

MEASURE J
THE CITY OF AUBURN

Transient Occupancy Tax Increase. Shall an ordinance be adopted to amend the Auburn Transient Occupancy (Hotel Bed) Tax so (i) the tax must be collected by every person collecting rent, including on-line hotel brokers and vacation rental agencies, (ii) to eliminate a requirement that taxed hotels have three or more rooms, and (iii) to increase the tax rate to 10% to fund police, fire, street and other general City services?

YES

NO

IMPARTIAL ANALYSIS BY THE COUNSEL OF THE CITY OF AUBURN MEASURE J

BACKGROUND. Nearly every California city charges a "transient occupancy tax" ("hotel bed tax") to guests of hotels, motels and similar lodgings who stay 30 days or less. Counties charge such taxes in areas outside cities. The City of Auburn currently charges an 8% tax on stays in hotels with three or more rooms for rent. Hotel operators collect the tax when guests pay for their rooms and pay it to the City. This is a general tax which can be spent on any lawful purpose of the City including its police, fire, street maintenance and other services.

MEASURE J. This measure would make three changes to Auburn's tax:

1. It would raise the rate from 8% to 10%.
2. It would require online rental services - such as AirBnB, VRBO and Homeaway - to collect the tax.
3. It would eliminate the three-room requirement and tax all short-term lodgings.

The rest of the City's hotel bed tax ordinance would not be changed. The measure requires simple-majority voter approval.

A "yes" vote approves the increase of the tax to 10%, includes online rental services among the hotel "operators" who must collect it, and taxes 1 – and 2 – room hotels.

A "no" vote rejects these proposed changes and maintains the City's existing tax.

Michael G. Colantuono
Auburn City Attorney

The above statement is an impartial analysis of Measure J. If you desire a copy of the ordinance or measure, please call the Elections Division at (530) 886-5650 and a copy will be mailed at no cost to you.

Argument in favor of Measure J

Please VOTE 'YES' on increasing the City's hotel/motel tax. People come to Auburn because it has a unique historical character. The increase in the Transient Occupancy Tax will help us preserve our City, maintain a high level of service to our citizens, and keep Auburn a beautiful place to visit, as well as work and live.

An increase in the hotel/motel tax will NOT be a tax increase for Auburn residents and will not harm the tourist industry or visitors since they also benefit from a clean, safe, and beautiful place to visit. The increase on a \$100 per night room is only \$2 and only \$1 on a \$50 room.

The City of Auburn currently levies an 8% Transient Occupancy Tax (T.O.T), often called the hotel and motel tax. Hotel and motel guests pay this tax. The hotel/motel tax is a significant revenue source of the City and the tax is currently used for tourism promotion and to help support basic City of Auburn services such as police, fire, street and building maintenance and multiple community projects through the General Fund. Increasing the hotel/motel tax from 8% to 10% would provide an additional \$60,000 (approximately) in revenue each year for the City's General Fund.

Measure J would also require online rental services such as AirBnB, VRBO and Homeaway to collect the tax if they also collect rent for renting rooms in Auburn. Approval of this measure would keep the City of Auburn's T.O.T. tax at the same level as several other cities in Placer County. In Sacramento City or County, the Transient Occupancy Tax is currently 12%. Placer County voters in the Lake Tahoe area previously approved an increase in the Transient Occupancy Tax from 8% to 10%.

A 'YES' vote on Measure J is a 'YES' vote to maintain quality city services.

Bridget Powers
Auburn City Council

Teresa Wilson
Community Member

Charles M. Richardson
Community Member

Steven Galyardt
Community Member

Philip N. Booker
Community Member

Rebuttal to argument in favor of Measure J

Please help us SAVE AUBURN by rejecting this misguided TAX INCREASE that will discourage tourism and damage our business climate.

The proponents pretend that a 25% increase in Auburn's hotel tax rate is no big deal, but they ignore the fact that many nearby communities have no hotel tax at all, or much lower tax rates (such as Roseville's 6% tax). The proponents also ignore all the other tax increases on this year's ballot, which will make life more difficult for those who can least afford it. The combined impact of these tax increases will hurt our economy, even if each individual tax increase seems affordable by itself.

Abraham Lincoln famously said, "How many legs does a dog have if you call his tail a leg? Four! Saying that a tail is a leg doesn't make it a leg." The same could be said about Auburn's attempt to call Internet websites "hotel operators." Calling a website a hotel operator does not make it one. Attempting to collect city taxes from websites will get Auburn sued for violating federal law and freedom of the press.

Even if Auburn succeeds in taxing out-of-town websites as hotels, the city runs the risk that they will stop advertising Auburn rentals, which would be an economic disaster. We should be encouraging tourism in Auburn, not chasing tourists -- and their money -- out of our city.

Vote NO on Measure J. Taxes are high enough and Auburn has enough money!

Michael Harris
Resident, Auburn

Dan Sokol
Past President, League of
Placer County Taxpayers

Jean Pagnone
Treasurer, Placer County
Taxpayers Association

Debra Jackson
Chairman, Placer Tea
Party

Thomas N. Hudson
Executive Director, California
Taxpayer Protection Committee

Argument against Measure J

This is a TAX INCREASE that will damage the business climate in Auburn. This ill-advised measure will make it less attractive for tourists to visit our city.

Many nearby communities have no hotel tax at all, or much lower tax rates, so this tax increase will encourage tourists to stay outside Auburn city limits. When we chase tourists out of Auburn, we not only lose the tax revenues, but we also lose the money those tourists would have spent in our city. This makes no sense at all.

To make matters worse, this measure attempts to force Internet travel websites, vacation rental agencies, and other out-of-town tourism facilitators that collect rents for property owners to register with the city, collect the city's Transient Occupancy Tax, and make the tax payments at the higher rate. Other cities have been sued for attempting this same tactic, which may violate federal law. A great deal of taxpayers' money will have been wasted if we lose the inevitable legal challenges. Even if we win, it is likely that many tourism facilitators and vacation rental agencies will stop advertising for Auburn rentals, which would be an economic disaster.

Taxes are already high enough and the City of Auburn already has enough of our hard-earned money. They do not need this tax increase. Instead of raising taxes and creating bureaucratic red tape, our politicians need to promote tourism, encourage local businesses, and support local economic activity. The politicians need to get out of the way when travel websites and vacation rental agencies are trying to get people to visit our city.

Please send a message by voting NO on Measure J.

Thomas N. Hudson
Executive Director, California
Taxpayer Protection Committee

Ed Rowen
President, Placer County
Republican Assembly

Debra Jackson
Chairman, Placer Tea Party

Jean Pagnone
Treasurer, Placer County
Taxpayers Association

Rebuttal to argument against Measure J

The author of the argument against Measure J is from Elverta and its signers are right-wing political activists not from Auburn. They want to tell us how to run our community - and they got the facts wrong.

All our neighbors have bed taxes, many of them higher than Measure J proposes. Placer County (10%), Colfax (8%), Grass Valley (10%), Nevada City (8%), Rocklin (8%), Lincoln (10%), Truckee (10%), South Lake Tahoe (12%). Tourist cities like San Francisco and San Diego charge much more. Measure J would only have Auburn match the County rate.

Collecting the tax on home-sharing uses like Air BnB and VRBO was part of a bargain our community struck - we will allow people to make this commercial use of residential property only if the community benefits. The Air BnB hosts agreed it was only fair to share some of their profits so the town can provide streets, police and firefighters to their guests.

There is no risk of suit here. Measure J was drafted by our City Attorney - California's leading local government finance lawyer who has argued in the California Supreme Court 5 times. He wrote it; he says it's legal; no one but a few out-of-town activists has ever said otherwise.

Measure J was written by Auburn leaders, supported by Auburn residents and help us keep Auburn a great place to live and raise a family. Vote "yes" on Measure J!

Christy Jay
Auburn Business Owner

Keith A. Nesbitt
Auburn City Council

Steven Galyardt
Community Member

Charles M. Richardson
Community Member

Full text of Measure J

PROPOSED ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF AUBURN AS APPROVED BY THE CITY'S QUALIFIED ELECTORS AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2016 AMENDING THE AUBURN MUNICIPAL CODE DEFINITION OF HOTEL AND OPERATOR TO CHARGE THE TRANSIENT OCCUPANCY TAX ON ALL PERSONS RECEIVING REVENUE FROM HOTEL OCCUPANCY (SUCH AS ON-LINE HOTEL BROKERS AND VACATION RENTAL AGENCIES) AND INCREASING THE RATE TO 10%

The People of the City of Auburn do ordain as follows:

SECTION 1. CODE AMENDMENT

The definition of "Hotel" contained in Section 33.186 of the Auburn Municipal Code is hereby set forth for voter approval to read as follows:

HOTEL

- (1) 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 shall include 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.
- (2) This definition includes bed and breakfast establishments, such as any portion of a private home or structure which is rented out to members of the public for any form of compensation.

SECTION 2. CODE AMENDMENT.

The definition of "Operator" contained in Section 33.186 of the Auburn Municipal Code is hereby set forth for voter approval to read as follows:

OPERATOR.

- (1) possessing or having an ownership interest in a hotel, or who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity;
- (2) engaged in the business of operating a hotel; or
- (3) receiving any consideration for the rental of a hotel room for sleeping accommodations, including, without limitation, any broker, service provider, or other intermediary:
 - (i) with which a hotel has contracted to arrange for the rental of a hotel room for sleeping accommodations; or
 - (ii) that has acquired any hotel room for subsequent rental from the hotel for sleeping accommodations.

Where the operator performs his or her 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 or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent, however, shall be considered to be compliance by both.

SECTION 3. CODE AMENDMENT

Section 33.187 of the Auburn Municipal Code is hereby amended to read as follows:

- (A) For the privilege of occupancy in any hotel or lodging establishment, each transient shall be subject to and shall pay a tax in the amount of 10% of the rent charged by the operator.

SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to CEQA Guidelines Section 15378(b) (4), adoption of this ordinance as a government funding mechanism is not a project subject to the requirements of CEQA. Prior to commencement of any project that may result from the expenditure of revenues from this tax increase, any necessary environmental review required by CEQA shall be completed.

SECTION 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6. ELECTION. Voter approval of this ordinance shall have the effect of making the changes to the Auburn Municipal Code stated above. If the measure is defeated, the Auburn Municipal Code remains unchanged.

SECTION 6. ADOPTION. If a majority of qualified electors vote in favor of the ballot measure regarding this Ordinance, this Ordinance shall be effective 10 days after the vote therefor is declared by the City Council as provided by Elections Code section 9217.

SECTION 7. EFFECTIVE DATE. If approved by a majority of qualified electors vote in favor of the ballot measure regarding this Ordinance, the amendments to Section 33.186 as specified in this Resolution shall be effective January 1, 2017.

SECTION 8. EXECUTION. The People of the city of Auburn hereby authorize the Mayor and City Clerk of the City to execute this Ordinance to reflect its adoption at the November 8, 2016 election.

I hereby certify that the foregoing ordinance was duly adopted by a majority of the voters of the City casting votes on the question on November 8, 2016.