RESOLUTION NO. 16-60
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN CALLING
AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE
HELD ON TUESDAY, NOVEMBER 8, 2016, REQUESTING
CONSOLIDATION OF THAT ELECTION WITH THE STATE GENERAL
ELECTION, AND REQUESTING SERVICES FROM THE PLACER COUNTY
CLERK WITH RESPECT TO THAT ELECTION; NOTICE OF CITY OFFICER
ELECTIONS AND NOTICE OF THE SUBMISSION OF MEASURES TO THE
VOTERS

WHEREAS, a statewide general election shall be held on November 8,
2016; and,

WHEREAS, the general municipal election of the City of Auburn is
scheduled for November 8, 2016; and

WHEREAS, the interests of efficiency call for the consolidation of that
election with the state general election to be held that same date; and

WHEREAS, the City Council requests services from the Placer County
Clerk for the conduct of that election.

WHEREAS, Article XIII C, Section 2 of the California Constitution, and
Government Code Section 53723 authorize the City Council of the City of
Auburn to impose, extend, or increase a general tax upon a majority vote of
the voters; and,
WHEREAS, Revenue and Taxation Code Section 7280 authorizes the City 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; and,

WHEREAS, Auburn Municipal Code Section 33.187 currently establishes an eight percent tax for the privilege of occupancy in any hotel by a transient within the City; and,

WHEREAS, currently the transient occupancy tax is collected from hotel proprietors pursuant to Auburn Municipal Code Section 33.186; and,

WHEREAS, should the Transient Occupancy Tax ballot measure not receive a majority vote, Auburn Municipal Code Section 33.186 shall remain unchanged without further action by the Auburn City Council.

WHEREAS, the office of City Clerk is currently an elective office; and,

WHEREAS, Government Code Section 36508 authorizes the City Council to submit to the electors the question whether the city clerk shall be appointed by the City Council; and,

WHEREAS, the City Council may submit to the voters, without a petition, an ordinance for the repeal, amendment, enactment of any ordinance pursuant to Elections Code Section 9222; and,
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council finds and determines that each of the findings set forth above is true and correct.

SECTION 2. Pursuant to the California Elections Code, there is hereby called and ordered to be held in the City of Auburn, California, on Tuesday, November 8, 2016, a general election for the purpose of electing municipal officers to fill the vacancies that will arise with the expiration of the terms of the following municipal officers:

William Kirby  Councilmember  Regular Term
Keith Nesbitt  Councilmember  Regular Term
Stephanie Snyder  City Clerk  Regular Term
George Williams  City Treasurer  Regular Term

SECTION 3. The City Council hereby declares its intent to consolidate this general election with the Statewide General Election to be held on November 8, 2016. This resolution shall constitute the request for consolidation required by Elections Code Section 10403 and the City Clerk shall forward a certified copy of this resolution to the Placer County Office of Elections not later than July 6, 2016.

SECTION 4. That the ballots to be used at the general election shall be in form and content as required by law.
SECTION 5. 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 6. That in all particulars not recited in this resolution, the general election shall be held and conducted as provided by law.

SECTION 7. The City Clerk is hereby authorized, instructed and directed to procure and furnish (or cause to be procured and furnished) any and all official ballot notices, printed matter and all other supplies, equipment and paraphernalia that may be necessary to prepare and lawfully conduct the election.

SECTION 8. Officeholders for the City of Auburn are elected “At Large” as there are no divisions in the City; all voters within the City vote for all candidates.

SECTION 9. The City of Auburn determined the following election particulars with respect to elections for offices:
The length of each Candidate Statement shall not exceed 200 words, the cost of each Candidate Statement shall be paid by the candidate and in case of a tie vote, the election shall be determined by lot. If by close of candidate filing, the number of qualified candidates does not exceed the number of seats to be filled in a particular office, the City Council may, in accordance with Election Code Section 10229(a): appoint to the office the person(s) who has been nominated or appoint to the office any eligible elector if no one has been nominated or hold the election, if either no one or only one person has been

\[\text{Signature}\]
nominated. The City Council shall make that determination by resolution adopted after the City Clerk certifies that no more than one candidate has qualified for the ballot for each office.

SECTION 10. The Auburn City Council hereby proposes the ordinances attached hereto as “Exhibit A” and “Exhibit B” to amend Auburn Municipal Code Chapter 33.186 to expand the applicability of the Transient Occupancy Tax, raise the Transient Occupancy Tax rate, and to make the office of City Clerk appointive.

SECTION 11. The Auburn City Council hereby submits the ordinances and proposed tax to the electorate for approval, and requests that this election be consolidated with the statewide general election to be held on November 8, 2016. This resolution shall constitute the request for consolidation required by Elections Code section 10403 and the City Clerk shall forward a certified copy of this resolution to the Placer County Office of Elections not later than July 6, 2016.

SECTION 12. The Transient Occupancy Tax is a general tax imposed upon transients for the privilege of occupying defined hotels located within the city limits of Auburn. If approved by a majority of the electorate voting on the measure, the ordinance attached to this resolution as Exhibit A will raise the rate of the tax, and amend the definition of “operator” so that the tax must be collected and remitted by all persons receiving revenue from the rental of a hotel room, including on-line hotel brokers and vacation rental agencies. If the ordinance is passed, the definition of operator will be amended. If the ordinance is not passed, the definition will remain unchanged and the tax will not be collected from on-line hotel brokers and vacation rental agencies.
SECTION 13. The Transient Occupancy Tax imposed by the ordinance is a general tax within the meaning of Government Code Section 53721 and Article XIII C, Section 1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes.

SECTION 14. If approved by a majority of the electorate voting on the measure, the ordinance attached to this resolution as Exhibit B will make the office of City Clerk appointive rather than elective.

SECTION 15. The full text of the ordinances attached to this resolution as Exhibits A and B are hereby ordered to be printed in the sample ballot pamphlet provided to the registered voters of the County.

SECTION 16. The questions to be submitted to the City voters at said election shall be:

<table>
<thead>
<tr>
<th>TRANSIENT OCCUPANCY TAX INCREASE</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall an ordinance be adopted to amend the Auburn Municipal Code to amend the definition of “operator”, so the tax is collected by all persons receiving consideration from the rental, including on-line hotel brokers and vacation rental agencies and shall the rate of the TOT be increased to 10%?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPOINTMENT OF CITY CLERK</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall the office of city clerk be appointive?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SECTION 17. The City Clerk shall transmit a copy of the measures to the Auburn City Attorney in accordance with California Elections Code 9280.

SECTION 18. The Auburn City Attorney is directed to prepare impartial analyses of the measures pursuant to Elections Code Section 9280. The analyses may not exceed 500 words in length each and shall be filed with the City Clerk no later than 4:00 p.m. on August 12, 2016.

SECTION 19. Arguments in favor of and in opposition to the ballot measures and rebuttal arguments shall be permitted. The City hereby adopts the provisions of California Elections Code Sections 9282 through 9287 regarding the acceptance of arguments relating to ballot measures. Any arguments for and against the measure shall be filed in accordance with this resolution and applicable provisions of law. Arguments for and against shall be submitted no later than 4:00 p.m. on August 12, 2016. Rebuttal arguments shall be submitted no later than 4:00 p.m. on August 22, 2016.

SECTION 20. The City Council finds that the Transient Occupancy Tax Measure is not a project under the California Environmental Quality Act by virtue of the State CEQA Guidelines, 14 Code of California Regulations section 15378, subdivision (b)(3) and, therefore, no environmental impact assessment is necessary.

SECTION 21. The City Clerk is hereby authorized to utilize the services of the Placer County Clerk for the conduct of the general election. The City of Auburn hereby agrees to pay the costs of those services as outlined by current policy of the Placer County Elections Division.
SECTION 22. The City Clerk is authorized to canvass the returns of the
Election and to certify the same to City Council at the time and in the manner
provided by law.

SECTION 23. There have been no City boundary changes since our last
election, but the City Council understands that the Placer County Public Works
Mapping Division will verify our City boundary lines prior to the election.

SECTION 24. 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 27th day of June, 2016.

Matthew Spokely, Vice Mayor

ATTEST:

Stephanie L. Snyder, City Clerk

I, Stephanie L. Snyder, City Clerk of the City of Auburn, hereby certify
that the foregoing resolution was duly passed at a regular meeting of the City
Council of the City of Auburn held on the 27th day of June, 2016 by the
following vote on roll call:

Ayes: Nesbitt, Berlant, Powers, Spokely
Noes: 
Abstain: 
Absent: Kirby

Stephanie L. Snyder, City Clerk
EXHIBIT "A"

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 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 "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 2. 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 3. 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 4. 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 5. ELECTION. Voter approval of this ordinance shall have the effect of making the change to the definition of “Operator”. If the measure is defeated, the 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 adopted upon the date the vote therefor is declared by the City Council.

SECTION 7. EFFECTIVE DATE. If approved by a majority of qualified electors vote in favor of the ballot measure regarding this Ordinance, the amendment to Section 33.186 as specified in Section 1, above, 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.

__________________________________________  __________________________
, Mayor                                          (date)

ATTEST:

__________________________________________  __________________________
, City Clerk                                    (date)
EXHIBIT "B"

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 TO MAKE THE
OFFICE OF CITY CLERK APPOINITIVE

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

SECTION 1. The city clerk shall hereby be appointed by the City Council.

SECTION 2. 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 3. ELECTION. Voter approval of this ordinance shall have the effect
of making the office of city clerk appointive rather than elective. If the measure
is defeated, the Municipal Code remains unchanged.

SECTION 4. ADOPTION. If a majority of qualified electors vote in favor of the
ballot measure regarding this Ordinance, this Ordinance shall be adopted upon
the date the vote therefor is declared by the City Council.

SECTION 5. EFFECTIVE DATE. If approved by a majority of qualified electors
vote in favor of the ballot measure regarding this Ordinance, the amendment
to Section 33.040 as specified in Section 1, above, shall be effective January 1,
2017.
SECTION 6. 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.

_________________________________  __________________________

, Mayor  (date)

ATTEST:

_________________________________  __________________________

, City Clerk  (date)

CERTIFIED AS A TRUE COPY

Amy M. [Signature]
DEPUTY CITY CLERK