

BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA, CALIFORNIA

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

AN ORDINANCE ADDING CHAPTER 49 TO THE COUNTY CODE, ADOPTING A  
HOTEL INCENTIVE PROGRAM

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1: That Sections 49-1 to 49-12 of Article 1 of Chapter 49 of the County Code are added as follows:

**Sec. 49-1. Purpose.** The purpose of this chapter is to provide an incentive program for the operation and maintenance of quality hotel facilities which enhance the tourist and travel experience for visitors to the County of Santa Barbara, provide attractive and desirable visitor serving facilities and experiences, and assist the County in achieving its economic development and tourism goals.

In the implementation of this program, the Board of Supervisors finds:

(a) The general welfare and material well-being of the residents of the County of Santa Barbara depend in large measure upon the growth and expansion of the tourism and travel industries in the County.

(b) The operation, maintenance, and expansion of the inventory of first class hotels and renovation of existing hotels to a higher standard in the unincorporated areas of the County of Santa Barbara will create desirable visitor serving facilities that will contribute to the growth and expansion of tourism and travel opportunities in the County, provide employment opportunities for the residents of the County, and promote and enhance the economy of the County.

(c) It is in the best interest of the County of Santa Barbara to induce and encourage the operation and maintenance of first class hotel facilities that would not otherwise exist, and to improve the existing hotel inventory, thereby creating new sources or increased amounts of tax revenues for the County's general fund which supports the public services that the County provides to its residents.

(d) The authority granted and the purposes to be accomplished by this chapter are properly local governmental and public purposes for which public funds can be expended and that the operation, maintenance, and expansion of the inventory of first class hotels and improvement of the existing hotel inventory is of paramount importance to the County of Santa Barbara, its residents, and businesses.

**Sec. 49-2. Definitions.** For the provisions of this chapter, the following definitions shall apply:

“Current Assessed Valuation” means the assessed valuation net of any exemptions of any Property subject to the Implementation Agreement as determined by the County Assessor each lien date or upon any event, including but not limited to assessment appeal actions, causing a change in assessed valuation between lien dates.

“Existing Hotel” means a property in the unincorporated area of the County that was occupied and used as a hotel within the ten-year period preceding application submission and operating continuously for the three-year period preceding application submission.

“Existing Hotel Rebate Period” is a ten-year period beginning on the earlier of the date that Renovated Facilities are Placed Into Operation or, the end of the Renovation Construction Window. The rebate period for Existing Hotels for which the Renovated Facilities have not been Placed Into Operation by the end of the Renovation Construction Window shall be reduced by the number of days that the Renovated Facilities are non-operational past the end of the Renovation Construction Window. In no event shall the rebate period be longer than 10 years from the date the Renovated Facilities are Placed Into Operation and in no event shall total program participation exceed 13 years (3 years Renovation Construction Window plus 10 year rebate period) from the effective date of the Implementation Agreement.

“First Class Hotel” means a hotel which provides standards of physical features and operational services which meet or exceed the four star or four diamond or equivalent rating criteria established for hotels by the American Automobile Association, J.D. Power & Associates, or Smith’s Travel Research Service.

“First Class Hotel Standard” means standards of physical features and operation which qualify a hotel as a First Class Hotel and which include operation of the hotel with housekeeping services, food and beverage services, room services, banquet and meeting services, concierge and bellman services, and parking services.

"Incentive Program Rebate" means the amount of funds paid by the County annually during either a New Hotel Rebate Period or Existing Hotel Rebate Period to an Operator of a Property included in an Implementation Agreement.

“Implementation Agreement” means an agreement regarding continuing use, maintenance, non-discrimination, public benefit, and such other provisions as the County Board of Supervisors in its sole discretion and upon review of the application for participation may determine are necessary or appropriate to preserve the goals and intent of this chapter, which may but is not required to take the form of a development agreement under Cal. Govt. Code Section 65865(a).

"Initial Assessed Valuation" means the assessed valuation net of any exemptions of a Property as determined by the County Assessor upon the completion of the qualifying new construction project or Qualified Renovation Program subject to the Implementation Agreement.

“New Construction Window” means the four-year period following execution of the Implementation Agreement.

“New Hotel” means a hotel or First Class Hotel that is or was to be constructed in the unincorporated area of the County as a hotel after January 1, 2012. The term “New Hotel” does not include all, or any portion of, or addition to, an existing facility that has operated as a hotel within the last ten years preceding the submission of an application to the County.

“New Hotel Rebate Period” is a ten-year period beginning on the earlier of the date that New Hotel is Placed Into Operation or, the end of the New Construction Window. The rebate period for New Hotels that have not been Placed Into Operation by the end of the New Construction Window shall be reduced by the number of days that the hotel was non-operational past the end of the New Construction Window. In no event shall the rebate period be longer than ten years from the date the New Hotel is Placed Into Operation and in no event shall total program participation exceed fourteen years from the date of the Implementation Agreement.

“Operator” means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, franchisee, or any other capacity, or the assignee or designee of such proprietor.

“Placed Into Operation” means the operation of the facilities in accordance with the terms identified in the Implementation Agreement.

“Property” means the parcel or parcels identified in the Implementation Agreement and any related improvements.

“Property Assessed Value” means the revised secured property tax assessed value determined subsequent to the completion of construction or renovations identified in the Implementation Agreement plus any annual adjustments made pursuant to California Revenue and Taxation Code Section 51.

“Property Assessed Value Offset” means the reduction to the amount of Incentive Program Rebate for the amount of property tax "loss" due to Current Assessed Valuation(s) subsequent to the Initial Assessed Valuation being lower for any reason than the Initial Assessed Valuation. It is calculated by subtracting the Initial Assessed Valuation from the Current Assessed Valuation and if the result is negative multiplying by the 1% basic tax rate. The Property Assessed Value Offset shall be determined by the County Auditor-Controller and in no event shall the Property Assessed Value Offset result in an increase to the Incentive Program Rebate provided to the Operator.

“Qualified Renovation Program” means a property improvement program undertaken by an Existing Hotel that measurably and demonstrably improves the quality of the hotel through the allowance for increased capacity or ability to charge higher room rates, and

enhancements to the hotel's rating by the American Automobile Association, J.D. Power & Associates, or Smith's Travel Research Service. The property improvement program shall be comprehensively executed in a single renovation project on the Property and be completed within the Renovation Construction Window.

"Renovated Facilities" means the portion of a renovated Property that has been improved subject to the Implementation Agreement.

"Renovation Construction Window" means the three-year period following execution of the Implementation Agreement.

"Tourism Promotion" means efforts to promote the County of Santa Barbara as a destination of choice for recreational tourism and also to promote the County of Santa Barbara as a destination of choice for business conferences and other commercial travel.

"Transient Occupancy Tax Base" means the average of the last thirty-six months of annualized transient occupancy tax owed to the County by an Existing Hotel prior to the commencement of a Qualified Renovation Program.

"Transient Occupancy Tax Increment" means the difference between the Transient Occupancy Tax Base and the amount of transient occupancy tax owed to the County by an Existing Hotel after execution of the Implementation Agreement by the County.

**Sec. 49-3. Establishment of Tourism Promotion Fund.**

(a) The County hereby establishes a Tourism Promotion Fund.

(b) The balances and receipts of this fund may be used for Tourism Promotion or otherwise, subject to the Board of Supervisors' discretion.

**Sec. 49-4. Eligibility for Incentive Program.**

(a) The Board of Supervisors must make a finding of public benefit in order for a New Hotel or Existing Hotel to qualify for the hotel incentive program. This finding may be based on any of the following factors, or any other factors as determined by the Board:

(1) The participating project if constructed or improved will create a meaningful increase in the County's general revenues through the creation of new property tax, transient occupancy tax, or sales tax.

(2) The Board reasonably believes that the participating project will improve the quality of an Existing Hotel using rating criteria established for hotels by the American Automobile Association, J.D. Power & Associates, or Smith's Travel Research Service, thereby increasing the quality of visitor serving facilities in the County.

(3) The Board reasonably believes that the participating project will create a new First Class Hotel, thereby increasing the capacity and quality of visitor serving facilities in the County.

- (4) The economic value of the incentive provided is reasonable in relation to the anticipated economic benefits to the community.
- (5) The project will result in the elimination of a distressed property in the County.
- (6) The project will result in significant improvements to the existing community infrastructure or enhance public access to open space and other natural resources of the community.
- (7) The participating project will generate additional revenues to the County sufficient to defray the cost of the program to the County.

(b) In addition to the requirement of Section 49-4 (a) above, to qualify for the hotel incentive program for New Hotels, the Operator of each New Hotel shall:

- (1) Complete and submit to the County Executive Officer, the County's application for the hotel incentive program;
- (2) Execute the Implementation Agreement; and
- (3) Once open and before the end of the first year of the New Hotel Rebate Period, provide independent third-party certification acceptable to the County that the New Hotel is operating to a First Class Hotel Standard as defined in Section 49-2.

(c) In addition to the requirement of Section 49-4 (a) above, to qualify for the hotel incentive program for Existing Hotels, the Operator of each Existing Hotel shall:

- (1) Complete and submit to the County Executive Officer, the County's application for participation in the hotel incentive program, including documentation satisfactory to the County certifying the renovation project for an Existing Hotel as a Qualified Renovation Program; and
- (2) Execute the Implementation Agreement.

#### **Sec. 49-5. Incentive Program.**

(a) New Hotels. Subject to annual appropriation by the Board of Supervisors, during the New Hotel Rebate Period, the County shall pay to an Operator of a New First Class Hotel qualified to participate in the hotel incentive program, and with whom the County has entered into an Implementation Agreement, an Incentive Program Rebate in an amount equal to ninety percent (90%) of transient occupancy taxes (exclusive of penalties and interest) remitted by the Operator to the County by September 30 for hotel stays occurring in the fiscal year ended the prior June 30, less any Property Assessed Value Offset as calculated by the County Auditor-Controller.

- (1) For the purposes of this chapter, the rebate is limited to the transient occupancy tax levy (rate) of 10%, or the current rate, whichever is lower.
- (2) Such payments shall be made annually on or before December 30 of each year of New Hotel Rebate Period.

(3) Such payments shall be reduced by 20% in the event that the affected Property does not receive a revised assessment pursuant to California Revenue and Taxation Code Division 1, Part 0.5 Chapters 3 and 3.5 beginning with Section 70 prior to September 30 of year 1 of the New Hotel Rebate Period.

A. Amounts retained under (a)(3) above shall be remitted to the Operator upon completion of a revised assessment pursuant to Chapter 3 and Chapter 3.5 of the California Revenue and Taxation Code.

(b) Existing Hotels. Subject to annual appropriation by the Board of Supervisors, during the Existing Hotel Rebate Period, the County shall pay to an Operator of an Existing Hotel qualified to participate in the hotel incentive program, and with whom the County has entered into an Implementation Agreement, and which has successfully completed a Qualified Renovation Program, an amount equal to fifty percent (50%) of Transient Occupancy Tax Increment (exclusive of penalties and interest) remitted to the County by the Operator by September 30 for hotel stays occurring in the fiscal year ended the prior June 30, less the Property Assessed Value Offset as calculated by the County Auditor-Controller.

(1) For the purposes of this chapter, the rebate is limited to the transient occupancy tax levy (rate) of 10%, or the current rate, whichever is lower.

(2) Such payments shall be made annually on or before December 30 of each year of Existing Hotel Rebate Period for the prior period ended June 30.

(3) Such payments shall be reduced by 20% in the event that the affected Property does not receive a revised assessment pursuant to Chapter 3 and Chapter 3.5 of the California Revenue and Taxation Code prior to September 30 of year 1 of the Existing Hotel Rebate Period.

A. Amounts retained under (b)(3) above shall be remitted to the Operator upon completion of a revised assessment pursuant to Chapter 3 and Chapter 3.5 of the California Revenue and Taxation Code.

(c) Tourism Promotion Credit.

(1) Subject to appropriation by the Board of Supervisors, for participating New Hotels, the County shall pay into the Tourism Promotion Fund an amount equal to 10% of transient occupancy taxes remitted to the County by the participating Operator during the term of the New Hotel Rebate Period.

(2) Subject to appropriation by the Board of Supervisors, for participating Existing Hotels, the County shall pay into the Tourism Promotion Fund an Amount equal to 10% of the Transient Occupancy Tax Increment remitted to the County by the participating Operator during the term of the Existing Hotel Rebate Period.

#### **Sec. 49-6. Incentive Program Early Termination.**

(a) Unless otherwise provided in an Implementation Agreement, should the Property, assets or facilities identified in the Implementation Agreement not be Placed Into Operation within six years of the execution by the County of the Implementation Agreement, the County Board of Supervisors shall have the option to terminate the Implementation Agreement and the Operator's participation in the hotel incentive program.

(b) Unless otherwise provided in an Implementation Agreement, should the Property sell or otherwise transfer to a new owner, the County Board of Supervisors shall have the option to terminate the Implementation Agreement and the deny the new transferee the right to participate in the hotel incentive program.

**Sec. 49-7. Implementation Agreement.** Each Operator requesting to participate in the County's hotel incentive program shall execute an Implementation Agreement between the Operator and the County, approved by the County Board of Supervisors. The public purposes and consideration for participation in the program shall be described in the Implementation Agreement.

**Sec. 49-8. General Fund Revenues.** All transient occupancy tax revenues or Transient Occupancy Tax Increment remitted to the County of Santa Barbara by an Operator of a hotel covered by an Implementation Agreement as provided in this chapter shall be deemed general fund revenues of the County and shall be deposited in the County's general fund.

**Sec. 49-10. Prevailing Wage.** Work covered by the Implementation Agreement may be a "public work" as defined in Chapter 1 of Part 7 of Division 7 of the California Labor Code, to which Section 1771 may apply. The applicability of prevailing wage requirements shall be addressed in the Implementation Agreement.

**Sec. 49-11. Administrative Processes and Applications.** Consistent with the intent and goals of this chapter, the County Executive Officer may adopt administrative processes and applications for implementation and furtherance of the requirements of this chapter.

**Sec. 49-12. Sunset on New Applications.** New applications for the hotel incentive program will not be accepted after five years after the date of enactment of this ordinance, unless the Board of Supervisors renews the hotel incentive program through an amendment to this ordinance.

SECTION 2: If any provision of this ordinance or application thereof is held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 3: This ordinance shall become effective 30 days from the date of final passage. Notice shall be published in accordance with Government Code Section 25124.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

\_\_\_\_\_  
Chair, Board of Supervisors

ATTEST:

CHANDRA L. WALLER  
CLERK OF THE BOARD

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

APPROVED AS TO ACCOUNTING FORM:

DENNIS A. MARSHALL  
COUNTY COUNSEL

ROBERT GEIS  
AUDITOR-CONTROLLER

By:   
Deputy County Counsel

By: 