

**CITY OF DEL MAR  
CITY ATTORNEY'S IMPARTIAL ANALYSIS  
MEASURE M**

**TRANSIENT OCCUPANCY TAX (TOT) MEASURE**

**Existing Law:**

Since 1964, the City of Del Mar has charged Transient Occupancy Tax (TOT) to visitors who stay for 30 days or less in hotels and similar short-term lodging with 3 or more units. Operators are required to collect TOT from guests and remit the tax to the City. The City's current voter-approved TOT rate is 13%, which Measure M does not change.

**Effect of Measure on Existing Law:**

The City Council placed Measure M on the ballot, seeking voter approval to update the City's existing TOT Ordinance under Chapter 3.12 of the Del Mar Municipal Code, as follows:


1. Require TOT from All Short-Term Lodging Guests. TOT is currently only paid by guests of hotels and similar short-term lodging with 3 or more units. Measure M requires TOT from guests of all hotels and similar short-term lodging, including short-term rentals, regardless of the number of units/bedrooms.
2. Allow Online Travel Companies to Collect/Remit TOT to City. Operators are currently required to directly collect and remit TOT to the City. Measure M allows online travel companies, hosting platforms and third-party booking vendors (Expedia, Airbnb, etc.) to collect and remit TOT to the City on the operator's behalf.
3. Clarify TOT is Collected on Full Rate Charged. TOT applies to the full rent charged to guests, without any deductions. Measure M clarifies the definition of "rent" to specifically include items that fall within the definition of rent, such as resort fees, parking, cleaning fees, and WIFI/Internet charges, excluding third-party booking fees.

If approved, the City anticipates Measure M would generate approximately \$775,000 annually in revenue. As a general tax, revenue from Measure M would be deposited into the City's General Fund, and may be used for City operations and services, including public safety, emergency medical services, street maintenance, parks, trails, libraries, and recreation. Pursuant to State law, a general tax requires majority approval from the City's voters in an election.

A "YES" vote on Measure M would update the City's existing TOT Ordinance to require TOT from guests of all hotels and similar short-term lodging, including short-term rentals, regardless of the number of units; specify online travel companies, hosting platforms and third-party booking vendors may collect and remit TOT to the City on the operator's behalf; and clarify TOT applies to the full rent, including fees charged to guests, excluding third-party booking fees.

A "NO" vote on Measure M would reject the application of TOT to guests of all hotels and short-term lodging facilities in the City; require only operators to collect/remit TOT to the City without obligating online travel companies that collect TOT to remit it to the City; and would not specify items that fall within the definition of rent upon which TOT is charged.

**The above statement is an impartial analysis of Measure M. If you desire a copy of the measure, please call the City Clerk's office at (858) 375-9517, and a copy will be mailed at no cost to you.**

  
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Leslie E. Devaney, City Attorney  
City of Del Mar

Dated: 08/12/2024