The Canyon City — Gateway to the American Dream

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
40 December 9, 2014
PATRICK OGAWA
ACTING EXECUTIVE OFFICER

November 19, 2014

Clerk
LOS ANGELES COUNTY BOARD OF SUPERVISORS
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Attention: Agenda Room

Gentle persons:

Enclosed herewith please find certified copies of Resolution No. 14-C77, calling for the holding of a General Municipal Election to be held in the City of Azusa, Califonia, on March 3, 2015, regarding a Ballot Measure; and Resolution No. 14-C79, requesting specified services from the Board of Supervisors with respect to the election. Said Resolutions were adopted by the City Council of the City of Azusa at their regular meeting of November 17, 2014.

Thank you for your continued cooperation.

Sincerely,

Juana Hernandez
Assistant/Deputy City Clerk

Enclosures as noted

cc: Martin & Chapman, Election Consultant

Office of the City Clerk
213 E. Foothill Boulevard, Azusa, California 91702
(626)812-5271 ♦ Fax (626) 812-5155 ♦ jhernandez@ci.azusa.ca.us

RESOLUTION NO. 14-C77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA, CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE TO BE HELD AT THE MARCH 3, 2015 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE AMENDING THE CITY'S TRANSIENT OCCUPANCY (ROOM) TAX BY INCREASING THE RATE FROM 7.5% TO 10%, AND ADDRESSING ONLINE TRAVEL COMPANY AND OTHER THIRD PARTY BOOKINGS, AND MAKING VARIOUS CONFORMING CHANGES.

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has authority to place propositions on the ballot to be considered at a Municipal Election; and

WHEREAS, pursuant to Article IV of Chapter 70 of the Azusa Municipal Code (A.M.C. §§70-156 through 70-169), the City currently imposes a Transient Occupancy Tax (Room) Tax ("TOT") at the rate of seven and one-half percent (7.5%) upon guests of hotels and other transient accommodations within the City; and

WHEREAS, the City Council desires to amend the Azusa Municipal Code to increase the rate of the TOT from seven and one-half percent (7.5%) to ten percent (10%); and

WHEREAS, the City Council desires to amend the Azusa Municipal Code to allow for the imposition and collection of the TOT on the full rent charged to a guest for hotel occupancy, whether the occupancy is booked directly by the guest, through the guest's employer or agent, or through online travel companies which enable guests to purchase occupancy via the Internet, or by similar electronic means; and

WHEREAS, the TOT is a general tax the proceeds of which are deposited into the City's general fund. The general fund pays for essential City services such as police protection, fire and paramedic services, street operations and maintenance, library services, parks and recreation services 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 XIIIC), 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, the amendments proposed in the attached ordinance which increase the rate of the TOT constitute a tax "increase" subject to Proposition 218; and

WHEREAS, the amendments proposed in the attached ordinance which apply the TOT rate to the total rent charged to a guest for occupancy in a hotel (including any retail markup and other charges imposed through purchase of occupancy through an employer, agent or on-line travel company) may also be characterized as an "increase" in the TOT under Proposition 218; and

WHEREAS, pursuant to Proposition 218 (California Constitution Article XIIIC, §2(b)), any 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 Azusa Municipal Code, §2-1(a), the City's regular municipal elections for the election of officers are held on the first Tuesday after the first Monday in March of each odd-numbered year. Therefore, the next regularly scheduled General Municipal Election for the election of members of the City Council will be held on Tuesday, March 3, 2015; and

WHEREAS, the City Council desires to submit to the voters at the March 3, 2015 General Municipal Election one ballot proposition, entitled:

> "Shall an ordinance amending the Azusa Municipal Code be adopted to increase the rate of the Transient Occupancy (Room) Tax from 7.5% to 10%, and to apply the Tax to all rent charged by hotel operators, including online travel companies, for the transient occupancy of any hotel room, to help maintain general City services such as police and fire protection, street operations and maintenance, and library, parks and recreation services?"

WHEREAS, pursuant to Government Code §53724 ("Proposition 62"), a two-thirds (2/3) vote of the City Council is required to place the Measure on the March 3, 2015 ballot.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. **Findings**. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. By adoption of Resolution No. 14-C68 on October 6, 2014, the City Council has called and given notice of a General Municipal Election to be held on Tuesday, March 3, 2015 in the City of Azusa, County of Los Angeles, for the election of the Mayor for a term of two years, and two members of the City Council for a term of four years.

SECTION 3. **Submission of Measure**. Pursuant to Government Code, §53724 and any other applicable requirements of the laws of the State of California relating to general law cities, the City Council, by a two-thirds (2/3) supermajority vote, hereby orders the ordinance attached hereto as Exhibit "A" and by this reference incorporated herein and made an operative part hereof, to be submitted to the voters of the City at the General Municipal Election to be held on **Tuesday, March 3, 2015.**

SECTION 4. The ballot proposition shall be presented and printed upon the ballot submitted to the voters in the manner and form set forth in this Section 4. On the ballot to be submitted to the qualified voters at the City General Municipal Election to be held on Tuesday, March 3, 2015, in addition to any other matters required by law, there shall be printed substantially the following:

"Shall Ordinance No. 14-O5 amending the Azusa Municipal Code be adopted to increase the rate of the Transient Occupancy (Room) Tax from 7.5% to 10%, and to apply the Tax to all rent charged by hotel operators, including online travel companies, for the transient occupancy of any hotel room, to help maintain general City services such as police and fire protection, street operations and maintenance, and library, parks and recreation services?"	YES NO

SECTION 5. Conduct of Election. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. Notice of Election. Notice of the time and place of holding the election is hereby 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.

SECTION 7. Impartial Analysis. Pursuant to California Elections Code §9280, the City Council hereby directs the City Clerk to transmit a copy of the measure as set forth herein 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, and transmit such impartial analysis to the City Clerk within fourteen (14) days following the adoption of this Resolution. 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, or in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than10-font 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 (insert phone number) and a copy will be mailed at no cost to you."

SECTION 8. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 9. Filing with County. The City Clerk shall, not later than the 88th day prior to the General Municipal Election to be held on Tuesday, March 3, 2015, file with the Board of Supervisors and the County Clerk – Registrar of Voters of the County of Los Angeles, State of California, a certified copy of this Resolution.

SECTION 10. Public Examination. Pursuant to California Elections Code §9295, this measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election. The Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

PASSED, APPROVED and **ADOPTED** this 17th day of November, 2014.

Joseph Romero Rocha
Mayor

ATTEST:

Jeffrey Lawrence Cornejo, Jr.
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF AZUSA)

I HEREBY CERTIFY that the foregoing Resolution No. 14-C77 was duly adopted by the City Council of the City of Azusa at a regular meeting thereof, held on the 17th day of November, 2014, by the following vote of Council:

AYES: COUNCILMEMBERS: GONZALES, CARRILLO, MACIAS, ALVAREZ, ROCHA
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

Jeffrey Lawrence Cornejo, Jr.,
City Clerk

APPROVED AS TO FORM:

Marco A. Martinez
Best Best & Krieger LLP
City Attorney

Exhibit "A"

ORDINANCE NO. 14-O5

MEASURE "A"

AN ORDINANCE OF THE PEOPLE OF THE CITY OF AZUSA AMENDING THE CITY'S TRANSIENT OCCUPANCY (ROOM) TAX CODE BY INCREASING THE RATE FROM 7.5% TO 10%, AND ADDRESSING ONLINE TRAVEL COMPANY AND OTHER THIRD PARTY BOOKINGS, AND MAKING VARIOUS CONFORMING CHANGES.

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

THE PEOPLE OF THE CITY OF AZUSA, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 70-157 of Article IV of Chapter 70 of the Azusa Municipal Code is hereby amended to read as follows:

"Sec. 70-157. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 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.

Hotel means 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, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

Occupancy means the use or possession, or the right to the use or possession of any room or rooms or portion thereof ***(whether or not the person entitled to the use or possession actually uses or possesses such room or rooms or portion thereof),*** in any hotel for dwelling, lodging or sleeping purposes. ***The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibits, sample or display space shall not be considered "occupancy" within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.***

Online Travel Company shall mean any person, whether operating for profit or not for profit, which enables transients to purchase occupancy in a hotel via the Internet, or by similar electronic means.

Operator means a person who is proprietor of the hotel ***or any other person who has the right to rent rooms within the hotel***, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, ***seller, reseller,*** or any other capacity. Where the operator performs his functions through a managing agent ***or booking agent*** of any type or character, other than an employee ***(including, but not limited to, an online travel company)***, the managing agent ***or booking agent*** shall also be deemed an operator for the purposes of this Part and shall have the same duties and liabilities as his principal. ***Full*** ~~C~~compliance with the provisions of this Part by either the principal or the managing agent ***or booking agent*** shall, however, be considered to be compliance by both.

"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.

Rent means the ***total*** consideration charged ***to the transient, (including but not limited to, room rates, service charges, parking fees, purchase price, advance registration, block or group reservation charges, assessments, retail markup, commission, processing fees, cancellation charges, attrition fees, or online booking fees)***, 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. ***Nothing in this definition shall be construed to mean that rent is charged directly or indirectly for occupancy in a hotel when a room is provided to the transient as a compliment for the operator and where no consideration is charged to or received from any other person. Further, bona fide charges for food and beverages which are subject to tax under the California Sales and Use Tax Law (Revenue and Taxation Code Sections 6001 et. seq.) shall not be deemed rent subject to the tax imposed by this Part.***

Tax Administrator means the city ~~clerk~~ ***Director of Finance, or his or her designee.***

Transient means 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 30 consecutive calendar days or less, counting portions of calendar days as full days. ***The following rules shall apply to this definition:***

A. Any such person so occupying ~~space~~ ***or entitled to occupy a room*** in a hotel shall be deemed to be a transient until the period of (30) ***calendar*** days has expired ~~unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or payment for more than 30 consecutive days has been made in advance~~. ***In the event a person exercises or is entitled to occupancy for a continuous and uninterrupted period of longer than 30 calendar days, he or she shall be deemed a transient and subject to the tax for only the first 30 calendar days of occupancy and shall cease being a transient and the tax shall not apply on the 31st calendar day of occupancy and following. However, any break or interruption in occupancy shall start a new 30 day period subject to the tax.***

B. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Part may be considered.

C. Any person who exercises or is entitled to occupancy for a period of 30 consecutive calendar days or less shall be deemed to be a transient for that period, regardless of whether the reservation and/or payment for occupancy is made directly by the person exercising or entitled to occupancy or by another person. The intent is to tax the person exercising occupancy or having the entitlement to occupancy of a hotel room.

D. 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 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 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 30 calendar days."

SECTION 2. Section 70-158 of Article IV of Chapter 70 of the Azusa Municipal Code is hereby amended to read as follows:

"Sec. 70-158. Rate, payment.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~7½~~ *10* percent of the rent charged by the operator. This tax constitutes a debt owed 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~~ *occupancy*. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

SECTION 3. Section 70-159 of Article IV of Chapter 70 of the Azusa Municipal Code is hereby amended to read as follows:

"Sec. 70-159. Exemptions.

(a) No tax levied under this article shall be imposed upon the following:

(1) Any person as to whom, or any occupancy as to which it is beyond the power of the City to impose the tax.

(2) Any federal or State *of California* officer or employee when *occupying a room while* on official *government* business. *For purposes of this section, students, non-employee supporters and volunteers of California public universities and colleges shall not be deemed to be officers or employees of the State of California.*

(3) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

(b) No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax

Administrator. *Any federal or State of California officer or employee when on official government business claiming such an exemption shall provide to the operator as conclusive evidence that his or her occupancy is for the official business of his or her employer:*

(1) Travel orders from his or her government employer; or a government warrant issued by his or her employer to pay for the occupancy; or a government credit card issued by his or her employer to pay for the occupancy; and

(2) proof of his or her governmental employment as an employee or officer as described in paragraph (1) of this subsection (b), and proof, consistent with these provisions, that his or her occupancy is for the official business of his or her governmental employer.

It shall be the duty of an operator to keep and maintain for a period of three (3) years written documentation in support of each exemption granted under this Section."

SECTION 4. **Effective Date.** Pursuant to California Constitution Article XIIIC §(2)(b) and California Elections Code §9217, if a majority of the qualified voters voting in the election on Measure "A" vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered as adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 5. **Severability.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The People of the City of Azusa hereby declare that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6. **Certification/Summary.** Following the City Clerk's certification that the citizens of Azusa have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book of original ordinances of said City; and shall cause the same, or a summary thereof, to be published as required by law.

Adopted by the People of the City of Azusa on the 3rd day of March, 2015.

_____

Joseph Romero Rocha
Mayor

ATTEST:

_____

Jeffrey Lawrence Cornejo, Jr.
City Clerk

APPROVED AS TO FORM:

_____

Marco A. Martinez
City Attorney

RESOLUTION NO. 14-C79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF LOS ANGELES COUNTY TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE SUBMITTAL OF A GENERAL TAX MEASURE TO THE QUALIFIED VOTERS AT A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 3, 2015.

WHEREAS, by adoption of Resolution No. 14-C68 on October 6, 2014, the City Council has called and given notice of a General Municipal Election to be held on Tuesday, March 3, 2015 in the City of Azusa, County of Los Angeles, for the election of the Mayor for a term of two years, and for two members of the City Council for a term of four years; and

WHEREAS, by adoption of Resolution No. 14-C69 on October 6, 2014, the City Council requested the County of Los Angeles to render specified services to the City in connection with said General Municipal Election for the Mayor and Councilmembers; and

WHEREAS, by adoption of Resolution No. 14-C77, on November 17, 2014, the City Council ordered that the following General Tax Measure be submitted to the qualified voters of the City of Azusa at the same General Municipal Election to be held on Tuesday, March 3, 2015:

"Shall Ordinance No. 14-O5 amending the Azusa Municipal Code be adopted to increase the rate of the Transient Occupancy (Room) Tax from 7.5% to 10%, and to apply the Tax to all rent charged by hotel operators, including online travel companies, for the transient occupancy of any hotel room, to help maintain general City services such as police and fire protection, street operations and maintenance, and library, parks and recreation services?"	YES NO

WHEREAS, by adoption of this Resolution, the City Council desires that the County of Los Angeles also render specified services to the City in connection with said General Municipal Election for the voters' consideration of the aforementioned General Tax Measure; and

WHEREAS, all necessary expenses in performing these services shall be paid by the City of Azusa.

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

SECTION 1. That pursuant to the provisions of § 10002 of the Elections Code of the State of California, this City Council requests the Board of Supervisors of Los Angeles County to permit the County Election Department to prepare and furnish the following for use in conducting the election relating to the Measure:

1. A listing of county precincts with number of registered voters in each, so city may consolidate election precincts into city voting precincts, and maps of voting precincts;
2. A list of polling places and poll workers the county uses for their elections;
3. The computer record of the names and address of all eligible registered voters in the city in order that the City's consultant may:
    a. Produce labels for vote-by-mail voters;
    b. Produce labels for sample ballot pamphlets;
    c. Print Rosters of Voters and Street Indexes;
4. Voter signature verification services as needed;
5. Make available to the City election equipment and assistance as needed according to state law.

SECTION 2. That the City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill.

SECTION 3. That the City Clerk is directed to forward without delay to the Board of Supervisors and to the County Election Department, each, a certified copy of this resolution.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED and **ADOPTED** this 17th day of November, 2014.

Joseph Romero Rocha
Mayor

ATTEST:

Jeffrey Lawrence Cornejo, Jr.
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF AZUSA)

I HEREBY CERTIFY that the foregoing Resolution No. 14-C79 was duly adopted by the City Council of the City of Azusa at a regular meeting thereof, held on the 17th day of November, 2014, by the following vote of Council:

AYES: COUNCILMEMBERS: GONZALES, CARRILLO, MACIAS, ALVAREZ, ROCHA
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

Jeffrey Lawrence Cornejo, Jr.,
City Clerk

APPROVED AS TO FORM:

Marco A. Martinez
Best Best & Krieger LLP
City Attorney