

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF UNION CITY AMENDING
TITLE 3, CHAPTER 3.20 OF THE UNION CITY MUNICIPAL CODE
TO EXTEND THE EXISTING, VOTER-APPROVED
MEASURE QQ PUBLIC SAFETY SERVICES EXCISE TAX**

WHEREAS, at an election held on March 2, 2004, greater than two-thirds of the voters in the City of Union City voting on the question approved a five (5) - year local funding measure that provided revenue for police and fire protection services that could not be taken by the State, commonly known as “Measure K;” and

WHEREAS, at an election held on November 4, 2008, greater than two-thirds of the voters in the City of Union City voting on the question approved an extension and enhancement of Measure K, commonly known as “Measure UU,” for an additional eight (8) years, in order to fund essential police and fire protection services in Union City as well as youth violence prevention and intervention programs—funding that could not be taken by the State; and

WHEREAS, at an election held on November 8, 2016, greater than two-thirds of the voters in the City of Union City voting on the question approved an extension of Measure UU, commonly known as “Measure QQ,” for an additional four (4) years; and

WHEREAS, Measure QQ provides approximately \$4 million in revenue annually and has been critical in providing essential police and fire protection services as well as youth violence prevention and intervention programs; and

WHEREAS, sixteen years ago, local voters first approved a dedicated source of local funding to support public safety services and youth violence prevention programs to keep Union City safe; and

WHEREAS, these locally-controlled funds have addressed local needs by keeping police officers on patrol in Union City neighborhoods, helping with responses to 911 calls and other emergencies, and supporting youth violence prevention and gang intervention programs; and

WHEREAS, over this period, Union City has experienced a 30% reduction in youth violence, similar reductions in property crime and local high school graduation rates are on the rise as students stay on a path to higher education and good jobs; and

WHEREAS, over \$4 million in annual funding dedicated to public safety services and youth violence prevention in Union City is set to automatically expire on June 30, 2021; and

WHEREAS, this significant loss of funding would be on top of recent cuts to public safety services resulting from the City's ongoing structural deficit; and

WHEREAS, millions of dollars have already been cut from the City's Police Department budget, resulting, at times, in just four on-duty police officers patrolling our City of almost 75,000 residents; and

WHEREAS, public safety is a top priority and continuing the public safety funding would preserve 911 emergency response and disaster preparedness, maintain youth violence prevention, gang intervention and crisis response programs for school and community safety, maintain neighborhood police patrols, and prevent additional fire station closures and reductions in on-duty firefighters and paramedics; and

WHEREAS, the City believes that continuing this essential source of local public safety funding is vital for maintaining the safety of local residents; and

WHEREAS, extending the existing voter-approved local funding for public safety services will continue to require independent financial audits and yearly reports to the community to ensure that all funds are spent as promised; and

WHEREAS, an extension of Measure QQ will ensure that all money raised will be utilized specifically for local public safety services and youth and family services; and

WHEREAS, Measure QQ was enacted by Ordinance No. 833-16 and is codified in Chapter 3.20 of the Union City Municipal Code. Section 4 of Ordinance No. 833-16 provides that Measure QQ is set to expire four (4) years from its operative date unless extended by the voters which would deprive the City of a crucial source of funding to prevent severe cuts to essential police and fire protection services as well as youth violence prevention and intervention programs; and

WHEREAS, 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 of the Union City Municipal Code ("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 eight (8) years; and

WHEREAS, 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 depending upon property type. 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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” will be adjusted annually in accordance with the Consumer Price Index (“CPI”), but in no event will the “Tax Rate Schedule” increase less than 3% for any fiscal year from the amount established for the preceding fiscal year; and

WHEREAS, 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. 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.

THE PEOPLE OF THE CITY OF UNION CITY DO ORDAIN AS FOLLOWS:

SECTION 1. **Recitals.** The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. **Amendment of Section 3.20.030 of the Municipal Code.** Effective July 1, 2021, Section 3.20.030 “Amount of tax” of the Union City Municipal Code is hereby amended to read as follows:

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, the 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)	Amount of tax (FY 2021/22)
<i>Single-family residential parcel</i>	0–4,999	\$156.41
	5,000–9,999	\$175.00
	10,000–14,999	\$202.95
	15,000–19,999	\$230.90
	20,000+	\$262.54
<i>Multi-family residential parcel</i> (tax imposed on per-dwelling-unit basis)	N/A	\$107.99
<i>Mobile Home Park parcel</i> (tax imposed on a per dwelling-unit basis)	N/A	\$54.00
<i>Non-residential parcel</i>	0–9,999	\$372.40
	10,000–24,999	\$744.82
	25,000–49,999	\$1,489.61
	50,000–99,999	\$2,979.25
	100,000–249,999	\$5,958.50
	250,000 +	\$11,917.01

The foregoing Tax Rate Schedule shall apply for the 2021/2022 fiscal year commencing July 1, 2021 and ending June 30, 2022. In order to keep the tax on each parcel in constant first year dollars for each fiscal year subsequent to 2021/2022, 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:

$$\begin{array}{rcl}
 \text{Tax Per Parcel} & & \text{Change In Consumer Price} \\
 \text{For Then Current} & = & \text{Index From April Of Current} \\
 \text{Fiscal Year} & & \text{Fiscal Year To April Of} \\
 & & \text{Immediately Preceding Fiscal} \\
 & \times & \text{Year Or 1.03, Whichever Is} \\
 & & \text{Greater}
 \end{array}$$

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 chapter.

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 (fifty percent 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.

SECTION 4. Eight-Year Sunset. If this ordinance becomes effective, it shall remain in effect for eight (8) years from its effective date, beginning the 2021/2022 Fiscal Year, and the Tax Rate Schedule provided in Section 3 above shall apply beginning in the 2021/2022 Fiscal Year, subject to the annual adjustments described in Section 3. If this ordinance does not become effective, then Ordinance No. 833-16 shall continue in effect for the term provided in Section 4 thereof.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

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. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. If this Ordinance is approved by two-thirds of the voters voting on the issue at the March 3, 2020 election, pursuant to Elections Code Section 9217, the tax shall become effective ten (10) days after the Council certifies the results of the election.

APPROVED by the following vote of the People of the City of Union City on March 3, 2020:

YESES:

NOES:

ADOPTED by Declaration of the March 3, 2020 election results by the City Council of the City of Union City at a regular meeting held on _____, 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS

APPROVED:

Carol Dutra-Vernaci, Mayor

ATTEST:

APPROVED AS TO FORM:

Anna Brown, City Clerk

Kristopher J. Kokotaylo, City Attorney