

ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF UNION CITY AMENDING
TITLE 3, CHAPTER 3.20 (ORDINANCE NO. 622-04) OF THE CITY OF UNION
CITY MUNICIPAL CODE CONCERNING THE EXISTING PUBLIC SAFETY
SERVICES EXCISE TAX

The People of the City of Union City do hereby ordain as follows:

Section 1. Findings.

A In March 2004, the People of the City of Union City (“City”) adopted Measure K (Ordinance No. 622-04) to provide funding for one of the primary roles of City government; police- and fire-protection services (public-safety services). Measure K added Title 3, Chapter 3.20 to the City’s Municipal Code and imposed a Public Safety Services Excise Tax (“Tax”) on occupants of residential and nonresidential real property throughout the City.

B. Approval of Measure K was recognition by the City’s property owners and voters of the significant public safety challenges facing Union City. In particular, youth-related violence was and remains a serious problem. Without the additional funding provided by Measure K, the City would lack sufficient resources to fund the public safety programs that target gang activity and other violent crime. In addition, emergency preparedness is a significant public safety issue facing Union City. The public desires that significant emergency preparedness programs be put into place. The City determines that the extension and enhancement of a special tax on occupants of residential and nonresidential real property throughout the City, as more fully described and set forth below, is necessary to maintain public good, welfare and safety for a period of twenty years.

C. Measure K will automatically expire in March 2009 unless extended. The City has determined that the cost to continue to provide essential public-safety services at current levels and to provide the expanded public safety services mentioned above exceeds the amount of funds and revenues generated from all other sources of income available for such purpose, including the revenue from Measure K . If Measure K is allowed to expire, the loss of revenue will significantly impact the City’s ability to provide essential public-safety services, as well as any of the expanded public-safety services mentioned above.

D. The City also determined that the cost of providing public-safety services has increased since Measure K was adopted and it is more costly to provide the essential public-safety services.

E. Additionally, members of the public, at community and other meetings of the City Council, have expressed a strong desire that the City maintain its current level of essential public-safety services, and also expand its youth violence prevention and intervention programs, and its emergency preparedness programs. Maintaining current

levels of service and providing the additional programs that the public seeks requires either the extension and expansion of Measure K, or severe reductions in other essential public services.

F. It is the purpose and intent of this Ordinance to authorize the adjustment of the City's Tax from the current rates for each parcel type, as set forth in Section 3.20.030 ("Tax Rate Schedule"), to new rates as set forth below. The Tax is a parcel tax and a special tax. The imposition of a new "Tax Rate Schedule" is necessary to continue to provide essential public safety services to occupants of residential and nonresidential real property throughout the City for a period of Twenty (20) years. The imposition of a new "Tax Rate Schedule" will also provide funding for youth violence prevention and intervention and emergency preparedness programs..

G. The City has determined that the definition of "Public safety services", as set forth in Chapter 3.20.010 ("Definitions"), does not capture all the types of public safety services provided to the people of the City using revenue generated from the Tax and therefore the definition of "Public safety services" should be amended.

H. The City recognizes that occupants of both residential and nonresidential property use public-safety services. However, the City has determined that the use of public-safety services by occupants of various classes of residential and nonresidential properties differ significantly in their occupants' respective uses of public-safety services. Therefore, the City has calculated the tax to take into account the relative use of public-safety services by the occupants of the uses of developed property. For example, the tax on multiple family unit parcels is approximately 69% of the tax on single-family residential parcels of a similar size because multiple family units in the City tend to have fewer values at risk and lower occupant densities than single-family units. The City therefore finds it is appropriate to tax multiple family unit parcels at approximately 69% of the tax on a single family parcel, reflecting the lower values at risk and lower occupant densities of multiple family units.

I. The City has determined that the size of a parcel has a direct relationship to the usage of public safety services. A larger parcel, whether residential, commercial, industrial or mixed-use, is likely to have larger structures, more occupants and more visitors located on it (referred to as "values at risk"), thus generating more use of public safety services. The annual Tax on single-family residences, commercial and industrial, and mixed-use parcels is therefore tied to the size of the parcel.

J. A parcel of non-residentially developed real property often has more than one business located on it, and such businesses may contain large quantities of materials and products that may be flammable, hazardous, and quite valuable in the aggregate. If customers and employees are accounted for, more people generally occupy a commercial or industrial parcel than a typical residential parcel. Moreover, non-residential parcels generally create public safety responses that significantly exceed the scope and extent of the typical public safety responses attributable to residential parcels. The City has determined that, as a result, the use of public safety services attributable to the smallest

size category of non-residential parcels is approximately twice that of a typical single-family residential parcel. The City further determines that the use of public safety services increases proportionately with the size of non-residential parcels. Thus, the annual tax on non-residential parcels will vary from approximately 2.7 times that of residential parcels to approximately 78 times that of typical residential parcels, for the largest commercial and industrial parcel size category.

K. The City has determined that the tax structure, as reflected in the “Tax Rate Schedule” set forth below, reflects the relative occupancies and values at risk associated with each parcel size category and the differing uses of public safety services by residents of each parcel size category.

L. The “Tax Rate Schedule” as set forth below is intended to be proportional to and based on estimates of typical use of and benefit from public-safety services by occupants of different residential parcels and of nonresidential parcels of different types. The rates are not tailored to individual use both because such tailoring is not administratively feasible and because the City must make public-safety services available to all parcels and owners and occupants of parcels equally.

M. The “Tax Rate Schedule”, as set forth below, represents the cost in today’s dollars of the privilege of using and use of real property which generates the need for public-safety services. However, the cost of the privilege of using and the use of real property which generates the need for public-safety services will vary based on market conditions and inflation rates. To capture the changes in the cost of providing the public safety services to occupants of residential and nonresidential parcels the “Tax Rate Schedule” schedule will be adjusted annually in accordance with the Consumer Price Index (“CPI”), but will not exceed 3% and in no event will result in a “Tax Rate Schedule” for any fiscal year which is less than the amount established for the preceding fiscal year.

N. The Tax is an excise tax based on the privilege of using and the use of real property, which generates the need for public-safety services. It is not a tax on real property, nor is it any other kind of tax on property or the ownership of property. Therefore, undeveloped properties are not subject to the tax, since such properties create very little need for public safety services. Similarly, because unoccupied, vacant properties create significantly decreased need for public services, properties that are unoccupied for a period of six months or more are entitled to a refund of 5% of the annual tax for each month the property is unoccupied. It is not a transaction or sales tax on the sale of real property. Finally, because the tax proceeds are deposited in a special fund and the fund is restricted for the provision of public-safety services, the tax is a special tax.

Section 2: Section 3.20.010 Amended. Section 3.20.010, “Definitions,” of Title 3, Chapter 3.20 (Ordinance No. 622-04) of the Municipal Code is hereby amended to read as follows (with text in ~~strikeout~~ indicating deletion and double-underlined text indicating addition):

"Consumer Price Index" or "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Oakland-San Jose as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised.

~~"Public safety services" means (a) obtaining, furnishing, operating, and maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection services expenses as are deemed necessary by the City Council for the benefit of the residents of the City; and (b) obtaining, furnishing, operating, and maintaining fire protection equipment and apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the safety.~~

"Public safety services" means (a) obtaining, furnishing, operating, and maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection services expenses and emergency preparedness expenses as are deemed necessary by the City Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection services expenses and emergency preparedness expenses as are deemed necessary by the City Council for the benefit of the residents of the City; and (c) paying the personnel salaries and benefits of youth violence prevention and intervention services, and contract costs for youth violence prevention and intervention services, including but not limited to crime data analysis, violence prevention strategy coordination, community outreach programs, intervention counseling services, and obtaining, furnishing, operating, and maintaining youth violence prevention and intervention services property, equipment or apparatus.

Section 3: Section 3.20.020 Amended. Section 3.20.020, "Amount of Tax," of Title 3, Chapter 3.20 (Ordinance No. 622-04) of the Municipal Code is hereby amended to read as follows (with text in ~~strikeout~~ indicating deletion and double-underlined text indicating addition):

"The tax on each parcel of real property in the City shall depend on the use to which the occupant or owner has put the property and the size of the parcel. The tax per year on each parcel in the City shall not exceed the amount applicable to the parcel, as specified below.

No later than July 15 of each year, City Manager shall determine the amount of taxes to be levied upon the parcels in the City for the then-current fiscal year as set forth below.

Tax Rate Schedule

Parcel type	Parcel size (square feet)	Maximum amount of tax	Maximum Amount of tax
<i>Single-family residential parcel</i>	0-4,999	\$82	\$ 155.26
	5,000-9,999	\$92	\$ 173.73
	10,000-14,999	\$106	\$ 201.46
	15,000-19,999	\$121	\$ 229.19
	20,000+	\$138	\$ 260.59
<i>Multi-family residential parcel</i> (tax imposed on per-dwelling-unit basis)	N/A	\$57 (per dwelling unit)	\$107.20 (per dwelling unit)
<i>Non-residential parcel</i>	0-9,999	\$200	\$ 421.09
	10,000-24,999	\$400	\$ 842.18
	25,000-49,999	\$800	\$1684.37
	50,000-99,999	\$1600	\$3368.73
	100,000-249,999	\$3200	\$6737.47
	250,000+	\$6400	\$13474.93

The foregoing tax rate schedule shall apply for the 2003/2004 fiscal year commencing July 1, 2003 and ending June 30, 2004. For each fiscal year thereafter commencing with the 2004/2005 fiscal year, the foregoing tax rate schedule shall be adjusted as follows:

By an amount equal to the percentage increase or decrease in the Consumer Price Index for All Urban Consumers (All Items) (Base Year 1994 = 100) for San Francisco-Oakland, California, as published by the United States Department of Labor, Bureau of Labor Statistics, for the period from December 2002 to the December of the fiscal year immediately prior to the year in which the percentage adjustment will apply, multiplied by the specific tax rate in the foregoing tax rate schedule. For purposes of example only, if the tax rate for a single-family residential parcel of 4000 square feet is \$82, and if the Consumer Price Index for December 2002 is 100 and for December 2004 is 106, the increase of 6 is a 6% increase, meaning an additional tax of \$4.92 for the 2005/2006 fiscal year or a total tax of \$86.92 for such fiscal year.

The foregoing tax rate schedule shall apply for the 2008/2009 fiscal year commencing July 1, 2008 and ending June 30, 2009. In order to keep the tax on each parcel in constant first year dollars for each fiscal year subsequent to 2008/2009, the tax per year shall be adjusted as set forth below to reflect any increase in the Consumer Price Index beyond the first fiscal year the tax is levied. The tax per year on each parcel for each fiscal year subsequent to the first fiscal year shall be an amount determined as follows:

$$\begin{array}{l}
 \text{Tax Per Parcel} \\
 \text{For then Current} \\
 \text{Fiscal Year}
 \end{array}
 \quad = \quad
 \begin{array}{l}
 \text{Tax Per Parcel} \\
 \text{For Preceding} \\
 \text{Fiscal Year}
 \end{array}
 \quad \times \quad
 \begin{array}{l}
 \text{Consumer Price Index} \\
 \text{for December 2008 to} \\
 \text{December of immediately} \\
 \text{Preceding Fiscal Year} \\
 \text{OR 1.03, whichever is less}
 \end{array}$$

Provided, however, that in no event shall the tax per parcel for any fiscal year be less than the amount established for the preceding fiscal year.

If an undeveloped parcel becomes developed, the applicable tax for that fiscal year shall be one-twelfth the tax applicable to the property, based on its parcel type once developed, multiplied by the number of months, or part thereof, that is developed.

The tax on mixed-use property shall be based on the proportion that each type of development represents as part of the whole development. The exact calculation shall be defined more specifically in administrative guidelines adopted pursuant to this ordinance.

A low income exemption is hereby established for the duration of this tax. The low income exemption shall apply to property owners with incomes at or below the Annual Very Low Income (50% of median income) limits for Federal Housing and Urban Development (HUD) Programs, provided that written proof of income is provided annually to the City on such a form as may be required by the Administrative Services Director.

The taxes levied on each parcel pursuant to this section shall be a charge upon the parcel and shall be due and collectible as set forth in Section 3.20.060, below. “

Section 4: Twenty Year Sunset. If this ordinance becomes effective, it shall remain in effect for 20 years from its effective date, and the Tax Rate Schedule provided in Section 3 above shall apply in the 2008/2009 Fiscal Year. If this ordinance does not become effective, then Ordinance No. 622-04 shall continue in effect for the term provided in Section 7 thereof.

Section 5: Severability. If any provision, sentence, clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such finding shall affect only such provision, sentence, clause, section or part, and shall not affect or impair any of the remaining parts of the ordinance.

Section 6: Authority for Ordinance. This ordinance is enacted pursuant to the authority of Government Code Section 50077 and Article XIID, Section 3(a) of the California Constitution.

Section 7: Challenge to Tax. Any action to challenge the tax imposed by this ordinance shall be brought pursuant to Government Code Section 50077.5 and Code of Civil Procedure Section 860 *et seq.*

Section 8: Effective Date. If this ordinance is approved by two-thirds of the voters voting on the issue at the June 3, 2008 election, pursuant to Elections Code Section 9217, the ordinance shall become effective ten (10) days after the Council certifies the results of the election.

Section 9: Publication. If this ordinance is approved by two-thirds of the voters voting on the issue at the June 3, 2008 election, a copy of this ordinance shall be published in a local newspaper of general circulation within the City, in accordance with the requirements of California Government Code Section 36933.

APPROVED by the following vote of the People of the City of Union City on June 3, 2008:

ADOPTED by Declaration of the vote by the City Council of the City of Union City on:

AYES:	Council Members:
NOES:	Council Members:
ABSENT:	Council Members:
ABSTAINING:	Council Members:

ATTEST:

City Clerk