAL IMPACT:

**A two percent point increase in TOT collections will add \$3 million per annum for fire response, wildfire prevention, road improvements, maintaining law enforcement and other vital services.**

### ATTACHMENTS:

**TOT Implementation Resolution (DOCX)**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Merlin Jones, District II Supervisor

**SECONDER:** Miles Menetrey, District V Supervisor

**AYES:** Smallcombe, Jones, Long, Cann, Menetrey

**MARIPOSA COUNTY RESOLUTION #18-640**  
**PROPOSAL TO IMPLEMENT AN AMENDED TRANSIENT OCCUPANCY TAX RATE**

**WHEREAS**, Section 2 of Article XIII C of the California Constitution, and Section 53723 of the California Government Code, authorize the County to impose a general tax upon a majority vote of the electorate; and

**WHEREAS**, Section 7280 of the California Revenue and Taxation Code authorizes the Board of Supervisors of any County to “levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days”; and

**WHEREAS**, on November 6, 2018, the voters of Mariposa County approved Measure M, a ballot proposition amending Chapter 3.36 of the Mariposa County Code to increase the rate of transient occupancy tax provided therein from ten percent (10%) to twelve percent (12%) of the rent (including all fees) charged by operators of transient lodging in the County; and

**WHEREAS**, the Board of Supervisors may decide at any time, by resolution, to collect transient occupancy tax at a rate lower than the maximum allowed in the Mariposa County Code.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Mariposa that the transient occupancy tax of twelve percent (12%) approved by the voters will take effect on July 1, 2019.

**PASSED AND ADOPTED** by the Mariposa County Board of Supervisors, a political subdivision of the State of California, on this 18<sup>th</sup> day of December, 2018 by the following vote:

AYES:	SMALLCOMBE, JONES, LONG, CANN, MENETREY
NOES:	NONE
ABSENT:	NONE
ABSTAINED:	NONE

  
ROSEMARIE SMALLCOMBE, Chair

ATTEST:

  
RENÉ LAROCHE, Clerk of the Board

APPROVED AS TO FORM:

  
STEVEN W. DAHLEM, County Counsel



# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222



**ROSEMARIE SMALLCOMBE, CHAIR**  
**MILES MENETREY, VICE-CHAIR**  
**MERLIN JONES**  
**MARSHALL LONG**  
**KEVIN CANN**

**DISTRICT I**  
**DISTRICT V**  
**DISTRICT II**  
**DISTRICT III**  
**DISTRICT IV**

## MARIPOSA COUNTY BOARD OF SUPERVISORS MINUTE ORDER

TO: KEITH WILLIAMS/Treasurer – Tax Collector – County Clerk; DALLIN KIMBLE/CAO  
FROM: RENÉ LaROCHE/Clerk of the Board *TL for RL*  
SUBJECT: Adopt a Resolution Implementing a Two (2) Percentage Point Increase in  
Transient Occupancy Tax (From 10% to 12%) Approved by the Electorate in  
the November 2018 General Election  
RESOLUTION: **18-640**

The following action was taken by the Mariposa County Board of Supervisors on **December 18, 2018:**

**5. Administration RES-2018-640**

**Adopt a Resolution Implementing a Two (2) Percentage Point Increase in  
Transient Occupancy Tax (From 10% to 12%) Approved by the Electorate  
in the November 2018 General Election**

Dallin Kimble gave the staff report. During public comment, Jonathan Noel urged implementing after spring when there is an influx of visitors. Board discussion ensued.

**ACTION:**

***The newly increased rate will go into effect on April 1, 2019.***

**RESULT:** **ADOPTED [UNANIMOUS]**  
**MOVER:** Merlin Jones, District II Supervisor  
**SECONDER:** Miles Menetrey, District V Supervisor  
**AYES:** Smallcombe, Jones, Long, Cann, Menetrey