

**FULL TEXT OF MEASURE U
CITY OF LA HABRA**

The People of the City of La Habra do ordain as follows:

A new Hotel/Motel Guest Tax is hereby adopted by this measure. This measure imposes a new tax in the amount of ten percent on persons occupying any hotel or motel within the City on a temporary basis for less than thirty days. The tax is to be collected by hotel and motel operators at the time of rental of rooms and is to be given by operators to the City on a monthly basis. The tax shall be deposited into the City's General Fund and is to be used for general governmental expenses.

Operators are required to maintain financial and accounting records relating to the collection and remittance of the tax for five years. The City may inspect such records at all reasonable times. Operators are also required to file quarterly reports to the City regarding total rents charged and total taxes collected. More frequent returns may be required. Portions of the report shall be confidential, but not in proceedings relating to recovering of the taxes and not including general statistical information or information compelled to be disclosed by a court. Any person who had audit or administrative duties relating to the tax is prohibited from revealing any records or information from his or her official duties, unless specifically permitted.

If the City audits an operator for underreporting taxes collected or owed, all costs relating to the audit are required to be paid by the operator.

Certain penalties apply for violations of the duties relating to the tax, including the fact that the City may collect the tax amounts as a debt owed to the City by the operators as well as persons occupying hotel and motel rooms. A monetary penalty applies in the amount of ten percent for any failure to pay the tax. An additional ten percent penalty applies for each thirty day period that the tax continues to be delinquent up to a total penalty of fifty percent. When an audit by the City of an operator's records reveals that the operator has failed to properly pay taxes owed, a penalty of ten percent shall apply to the additional amount owed, in addition to other penalties for late payment. If an operator fraudulently fails to pay any taxes, an additional twenty-five percent penalty shall apply. Interest at the rate of one-half of one percent per month applies to all amounts and penalties owed.

An exemption to the tax applies to any officer or employee of a foreign government when a federal law or an international treaty prohibits application of the tax. An exemption also applies to any federal officer or employee on official business. The City's director of finance is permitted to adopt rules and regulations relating to the administration of the tax. Any operator that collects an amount not owed must refund the money collected to the person who paid it. Operators may not advertise that the tax will be assumed or absorbed by the operator, not added to the rent, or refunded.

Existing operators are required to register with the City within thirty days of the enactment of the tax, or after commencing business for new businesses. Registration certificates granted by the City are required to be posted at all hotels or motels. Certificates may not be assigned or transferred, except where there is a change in business name or a transfer where the ownership does not change.

If any operator fails to collect the tax, the City may estimate the tax owed and give written notice of that amount to the operator. An operator may request a hearing regarding the amount of tax owed.

Any refunds of taxes from the City must be sought by way of a claim pursuant to Chapter 1.22 of the La Habra Municipal Code, whether sought by an operator or a person paying the tax to the operator. A refund claim's processing pursuant to Chapter 1.22 is a requirement to the maintenance of any legal action against the City relating to refund claims for the tax.

Any operator may appeal a decision by the director of finance as to any tax, interest or penalties to the City Manager, by filing a written notice of appeal with the City Clerk. The operator will be provided an appeal hearing. The decision of the City Manager may be appealed to the City Council in the same manner.

Any taxes, interest or penalties not paid under protest may not be challenged or appealed.

The City may require operators to provide a deposit in an amount not greater than the average liability for one quarterly reporting period, which shall be paid within thirty days of the enactment of the tax, or after commencing business for new businesses. The City shall give written notice of required security deposits.

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE U**

The proposed measure creates a new tax in the City, which would be paid only by individuals renting hotel or motel rooms on a temporary basis within the City. The amount of the tax would be ten percent of the rental charge for every room rented. The tax would be similar to the same type of tax existing in neighboring cities.

The tax would impose new duties on hotel and motel operators to collect the tax and to keep certain records regarding renting of rooms and receipt of the tax. The tax would also impose new penalties on operators or hotel and motel guests who fail to pay, collect or submit the tax. The City is permitted to inspect operator records relating to the tax, and may audit operators regarding their receipt of tax money, quarterly reports to the City and the taxes collected for the City. Penalties may include the operator paying for City audits; the City collecting, as a civil debt, any tax amounts owed by operators or guests; a ten percent penalty added to any amounts not timely paid; an additional ten percent penalty for failure to pay the tax for more than thirty days; an additional twenty-five percent penalty for a fraudulent failure to pay the tax; and an interest penalty for each month the tax is not timely paid.

Operators would collect the tax at the time of the rental of rooms and give the tax money to the City monthly. The tax will be deposited into the City's General Fund and would be used for general governmental expenses, including public safety, transportation, parks and other general services.

Federal and foreign government employees are exempt from the tax. The City's Finance Director may adopt regulations for administration of the tax.

All operators are required to register with the City and post a registration certificate. Operators are entitled to a hearing as to any City decision regarding compliance with tax requirements. All refunds must be made by a claim pursuant to Chapter 1.22 of the La Habra Municipal Code, prior to any legal action being filed against the City as to any refund. Any taxes, interest or penalties not paid under protest may not be challenged or appealed.

A "yes" vote on this proposed measure would allow the City Council to enact a new tax to be paid by guests at hotels and motels within the City, at the rate of ten percent on every room rented. The rate of the tax may not be increased except by a vote of the people. Residents of the City would not be required to pay the tax unless renting a hotel or motel room within the City.

A "no" vote on this proposed measure would prevent the City Council from enacting a new tax on guests at hotels and motels within the City. A "no" vote would not affect any occupancy tax guests of hotels and motels in other cities may be required to pay to those cities.

THE ABOVE STATEMENT IS AN IMPARTIAL ANALYSIS OF MEASURE U. IF YOU DESIRE A COPY OF THE MEASURE OR THE PROPOSED ORDINANCE, PLEASE CALL THE CITY CLERK'S OFFICE AT (562) 905-9707, AND A COPY WILL BE MAILED AT NO COST TO YOU.

Richard D. Jones, City Attorney

ARGUMENT IN FAVOR OF MEASURE U

A Plan for the Future. The City has made tremendous strides in improving our business environment and economic vitality. The City looks better than ever with landscaped medians and road improvements. Home values have soared, and there is a renewed interest by developers to construct new housing, commercial and retail opportunities. La Habra is well-known as being "Open for Business" and continues to attract significant interest by developers and visitors.

However, residents' tax dollars pay for the many visitors that come to La Habra. We do not have a Hotel Tax. Visitors use services and infrastructure, but pay nothing toward maintenance. It is anticipated that a larger hotel may soon locate in La Habra. We need to prepare now to secure these resources from those who come for business, shopping or golf.

What will the Hotel/Motel Guest Tax do? The proposed Hotel/Motel Guest Tax will annually generate \$150,000 to \$225,000, without residents contributing one dime. The revenue will help offset the impact of visitors. It is a tax on hotel guests who also use police and fire services, streets, water system, parks and other amenities.

What won't the Hotel/Motel Guest Tax do? It will not be applied to any resident or business in La Habra, only guests at motels and hotels. Make no mistake, the Hotel/Motel Guest Tax will not solve the City's upcoming fiscal challenges, but it will help. Should a larger hotel locate in La Habra, guests at that hotel would contribute their fair share to improve our community.

The real purpose of the Hotel/Motel Guest Tax is to ensure that visitors and guests are paying their fair share and to prepare ourselves for the future of La Habra in a new economic environment.

s/ G. Steve Simonian, Mayor

s/ James Gomez, Mayor Pro Tem

s/ Steve Anderson, Councilmember

s/ Rose Espinoza, Councilmember

s/ Tom Beamish, Councilmember

No argument against this measure was submitted