

CITY OF ALBANY MEASURE DD

DD To support City of Albany general services including: disaster and emergency preparedness, reducing greenhouse gas emissions, emergency response and environmental sustainability, shall a measure increasing the City's utility users' tax from 7% to 9.5% for gas and electric service, and applying the tax to water service at 7.5%, providing an additional \$675,000 annually until ended by voters, exempting self-generated energy, exempting low-income households, requiring independent audits, with all funds remaining local, be adopted?	YES
	NO

please call the City Clerk's office at (510) 528-5710 and a copy will be mailed at no cost to you.

s/MALATHY SUBRAMANIAN
City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE DD

(Utility Users' Tax)

The City of Albany ("City") currently imposes a utility users' tax ("UUT") of seven percent (7%) for gas and electricity. The City currently does not impose a tax on water service. The gas and electric UUT currently provides approximately \$887,000.00 annually to the General Fund to pay for general City services and programs.

Measure "DD" was placed on the ballot by the Albany City Council and, if approved by a majority of Albany voters, will amend the Municipal Code to increase the maximum gas and electric UUT rate from seven percent (7%) to nine and one half percent (9.5%) and apply the UUT to water service at a maximum rate of seven and one half percent (7.5%). It is projected that the UUT rate increase on gas and electricity and the new UUT on water service will together generate an additional \$675,600.00 in new revenues annually.

The UUT is typically computed on the basis of monthly usage and collected by the utility services provider in accordance with the service provider's regular billing practices. The increased gas and electric UUT rates and the new water UUT rate would remain in effect until modified or repealed by Albany voters.

Measure "DD" would be a "general tax". All revenue from this tax would be deposited into the City's General Fund and could be used for general City operations and services. The Measure expresses an intent that the City spend at least one-third (1/3) of the UUT revenue on implementing the City's Climate Action and Adaptation Plan and supporting environmental sustainability programs.

A "yes" vote on Measure "DD" will approve the increased UUT rate for gas and electric service and the new UUT rate for water service.

A "no" vote on Measure "DD" will not approve the increased UUT rate for gas and electric service and the new UUT rate for water service.

The above statement is an impartial analysis of Measure "DD". If you desire a copy of the ordinance or measure,

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ARGUMENT IN FAVOR OF MEASURE DD

Want **Albany to care about and take action on climate change**? Want **fair taxes** to support this important work? **VOTE YES on DD!!**

Albany met its 2020 pollution reduction goal as a community by reducing our carbon emissions. Help Albany meet its next critical climate protection goals by **raising funds to support climate action while reducing energy costs for low-income Albany residents**.

Measure DD slightly raises taxes on gas and electricity (about \$4/month for the average household) and institutes a tax on water. In addition to encouraging more frugal use of these resources, it also **fairly taxes users: those who use more pay more, those who use less pay less**.

These funds are needed to support Albany's efforts to **promote sustainability, provide emergency response planning, and other important city services**. Measure DD recommends a third of the new revenues be used for **climate protection and adaptation actions** such as:

- Transitioning from gas to **clean, renewably generated electricity**
- Increasing our urban forest and green infrastructure to **reduce temperatures**
- Creating incentives to encourage residents to use **zero emission forms of transportation**

We need to rapidly eliminate fossil fuel use to protect the climate. There are cost-competitive, electric appliances that can replace older, polluting and unsafe natural gas-fired appliances. Measure DD will **raise funds in an equitable way to promote and encourage our transition to clean electrically powered appliances** while also **increasing the safety and health of our residents**.

Voting YES on Measure DD **exempts low-income Albany households** enrolled in CARE and CAP cost reduction programs **from the proposed and EXISTING utility taxes**. Passage of the measure will **SAVE financially challenged households in Albany money**. **Measure DD will advance economic justice in Albany**.

VOTE YES on Measure DD! Albany cares about the climate! Albany wants taxes to be fair! Albanyfairclimate.org

s/NICK PILCH

Albany Mayor

s/PETER MAASS

Albany Councilmember

s/ERIC LARSON

Chair, Albany Climate Action Committee

s/DAVID ARKIN

Former Planning and Zoning Commissioner

s/NICK PETERSON

Principal, Albany Climate Action Coalition

NO ARGUMENT AGAINST MEASURE DD WAS SUBMITTED

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**FULL TEXT OF MEASURE DD
ORDINANCE NO. 2020-10**

AN ORDINANCE OF THE CITY OF ALBANY AMENDING AND ADDING CERTAIN SUBSECTIONS TO SECTION 4-11, CHAPTER IV OF THE ALBANY MUNICIPAL CODE INCREASING THE MAXIMUM RATE OF THE GENERAL UTILITY USERS' TAX ON GAS AND ELECTRIC SERVICE FROM 7% TO 9.5%, AND EXTENDING THE UTILITY USERS' TAX TO WATER SERVICE AT A 7.5% RATE AND TO PROVIDE CERTAIN LOW-INCOME EXEMPTIONS FROM GAS, ELECTRIC AND WATER UTILITY USERS' TAX

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1: AUTHORITY.

This Ordinance is enacted in accordance with the authority granted to cities by Article XI, Section 7, and Article XIII C, Section 2 of the California Constitution and the California Elections Code.

SECTION 2: AMENDMENT TO SUBSECTION 4-11.1 OF SECTION 4-11 OF THE MUNICIPAL CODE.

Chapter IV, Section 4-11, Subsection 4-11.1 of the City of Albany Municipal Code is hereby amended to read:

“4-11.1 Short Title.

This Section, 4-11, shall be known as the “Electric, Water, Gas, and Communication Users’ Tax Law” of the City of Albany.”

SECTION 3: ADDITION OF PARAGRAPHS (e), (f) and (g) TO SUBSECTION 4-11.3 OF SECTION 4-11 OF THE MUNICIPAL CODE.

Paragraphs (e), (f) and (g) are hereby added to Chapter IV, Section 4-11, Subsection 4-11.3 of the City of Albany Municipal Code to read:

“4-11.3 Constitutional, Statutory, and Other Exemptions. Short Title.

....

(e) The tax imposed under subsections 4-11.5, 4-11.6 and 4-11.7 shall not apply to any household which qualifies for Pacific Gas & Electric’s “California Alternate Rates for Energy (CARE)” Program, or any successor program, whereby households meeting certain income criteria may qualify for discounted gas and/or electric service.

(f) The tax imposed under subsection 4-11.27 shall not apply to any household which qualifies for a discounted rate for water service through the CAP (Customer Assistance Program) established by the East Bay Municipal Utilities District, whereby households meeting certain income criteria may qualify for discounted water service.

(g) Alternative Utility Service Suppliers - Exemptions.

1. The tax imposed under subsections 4-11.5 and 4-11.7 on electric utility service shall not apply to any household which receives electric utility service from an alternative utility service supplier and that household qualifies for discounted electric utility service rates under a program adopted by the alternative service supplier based upon meeting certain income criteria.

2. The tax imposed under subsections 4-11.6 and 4-11.7 on gas service shall not apply to any household which receives gas utility service from an alternative utility service supplier and that household qualifies for discounted gas utility service rates under a program adopted by the alternative service supplier based upon meeting certain income criteria.

3. The tax imposed under subsection 4-11.27 on water utility service shall not apply to any household which receives water utility service from an alternative water utility service supplier and that household qualifies for discounted water utility service rates under a program adopted by the alternative service supplier based upon meeting certain income criteria.

SECTION 4: AMENDMENT TO PARAGRAPH (a) AND ADDITION OF PARAGRAPH (g) TO SUBSECTION 4-11.5 OF SECTION 4-11 OF THE MUNICIPAL CODE.

Chapter IV, Section 4-11, Subsection 4-11.5, paragraph (a) of the City of Albany Municipal Code is hereby amended and paragraph (g) is hereby added to the City of Albany Municipal Code to read:

“4-11.5 Electricity Users’ Tax.

(a) There is hereby imposed a tax upon every person using electricity in the City. The tax imposed by this section shall be at the *maximum* rate of ~~seven (7%)~~ *nine and one-half (9.5%)* percent of the charges made for such electricity, and for any supplemental services or other associated activities directly related to and/or necessary for the provision of electricity to the service user, which are provided by a service supplier or non-utility service supplier to a service user. The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent.

....

(g) If this ordinance is enacted by the voters, the City Council will endeavor to expend at least one-third (1/3) of the additional revenue generated from the increase in the maximum electricity users’ tax rate (above 7%) for the following spending priorities:

1. Those Action Items in the City’s Climate Action and Adaptation Plan, approved by the City Council on December 2, 2019, and as it may be amended from time to time by the City Council.

2. Additional environmental sustainability programs as may be authorized by the City Council.

Notwithstanding anything to the contrary, this paragraph (g) shall not be construed, and it is not the Voter’s intent, to convert all or any of the electricity users’ tax into a

“special tax”, as that term is defined Article XIIC §1(d) of the California Constitution, California Government Code §§53721 and 53724, or any combination thereof. Although this paragraph expresses the Voter’s desire that additional electricity users’ tax revenues be expended for certain priorities, this expression is non-binding on any future or subsequently constituted City Council, and the electricity users’ tax shall remain a “general tax” as that term is defined in Article XIIC §1(a) of the California Constitution, the revenues from which may be budgeted by the City Council to pay for any valid expense of the City.”

SECTION 5: AMENDMENT TO PARAGRAPH (a) AND ADDITION OF PARAGRAPH (g) TO SUBSECTION 4-11.6 OF SECTION 4-11 OF THE MUNICIPAL CODE.

Chapter IV, Section 4-11, Subsection 4-11.6, paragraph (a) of the City of Albany Municipal Code is hereby amended and paragraph (g) is hereby added to the City of Albany Municipal Code to read:

“4-11.6 Gas Users’ Tax.

There is hereby imposed a tax upon every person using gas in the City, which is transported and delivered through a pipeline or by mobile transport. The tax imposed by this subsection shall be at the *maximum* rate of seven ~~(7%)~~ *nine and one-half (9.5%)* percent of the charges made for such gas, including all services related to the storage, transportation and delivery of such gas.

The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent, and shall apply to all uses of gas, including but not limited to, heating, electricity generation, and the use of gas as a component of a manufactured product. Notwithstanding the foregoing, the charges made for the baseline rate usage approved by the California Public Utilities Commission for gas furnished to a residential service user shall be exempt from the tax levied by this subsection 4-11.6.

....

(g) If this ordinance is enacted by the voters, the City Council will endeavor to expend at least one-third (1/3) of the additional revenue generated from the increase in the maximum gas users’ tax rate (above 7%) for the following spending priorities:

1. Those Action Items in the City’s Climate Action and Adaptation Plan, approved by the City Council on December 2, 2019, and as it may be amended from time to time by the City Council.

2. Additional environmental sustainability programs as may be authorized by the City Council.

Notwithstanding anything to the contrary, this paragraph (g) shall not be construed, and it is not the Voter’s intent, to convert all or any of the gas users’ tax into a “special tax”, as that term is defined Article XIIC §1(d) of the California Constitution, California Government Code §§53721 and 53724, or any combination thereof. Although this paragraph expresses the Voter’s desire that additional gas users’ tax revenues be expended for certain

priorities, this expression is non-binding on any future or subsequently constituted City Council, and the gas users’ tax shall remain a “general tax” as that term is defined in Article XIIC §1(a) of the California Constitution, the revenues from which may be budgeted by the City Council to pay for any valid expense of the City.”

SECTION 6: AMENDMENT TO SUBSECTION 4-11.20 OF SECTION 4-11 OF THE MUNICIPAL CODE.

Chapter IV, Section 4-11, Subsection 4-11.20 of the City of Albany Municipal Code is hereby amended to read:

“4-11.20 Notice of Changes to Section/Collection of Tax.

If a tax under this section is added, repealed, increased, reduced, or the tax base is changed, the Tax Administrator shall follow the notice requirements of California Public Utilities Code Section 799. Service suppliers shall begin to collect the tax imposed by this section as soon as feasible after the effective date of the section, but in no event later than permitted by California Public Utilities Code Section 799.”

SECTION 7: REPEAL OF SUBSECTION 4-11.25 TO SECTION 4-11 OF THE MUNICIPAL CODE.

Chapter IV, Section 4-11, Subsection 4-11.25 of the City of Albany Municipal Code (titled “Interaction with Prior Tax”) is hereby repealed in its entirety.

SECTION 8: REPEAL OF SUBSECTION 4-11.26 TO SECTION 4-11 OF THE MUNICIPAL CODE.

Chapter IV, Section 4-11, Subsection 4-11.26 of the City of Albany Municipal Code (titled “Ratification of Prior Tax”) is hereby repealed in its entirety.

SECTION 9: ADDITION OF SUBSECTION 4-11.27 TO SECTION 4-11 OF THE MUNICIPAL CODE.

Subsection 4-11.27 is hereby added to Chapter IV, Section 4-11 of the City of Albany Municipal Code to read as follows:

“4-11.27 Water Users’ Tax.

(a) There is imposed a tax upon every person using water in the City which is transported and delivered through a pipeline distribution system. The tax imposed by this section shall be at the maximum rate of seven and one-half percent (7.5%) of the charges made for such water and shall be collected from the service user by the water service supplier, or its billing agent.

(b) As used in this subsection, the term “charges” shall apply to all services, components and items that are: i) necessary for or common to the receipt, use or enjoyment of water service; or, ii) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. The term “charges” shall include, but is not limited to, the following charges:

- 1. water commodity charges (potable and non-potable);*
- 2. distribution or transmission charges;*
- 3. metering charges;*

4. *customer charges, late charges, service establishment or reestablishment charges, franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees and surcharges which are necessary for or common to the receipt, use or enjoyment of water service; and,*

5. *charges, fees, or surcharges for water services or programs, which are mandated by a water district or a state or federal agency, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.*

(c) *There shall be excluded from the base on which the tax imposed in this subsection computed charges made for water which is to be resold and delivered through a pipeline distribution system; and charges made by a municipal water department, public utility or a county or municipal water district for water used and consumed by such department, utility or district in the conduct of the business of such department, utility or district.*

(d) *The tax on water service imposed by this section shall be collected from the service user by the water service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) calendar day of the following month.*

(e) *If this ordinance is enacted by the voters, the City Council will endeavor to expend at least one-third (1/3) of the revenue generated from the water users' tax for the following spending priorities:*

1. *Those Action Items in the City's Climate Action and Adaptation Plan, approved by the City Council on December 2, 2019, and as it may be amended from time to time by the City Council.*

2. *Additional environmental sustainability programs as may be authorized by the City Council.*

Notwithstanding anything to the contrary, this paragraph (e) shall not be construed, and it is not the Voter's intent, to convert all or any of the water users' tax into a "special tax", as that term is defined Article XIII C §1(d) of the California Constitution, California Government Code §§53721 and 53724, or any combination thereof. Although this paragraph expresses the Voter's desire that water users' tax revenues be expended for certain priorities, this expression is non-binding on any future or subsequently constituted City Council, and the water users' tax shall remain a "general tax" as that term is defined in Article XIII C §1(a) of the California Constitution, the revenues from which may be budgeted by the City Council to pay for any valid expense of the City."

SECTION 10: INCREASE TO APPROPRIATIONS LIMIT.

Pursuant to California Constitution Article XIII B, the appropriations limit for the City of Albany is hereby increased by the aggregate sum authorized to be levied by this general tax for fiscal year 2020/2021 and each year thereafter.

SECTION 11: CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The findings for this Ordinance in compliance with the California Environmental Quality Act ("CEQA") are the same as those set forth in City Council Resolution No. 2020-69 calling for an election on this Ordinance. The CEQA findings set forth in Resolution No. 2020-69 are incorporated herein by reference.

SECTION 12: SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 13: EFFECTIVE DATE.

Pursuant to California Constitution Article XIII C §(2) (b) and California Elections Code §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Albany voting at the General Municipal Election to be held on November 3, 2020 and shall become effective 10 days after the City Council has declare the results of the Election.

Ordinance No. 2020-10 was submitted to the People of the City of Albany at the November 3, 2020 General Municipal Election. It was approved by the following vote of the People:

YES:

NO:

Ordinance No. 2020-10 was thereby adopted by the voters at the November 3, 2020 election and shall become effective ten (10) days following adoption of a resolution declaring the results of the election at a meeting of the City Council held on December __, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and regularly adopted by the People of the City of Albany, California.

s/ANNE HSU
City Clerk

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