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OAKLAND

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INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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CITY ATTORNEY

## OAKLAND CITY COUNCIL

81855

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT A SPECIAL MUNICIPAL ELECTION THAT IS NOT LESS THAN 88 DAYS AND NO MORE THAN 150 DAYS AFTER THE DATE THE COUNCIL PASSES THIS RESOLUTION, A PROPOSED ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE IN ORDER TO PROVIDE FOR A THREE PERCENT SURCHARGE TO THE CITY'S TRANSIENT OCCUPANCY TAX (HOTEL TAX) TO PROVIDE FUNDING TO THE OAKLAND CONVENTION AND VISITORS BUREAU (OCVB) TO SUPPORT PROGRAMS TO INCREASE TOURISM IN OAKLAND, AND TO THE OAKLAND ZOO, OAKLAND MUSEUM OF CALIFORNIA, CHABOT SPACE AND SCIENCE CENTER AND THE CULTURAL ARTS PROGRAMS AND FESTIVALS

**WHEREAS**, the City Council of the City of Oakland desires to amend the Oakland Municipal Code in order to provide for a supplemental three percent (3%) transient occupancy tax, in addition to the eleven percent tax specified in Section 4.24.030; and

**WHEREAS**, tourism promotions and marketing programs will build greater awareness of the City of Oakland as a tourist, meeting, and event destination; and

**WHEREAS**, Oakland visitors and residents benefit from quality cultural and educational experiences and institutions located within the city; and

**WHEREAS**, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, and Cultural Arts programs and Festivals are valuable assets that enhance the quality of life of Oakland residents; and

**WHEREAS**, the increasing costs of maintenance and operations and dwindling private resources are ongoing threats to the viability of Oakland's most valuable institutions; and

**WHEREAS**, it is the desire of the City Council to establish a steady stream of revenue for Oakland Convention And Visitors Bureau ("OCVB"), the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

**WHEREAS**, in many cities tourism programs and regional cultural institutions such as these, are funded from hotel taxes; and

**WHEREAS**, these institutions attract a large number of visitors to the City of Oakland; and

**WHEREAS**, all revenues received from the 3% increase in transient occupancy tax shall be allocated as follows: 50% to OCVB for its expenses and promoting tourism activities, and 12.5% each to the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

**WHEREAS**, this economic investment in OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space & Science Center, and the Cultural Arts Programs & Festivals will enhance the City of Oakland's attractiveness to visitors and provide employment and enrichment to the City's residents; and

**WHEREAS**, OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals shall engage in marketing efforts to promote the City of Oakland; now, therefore be it

**RESOLVED**: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next municipal election to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

**FURTHER RESOLVED**: That the City Council of the City of Oakland does hereby submit to the voters at a special municipal election that is not less than 88 days and no more than 150 days after the date the council passes this resolution the following:

SECTION 1. The Oakland Municipal Code is hereby amended by adding Section 4.24.031 to read as follows:

**Section 4.24.031. Imposition of surcharge.**

A. There shall be a tax of three percent (3%) of the rent charged by the operator of a hotel, in addition to the eleven percent tax specified in Section 4.24.030, for the privilege of occupancy in any hotel in the City of Oakland (the "Surcharge"). Subject to subsection E, below, the Surcharge so collected shall be appropriated to the Oakland Convention and Visitors Bureau (OCVB), the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals as follows: 50% (fifty percent) to OCVB, 12.5% (twelve point five percent) to the Oakland Zoo, 12.5% (twelve point five percent) to the Oakland Museum of California, 12.5% (twelve point five percent) to Chabot Space and Science Center and 12.5% (twelve point five percent) for Cultural Arts Programs and Festivals. The Surcharge shall be not be appropriated for any purpose other than specifically set forth in this subsection. Appropriations will be subject to applicable City of Oakland policies.

B. Said Surcharge constitutes a debt owed by the transient to the city which is extinguished only by payment 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 Surcharge shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the Surcharge due is not paid to the operator of the hotel, the Tax Administrator may require that such a Surcharge shall be paid directly to the Tax Administrator.

C. All funds collected by the City from the Surcharge imposed by this section shall be immediately segregated from all other funds collected and shall be deposited into a special fund in the City treasury (the "Surcharge Fund"). All monies in the Surcharge Fund shall be distributed pursuant to subsection A herein on a monthly basis, following the month in which they were collected by the City.

D. Pursuant to Section 4.24.050, on the receipt provided to the transient, the operator may state the current eleven percent (11%) tax specified in Section 4.24.030 and the three percent (3%) Surcharge as a single transient occupancy tax of fourteen percent (14%).

E. Annual Audit. An independent audit or review shall be performed annually as provided by Government Code sections 50075.1 and 50075.3 to assure accountability and the proper disbursement of the proceeds of this Surcharge in accordance with the purposes stated herein. Surcharge proceeds may be used to pay for the audit or review.

SECTION 2. This ordinance shall be effective upon 2/3 vote approval by Oakland voters at an election, or such later date as required by state law, and may not be repealed or amended except by a subsequent vote of the voters of Oakland.

SECTION 3. Severability: If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

SECTION 4. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation" Public Resources Code section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

SECTION 5. There are existing transient occupancy taxes that are general taxes, the proceeds of which are deposited in the general fund. The Surcharge revenues received as a result of this ordinance will be used for the purposes set forth in Section 4.24.031 and thus are special taxes.

**FURTHER RESOLVED:** The City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to the next general or special municipal election, to file with the Alameda County Clerk certified copies of this resolution.

**FURTHER RESOLVED:** The City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the recitals and measure language contained in this resolution to be voted on by the voters of the qualified electors of the City of Oakland.

**FURTHER RESOLVED:** The City Clerk is hereby directed to cause the posting, publication and printing of notices of this Resolution and proposed ordinance, pursuant to the requirements of the Charter of the City of Oakland, and the Government and Elections Codes of the State of California.

**FURTHER RESOLVED:** The City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election.

**FURTHER RESOLVED:** The City Clerk is hereby directed to obtain printing supplies and services as required for said election.

**FURTHER RESOLVED:** The City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the laws of the State of California and the Charter of the City of Oakland.

**FURTHER RESOLVED:** In accordance with the Election Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said measure, and said date shall be posted in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MARCH \_\_\_\_, 2009 **MAR 17 2009**

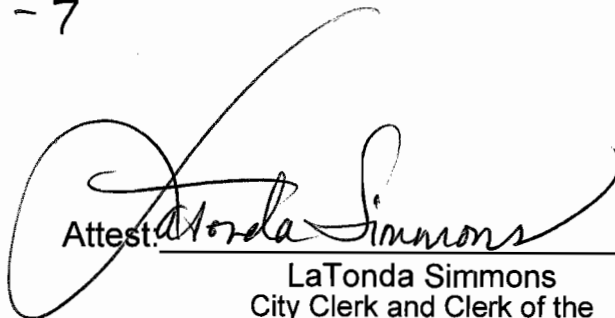
PASSED BY THE FOLLOWING VOTE:

AYES- ~~BROOKS~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER - 7

NOES- 0

ABSENT- 0

ABSTENTION- Brooks - 1

Attest:   
LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California