

RESOLUTION NO. 8218

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE SUBMITTING TO THE VOTERS AT THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION AN ORDINANCE RELATING TO UTILITY USERS' TAXES

WHEREAS, by prior resolution, the City Council has called a General Municipal Election for November 3, 2020 (the "Election"); and

WHEREAS, by prior resolution, the City Council has requested that the Election be consolidated with all other elections conducted by Los Angeles County on that same date; and

WHEREAS, the City provides crucial services within its boundaries; and

WHEREAS, additional revenue is needed to fund general municipal services such as 911 emergency response; fire/paramedic/public safety services; homeless reduction programs; senior/youth programs; disaster preparedness; and repairing and maintaining streets, roads, potholes, and storm drains; and

WHEREAS, the Election provides an opportunity for the City to present a community services and emergency response measure to the voters so that the voters may approve a new funding source to meet these needs;

WHEREAS, the City of Hawthorne currently imposes a 5% tax on users of water, electric, natural gas and communications utility services; and

WHEREAS, the City Council desires to submit to the voters at the Election an ordinance adding an additional 2.5% to the rate of this tax.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, AS FOLLOWS:

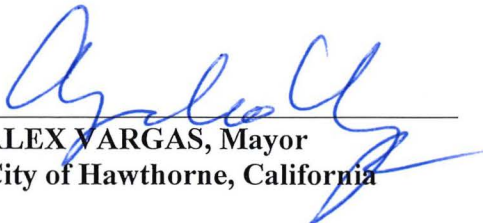
1. Pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council proposes the ordinance attached hereto as Exhibit "A" and incorporated herein by reference (the "Ordinance") and directs that the Ordinance be submitted to the voters at the Election.
2. The question shall appear on the ballot as follows:

CITY OF HAWTHORNE COMMUNITY SERVICES AND EMERGENCY RESPONSE MEASURE. To fund general municipal services such as 911 emergency response, fire/paramedic/public safety, homeless reduction programs, senior/youth programs, disaster preparedness, and repairing/maintaining streets/roads/potholes/storm drains, shall an ordinance creating an additional 2.5% locally-controlled tax on utility bills be adopted, providing approximately \$3,200,000 annually in new funds until ended by voters, exempting senior citizen/disabled-headed households, and requiring independent audits and transparency?	Yes
	No

This measure must be approved by a majority of the votes cast in order to be adopted.

3. The City Council hereby directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within ten (10) days of the adoption of this Resolution.
4. Pursuant to Elections Code Section 10403, the City Council requests that the Los Angeles County Board of Supervisors consent to consolidation of the Election with the general election to be conducted by the Los Angeles County Registrar of Voters on November 3, 2020. Such election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating a municipal election consolidated with a statewide election. The City will bear all costs customarily charged by the County to a city in connection with a ballot question submitted at a municipal election that is consolidated with an election conducted by the County.
5. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.
6. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters of Los Angeles County.

PASSED, APPROVED AND ADOPTED THIS 28th OF JULY, 2020.



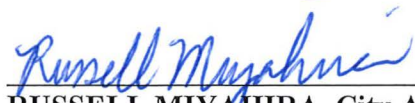
 ALEX VARGAS, Mayor
 City of Hawthorne, California

ATTEST:



**Paul Jimenez, Ph.D, City Clerk
City of Hawthorne, California**

APPROVED AS TO FORM:



**RUSSELL MIYAHIRA, City Attorney
City of Hawthorne, California**

Attachment "A"

Ordinance

ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY OF HAWTHORNE, CALIFORNIA,
AMENDING CHAPTERS 3.44 (UTILITY USER TAXES) AND 3.45
(COMMUNICATION USERS' TAX) OF THE HAWTHORNE
MUNICIPAL CODE TO INCREASE RATES**

**THE PEOPLE OF THE CITY OF HAWTHORNE DO HEREBY ORDAIN AS
FOLLOWS:**

SECTION 1. Subdivision A of Section 3.44.040 (Electricity Users Tax) of Chapter 3.44 (Utility User Taxes) of Title 3 (Revenue and Finance) of the Hawthorne Municipal Code shall be amended to read as follows:

- A. There is imposed a tax upon every person in the city using electrical energy in the city. The tax imposed by this section shall be at the rate of seven and one-half percent of the charges made for such energy and shall be paid by the person paying for such energy. "Charges", as used in this section, shall include charges made for: (1) metered energy, and (2) minimum charges for service, including customer charges, service charges, demand charges, standby charges and annual and monthly charges, fuel, cost adjustments, and the like.

SECTION 2. Subdivision A of Section 3.44.050 (Gas Users Tax) of Chapter 3.44 (Utility User Taxes) of Title 3 (Revenue and Finance) of the Hawthorne Municipal Code shall be amended to read as follows:

- A. There is imposed a tax upon every person in the city, other than a gas corporation or electrical corporation, using in the city gas which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of seven and one-half percent of the charges made for such gas and shall be paid by the person paying for such gas. "Charges" as used in this section shall include: (1) gas which is delivered through mains or pipes; (2) minimum charges for such services, including customer charges, service charges, and annual and monthly charges.

SECTION 3. Subdivision A of Section 3.44.060 (Water Users Tax) of Chapter 3.44 (Utility User Taxes) of Title 3 (Revenue and Finance) of the Hawthorne Municipal Code shall be amended to read as follows:

- A. There is imposed a tax upon every person in the city using water which is delivered through mains or pipes. The tax imposed by this section shall be at a rate of seven and one-half percent of the charges made for such water.

SECTION 4. Subdivision A of Section 3.45.040 (Communication Users' Tax) of Chapter 3.45 (Communication Users' Tax) of Title 3 (Revenue and Finance) of the Hawthorne Municipal Code shall be amended to read as follows:

- A. There is imposed a tax upon every person in the city using communication services. The tax imposed by this section shall be at the rate of seven and one-half percent of the charges made for such services and shall be collected from the service user by the communication services supplier or its billing agent. There is a rebuttable presumption that communication services, which are billed to a billing or service address in the city, are used, in whole or in part, within the city's boundaries, and such services are subject to taxation under this chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the communication services.

SECTION 5. The intent of this ordinance is to increase the rate of each utility users' tax imposed by the City of Hawthorne to 7.5%. It is noted that the Telephone Users Tax imposed by Section 3.44.030 of the Municipal Code and the Cable Television Users Tax imposed by Section 3.44.070 of the Municipal Code were replaced in 2008 by the voter-approved Communication Users' Tax codified at Chapter 3.45 of the Municipal Code. If these taxes still apply to any use of any utility, it is the intent of the People that the rates of these taxes also increase to 7.5%

SECTION 6. The increased tax rates established by this Ordinance shall take effect March 1, 2021. Notice of the increased rates shall be given pursuant to Section 799 of the California Public Utilities Code.

SECTION 7. Any provision of this Ordinance may be amended by the City Council without a vote of the People. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Ordinance. The People affirm that the following actions shall not constitute an increase of the rate of a tax:

(1) The restoration of the rate of the tax to a rate that is no higher than that set by this Ordinance, if the City Council has acted to reduce the rate of the tax;

(2) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as such interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Ordinance;

(3) The establishment a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Ordinance); and

(4) The collection of the tax imposed by this Ordinance, even if the City had, for some period of time, failed to collect the tax.

SECTION 8. It is noted that, pursuant to Sections 3.44.210 and 3.45.070 of the Municipal Code, the City has established certain exemptions, including exemptions applicable to certain households headed by persons 62 years of age or older or certain persons with disabilities. These exemptions, which are not changed by this Ordinance, apply to the additional taxes imposed by this Ordinance.

SECTION 9. The proceeds of all taxes imposed by this Ordinance shall be deposited in the general fund of the City and available for any lawful municipal purpose. All taxes shall be audited by an independent accountant as part of the City’s annual financial audit, and the proceeds of the taxes imposed by this Ordinance, as well as the expenditure of such proceeds, shall be annually reported to the public and presented to the City Council at a public meeting as part of the City’s Comprehensive Annual Financial Report or separately from the City’s Comprehensive Annual Financial Report.

SECTION 10. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The People declare that they would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 11. The mayor is hereby authorized to attest to the adoption of this ordinance by signing where indicated below upon certification by the City Clerk that a majority of those electors voting on this Ordinance have voted in the affirmative.

PASSED, APPROVED, and ADOPTED by the people of the City of Hawthorne at the Election held on November 3, 2020.

ALEX VARGAS, MAYOR
City of Hawthorne, California

ATTEST:

DR. PAUL JIMENEZ,
CITY CLERK
City of Hawthorne, California

APPROVED AS TO FORM:

**RUSSELL I. MIYAHIRA,
CITY ATTORNEY
City of Hawthorne, California**

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF HAWTHORNE)

I, **Diana Cucalon**, the duly appointed Acting Deputy City Clerk of the City of Hawthorne, California, **DO HEREBY CERTIFY** that the foregoing Resolution, being Resolution No. 8218 was duly adopted by the City Council of the City of Hawthorne, at the regular meeting of the City Council held **July 28, 2020** and that it was adopted by the following vote, to wit:

AYES: Councilmembers, Monteiro, Talleda, Valentine, Mayor Vargas.

NOES: None.

ABSTAIN: None.

ABSENT: Councilmember Awad.



Diana Cucalon
Acting Deputy City Clerk
City of Hawthorne, California