

**RESOLUTION NO. 2012-04**

**A RESOLUTION CALLING AN ELECTION TO ASK THE VOTERS OF THE CITY OF PLYMOUTH TO APPROVE AN INCREASE TO THE TRANSIENT OCCUPANCY TAX CONTAINED IN SECTION 3.30.030 OF CHAPTER 3.30 OF THE PLYMOUTH MUNICIPAL CODE TO TEN PERCENT (10%) OF THE RENT CHARGED BY HOTEL OPERATORS; AND FURTHER SUBMITTING AN ADVISORY MEASURE TO THE VOTERS REGARDING THE USE OF SUCH PROPOSED TAX REVENUES; AND REQUESTING THE BOARD OF SUPERVISORS OF AMADOR COUNTY TO CONSOLIDATE THE ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012, AND DIRECTING THE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION ON BEHALF OF THE CITY**

**WHEREAS**, the City of Plymouth (“City”) requires additional revenue to fund important municipal programs; and

**WHEREAS**, the City Council may propose that voters approve an increase to the transient occupancy tax contained in Chapter 3.30 of the Plymouth Municipal Code from six percent (6%) to ten percent (10%) of the rent charged by hotel operators within the City to raise additional funds for general municipal purposes; and

**WHEREAS**, a transient occupancy tax is a type of general tax collected by hotel operators and remitted to the City tax collector that may be increased to achieve these purposes; and

**WHEREAS**, California Constitution Article XIII C, Section 2(b) requires that an election on an increase to general tax, including a transient occupancy tax, be consolidated with a statewide general election at which members of the City Council will be elected; and

**WHEREAS**, pursuant to Government Code Sections 53723 and 53724 an ordinance proposing to increase a general tax, including a transient occupancy tax, must be approved by two-thirds vote of all members of the City Council, and thereafter be approved by a majority vote of qualified voters of the City voting in an election in order for the increase to the transient occupancy tax to become effective; and

**WHEREAS**, November 6, 2012 is the date of the statewide general election at which members of the City Council will be elected; and

**WHEREAS**, pursuant to Elections Code Section 9603, the City may place an advisory measure on the ballot for the purpose of allowing voters to voice their opinion on a substantive issue or to indicate approval or disapproval of a ballot proposal and such vote will not be controlling upon the City Council; and

**WHEREAS**, the City would like to place an advisory measure on the ballot to seek voter input regarding how revenue from the proposed increase to the transient occupancy tax should be used; and

**WHEREAS**, Elections Code Section 9282 sets forth the procedures for arguments in favor of or in opposition of City measures; and

**WHEREAS**, Elections Code Sections 9285 set forth the procedures for rebuttal arguments; and

**WHEREAS**, The City Council finds that under CEQA Guidelines 15060(c)(2) and (c)(3) and 15378, subdivisions (b)(2) and (b)(4), that a measure to increase the transient occupancy tax contained in Chapter 3.30 of the Plymouth Municipal Code to ten percent (10%) does not constitute a project under CEQA and therefore review under CEQA is not required.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLYMOUTH DOES HEREBY RESOLVE:**

1. The foregoing Recitals are true and correct and are hereby adopted by the City Council.
2. Pursuant to California Constitution Article XIIC, Section 2; Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of Plymouth hereby calls an election at which it shall propose to the voters of the City, a measure that, if approved, would increase the City's existing transient occupancy tax contained in Chapter 3.30 of the Plymouth Municipal Code from a rate of six percent (6%) of the rent charged by hotel operators to ten percent (10%) of the rent charged by hotel operators, pursuant to the provisions of Revenue and Taxation Code Section 7280 *et seq.* This measure shall be designated by letter by the Amador County Elections Department. Pursuant to Election Code Section 10400 *et seq.*, the City Council hereby requests that the Board of Supervisors of the Amador County consolidate the election for this measure with the statewide election to be conducted on November 6, 2012, which is also the date of the City's regular municipal election, at which an election for members of the City Council will also occur.
3. The ordinance authorizing the increase to the transient occupancy tax contained in Chapter 3.30 of the Plymouth Municipal Code to be approved by the voters pursuant to Section 2 is as set forth in Exhibit A hereto. The City Council hereby approves the ordinance, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of this resolution, further approves its submission to the voters of the City at the November 6, 2012 election. The entire text of the ordinance attached hereto as Exhibit A shall be printed in the voter information portion of the sample ballot. The ordinance specifies that transient occupancy tax shall be increased from six percent (6%) of

the rent charged by hotel operator to ten percent (10%) of the rent charged by hotel operators within the City.

- The proposed increase to the transient occupancy tax shall be submitted to the voters on the ballot in the form of the following question:

<b>MEASURE _____ : APPROVAL OF INCREASE TO THE TRANSIENT OCCUPANCY TAX.</b>		
<b>Shall City of Plymouth Ordinance No. 2012-03 increasing the transient occupancy tax to ten percent (10%) of the rent charged by hotel operators within the city limits, with tax revenues to be used for general municipal purposes, be approved?</b>	<b>YES</b>	
	<b>NO</b>	

- The proposed advisory measure shall be submitted to the voters on the ballot in the form of the following question.

<b>MEASURE _____ : ADVISORY VOTE ONLY.</b>		
<b>Should two percent (2%) of revenue from the increase in the transient occupancy tax be used for streets, parking and landscaping, and the remaining two percent (2%) for tourism including promotions, events, signage, advertising, and other related expenses?</b>	<b>YES</b>	
	<b>NO</b>	

- The official ballot to be used at said election shall conform to the provisions of the laws of the State of California.
- The City Attorney shall prepare an impartial analysis of tax ballot measure and the advisory measure, not to exceed five hundred words in length, showing the effect of each measure on the existing law and the operation of the measure.
- Arguments for and against the ballot measures may be filed with the City Clerk in accordance with the Elections Code 9280 *et seq.* The arguments shall not exceed 300 words in length, and shall be signed by not more than five persons. Rebuttal arguments shall be filed with the City Clerk in accordance with the Elections Code 9280 *et seq.*, and shall not exceed 250 words in length and shall be signed by not more than five persons; those persons may be different persons that the persons who signed the direct arguments. Pursuant to Section 9285 of the

California Elections Code, when the City Clerk has selected the arguments for and against the measures, which will be printed and distributed to the voters, the City Clerk shall send copies of the arguments in favor of the measure to the authors of the arguments against, and copies of the arguments against to the authors of the arguments in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct arguments, which it seeks to rebut.

9. The City authorizes and requests the County Registrar of Voters to consolidate this election with the statewide general election on November 6, 2012.
10. The City Clerk may request the assistance of the Amador County Elections Department in regard to this election, as the City Clerk deems necessary, and the City shall pay the incurred cost of such assistance.
11. In accordance with Section 12111 of the Elections Code, the City Clerk is hereby authorized and directed to cause notice of the measures to be posted and published once in a daily newspaper of general circulation, printed, published, and circulated in the City of Plymouth at least one week prior to the statewide general election. The City Clerk may request that the Amador County Elections Department prepare and publish the required notice.
12. The election on the measures set forth above shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as prescribed in accordance with the Elections Code of the State of California. The Board of Supervisors of the Amador County is authorized and requested to canvas the returns of that election with respect to the votes cast in the City of Plymouth and certify the results to the City Council. At the next regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.
13. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measures on the election ballot.
14. The City Clerk is hereby authorized and directed to certify the adoption of this resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Amador County. The City Clerk is further directed to take all steps necessary to place the measures on the ballot and to cause the ordinance attached as Exhibit A to be printed and published. A copy of the ordinance shall be made available to any voter upon request.

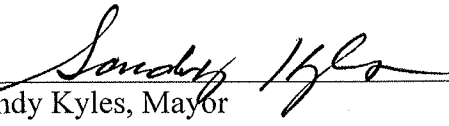
PASSED AND ADOPTED this 26<sup>th</sup> day of April, 2012, by the following vote:

**AYES:** Peter Amoruso, Jon Colburn, Patricia Shackleton, Greg Baldwin, Sandy Kyles

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

  
Sandy Kyles, Mayor

**ATTEST:**

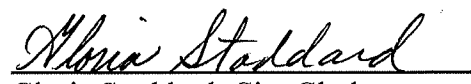
  
Gloria Stoddard, City Clerk

EXHIBIT A  
ORDINANCE NO. 2012-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLYMOUTH  
AMENDING SECTION 3.30.030 OF CHAPTER 3.30 OF THE PLYMOUTH  
MUNICIPAL CODE TO INCREASE THE TRANSIENT OCCUPANCY TAX TO  
TEN PERCENT (10%) OF THE RENT CHARGED BY HOTEL OPERATORS  
SUBJECT TO VOTER APPROVAL**

**THE CITY COUNCIL OF THE CITY OF PLYMOUTH HEREBY ORDAINS AS  
FOLLOWS:**

**SECTION 1. FINDINGS.** The City Council of the City of Plymouth hereby finds as follows:

- a. Additional revenue is necessary to fund important municipal programs.
- b. The City Council may propose that voters approve an increase to the transient occupancy tax contained in Chapter 3.30 of the Plymouth Municipal Code from six percent (6%) to ten percent (10%) of the rent charged by hotel operators within the City to raise additional funds for general municipal purposes.
- c. A transient occupancy tax is a type of general tax collected by hotel operators and remitted to the City tax collector that may be increased to achieve these purposes.
- d. California Constitution Article XIII C, Section 2(b) requires that an election on a general tax, including transient occupancy tax, be consolidated with a statewide general election at which members of the City Council will be elected.
- e. Pursuant to Government Code Sections 53723 and 53724 an ordinance proposing to increase a general tax, including a transient occupancy tax, must be approved by two-thirds vote of all members of the City Council, and thereafter be approved by a majority vote of qualified voters of the City voting in an election in order for the increase to the transient occupancy tax to become effective.
- f. November 6, 2012 is the date of the next statewide general election at which members of the City Council will be elected.
- g. Pursuant to CEQA Guidelines 15060(c)(2) and (c)(3) and 15378, subdivisions (b)(2) and (b)(4), a measure to increase the transient occupancy tax contained in Chapter 3.30 of the Plymouth Municipal Code to ten percent (10%) does not constitute a project under CEQA and therefore review under CEQA is not required.

**SECTION 2. AMENDMENT OF CODE.** Section 3.30.030 of Chapter 3.30 of the Plymouth Municipal Code entitled "Imposition—Rate" shall be amended to read as follows:

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. This tax constitutes a debt owed by the transient 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 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 the such tax shall be paid directly to the tax collector.

**SECTION 3. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council of the City of Plymouth hereby declares that they would have adopted each and every provision of this ordinance regardless of the invalidity of any other provision.

**SECTION 4. CODIFICATION.** Subject to the voter approval, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Plymouth Municipal Code.

**SECTION 5. EFFECTIVE DATE.** If this ordinance is approved by a majority of the voters voting on the issue at the November 6, 2012 election, pursuant to Elections Code Section 9217, this ordinance shall become effective ten (10) days after the City Council declares the results of the election.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Plymouth, California, held on April 12, 2012, and was passed and adopted at a regular meeting of the City Council held on *April 26*, 2012 by the following vote:

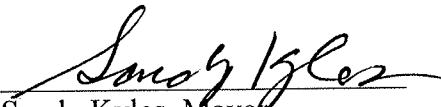
**AYES:** Peter Amoruso, Jon Colburn, Patricia Shackleton, Greg Baldwin, Sandy Kyles

**NOES:** None

**ABSTAIN:** None

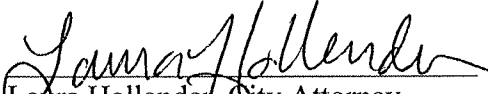
**ABSENT:** None

ATTEST:

  
Sandy Kyles, Mayor

  
Gloria Stoddard, City Clerk

APPROVED AS TO FORM:

  
Laura Hollender, City Attorney

**APPROVED** by the following vote of the Voters of the City of Plymouth on November 6, 2012