

CITY OF DAVIS - MEASURE B

ORDINANCE NO. 2468

**AN ORDINANCE OF THE CITY OF DAVIS AMENDING PORTIONS OF ARTICLE 15.05 OF THE DAVIS MUNICIPAL CODE TO INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX RATE FROM 10 PERCENT TO 12 PERCENT, ADDRESS ONLINE TRAVEL COMPANY AND OTHER THIRD PARTY BOOKINGS, AND MAKE OTHER CONFORMING CHANGES SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 7, 2016**

WHEREAS, pursuant to California Revenue and Taxation Code §§ 7280 *et seq.*, the City of Davis ("City") has the authority to levy a transient occupancy tax ("TOT") upon the privilege of occupying a hotel, as defined in the Article 15.05 of the Davis Municipal Code, for a period of 30 days or less; 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, the City further desires to amend the Davis Municipal Code to allow for the imposition and collection of the TOT on the full retail 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 that enable guests to purchase occupancy via the Internet, or by similar electronic means;

WHEREAS, the City wishes to increase its TOT from the existing 10 percent to 12 percent, subject to voter approval, for general purposes;

WHEREAS, the proposed TOT increase to 12% and other proposed TOT amendments will be submitted to the voters at the general municipal election on June 7, 2016.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. Code Amendment.** Section 15.05.020 of the Davis Municipal Code is hereby amended to read as follows:

**15.05.010 Definitions.** For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**Hotel.** 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.** The use or possession, or the right to the use or possession of any room or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

**Operator.** The person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his or her functions through a managing or booking agent of any type or character other than an employee, including but not limited to an online travel company, the managing/booking agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing/booking agent shall, however, be considered to be compliance by both.

**Rent.** The total consideration charged to the transient, (including but not limited to, room rates, service charges, retail markup, commissions, 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.



**Transient.** 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 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

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

**15.05.020. Levied – Amount of tax – Payment by transient.** Effective on and after August 1, 2016, for the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent paid by the transient. Such 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 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 director of finance may require that such tax shall be paid directly to the director of finance.

**SECTION 2. Effective Date.** This ordinance relates to the levying and collecting of the City transient occupancy tax ("TOT") and shall take effect only if approved by a majority of the voters voting on the measure at the June 7, 2016 General Municipal Election and shall become effective ten (10) days after the City Council declares and certifies by resolution the results of the election and that the measure was approved by a majority of the voters voting thereon.

**SECTION 3. Notice.** The City Clerk is hereby directed to publish this ordinance at least once, within fifteen (15) days of its adoption, in a newspaper of general circulation published and circulated in the City of Davis.

PASSED AND ADOPTED by the City Council of the City of Davis this 16th day of February, 2016, by the following vote:

AYES: Davis, Frerichs, Lee, Swanson, Wolk

NOES: None

s/ Daniel M. Wolk  
Mayor

ATTEST:

s/ Zoe S. Mirabile, CMC  
City Clerk

