

**MEASURE SUBMITTED TO THE VOTERS**

**COUNTY**

**COUNTY OF MARIN  
CONTINUATION OF THE  
TRANSIENT OCCUPANCY TAX  
MEASURE A**

**A** Shall an ordinance be approved to continue section 3.05.030 of the Marin County Code to sustain the current transient occupancy tax rate of ten percent (10%) upon transients occupying lodging located only within the unincorporated area of Marin County?

**COUNTY OF MARIN  
CONTINUATION OF THE  
TRANSIENT OCCUPANCY TAX  
FULL TEXT OF ORDINANCE  
MEASURE A**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF MARIN CONTINUING THE PROVISIONS OF SECTION  
3.05.030 TO SUSTAIN THE CURRENT TRANSIENT OCCUPANCY  
TAX RATE OF TEN PERCENT (10%)**

THE PEOPLE OF THE COUNTY OF MARIN ORDAIN AS FOLLOWS:

**SECTION I. VOTER APPROVAL OF MARIN COUNTY CODE  
SECTION 3.05.030.**

Section 3.05.030 of the Marin County Code is hereby set forth for voter approval to read as follows:

3.05.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county, which is extinguished only by payment to the operator or to the county. 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. If for any reason the tax due is not paid to the operator of the hotel, the tax collector may require that such tax shall be paid directly to the tax collector.

**SECTION II. NATURE OF TAX.** If approved by a majority of the electorate voting on the measure, the ordinance will continue the current transient occupancy tax rate of ten percent (10%) of rent charged. The transient occupancy tax is a tax imposed upon transients for the privilege of occupying lodging located within the unincorporated territory of Marin County. The tax increase would be collected by lodging operators, in the same manner as the current transient occupancy tax is collected. The collection of the tax from lodging operators would be administered by the Marin County Tax Collector as provided in Title 3, chapter 3.05 of the Marin County Code.

**SECTION III. GENERAL TAX.** The transient occupancy tax imposed by this 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. To that end, the Auditor-Controller is instructed to deposit the revenue from the tax into the County General Fund and to include his estimate of the revenue from this general tax, together with his estimates of other

revenue sources, in the tabulation that he is annually required to prepare by Government Code section 29060. The revenue from this general tax shall be available to the Board of Supervisors for annual appropriations in the County's budget for any lawful expenditure. Nothing in this ordinance nor in any other ordinance, advisory measure, resolution, or policy shall be construed as limiting, in any way, the amount or the objects of the appropriations and expenditures that can be made from the revenue of the tax nor be construed as creating a continuing appropriation.

**SECTION IV. 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 V. ELECTION.** An election shall be held on March 2, 2004, on the issue of continuing the current transient occupancy tax rate at ten percent (10%) of rent charged. If the measure is defeated, the transient occupancy tax rate will revert to the transient occupancy tax rate of eight percent (8%) of rent charged.

**SECTION VI. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its adoption by a majority of the electorate voting on the ordinance at the March 2, 2004 general election.

Approved by resolution of the Board of Supervisors of the County of Marin on the \_\_\_\_\_ day of \_\_\_\_\_, 2004, by the following vote, for adoption by the electorate at the election of March 2, 2004:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
PRESIDENT OF THE BOARD OF SUPERVISORS

ATTEST: \_\_\_\_\_  
Clerk

**MEASURE A CONTINUED ON NEXT PAGE**

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL  
MEASURE A**

**CONTINUATION OF THE TRANSIENT OCCUPANCY  
TAX RATE AT ITS CURRENT LEVEL FOR  
UNINCORPORATED AREA OF MARIN COUNTY**

The California Constitution and the Government Code authorize the County, upon a majority vote, to levy a general tax. The Revenue and Taxation Code authorizes the County to levy a tax on hotels, inns, tourist homes, motels, or other lodging for the privilege of occupying a room or rooms in the unincorporated areas of the County.

In 1978, a transient occupancy tax of 8% was established by the Board of Supervisors. In 1991, the Board of Supervisors increased the tax to 10%. In order to ensure that the 10% transient tax rate is in compliance with state law as interpreted by the California Supreme Court, the Board of Supervisors submits this measure to the electorate.

Although the tax is collected only in the unincorporated areas of the County, the law requires that there be a Countywide vote on the question of continuing collection at the 10% tax rate.

This measure would authorize the continuation of the 10% tax rate for the transient occupancy tax that was adopted by the Board of Supervisors in 1991. If the measure does not pass, the transient occupancy tax rate would be reduced to 8%.

A "yes" vote on this measure would allow the continuance of the 10% tax rate for the transient occupancy tax.

A "no" vote on this measure would not allow the continuance of the 10% tax rate for the transient occupancy tax and the transient occupancy tax rate would revert to its prior level of 8%.

This measure passes if a majority voting on the measure vote "yes".

Dated: December 12, 2003

PATRICK K. FAULKNER  
County Counsel

**ARGUMENT IN FAVOR OF MEASURE A**

A YES vote on Measure A will ensure that an existing source of revenue for vital Marin County services will continue. This is not a new tax. Your YES vote will continue the existing Transient Occupancy Tax (TOT) rate for the unincorporated areas only (areas outside the boundaries of any city or town). The tax is paid only by patrons of hotels, motels, bed and breakfast and other lodging facilities in the unincorporated area.

In 1991, the Board of Supervisors increased the Transient Occupancy Tax (TOT) rate from eight to ten percent, a rate comparable to most California counties. In total, this tax raises approximately \$1.4 million annually to support vital County services such as Sheriff patrol, fire suppression, emergency medical, healthcare and other community services. Adoption of this measure is requested because Proposition 62 requires voter approval for any general tax increases after 1986. Failure to pass this measure would require a reduction in County services at a time when the County is at risk of losing millions in revenues because of the State fiscal crisis. Taxes will not be increased by passing this measure and the County will be allowed to continue collection of these revenues for vital community services.

s/ Annette Rose  
President Marin County Board of Supervisors

s/ Larry Meredith  
Director of Health & Human Services

s/ Robert T. Doyle  
Sheriff

s/ Kenneth Massucco  
Marin County Fire Chief

s/ Linda Compton  
Executive Director Whistlestop

**NO ARGUMENT AGAINST THIS MEASURE  
WAS SUBMITTED**

END OF MEASURE A