

RESOLUTION NO. 2020-83

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, FOR THE ELECTION OF THE MAYOR AND THREE MEMBERS OF THE CITY COUNCIL AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO CHARTER CITIES AND FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO THE CITY'S UTILITY USERS TAX

WHEREAS, under the provisions of the laws relating to Charter Cities in the State of California, a General Municipal Election shall be held on November 3, 2020, for the election of Municipal Officers; and

WHEREAS, the City Council also desires to submit to the voters at the election a question relating to the City's Utility Users Tax;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to Charter Cities, there is called and ordered to be held in the City of Pomona, California, on Tuesday, November 3, 2020, a General Municipal Election for the purpose of electing a Mayor for the full term of four (4) years; and three (3) Members of the City Council for Districts 1, 4 and 6, for the full term of four (4) years.

SECTION 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

SHALL THE MEASURE BE ADOPTED?	
AN INITIATIVE MEASURE TO ENACT A THREE-QUARTER PERCENT (0.75%) INCREASE IN THE CITY'S UTILITY USERS TAX FOR A PERIOD OF TEN YEARS UNLESS EXTENDED BY THE CITY COUNCIL, AND ESTABLISH AN EXEMPTION OF THE UTILITY USERS TAX FOR LEGALLY HANDICAPPED RESIDENTIAL RATE PAYERS	YES
	NO

SECTION 3. That the proposed complete text of the measure submitted to the voters is attached as "Exhibit A."

SECTION 4. That the vote requirement for the measure to pass is a majority (50% + 1) of the votes cast.

SECTION 5. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 6. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 7. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Elections Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 8. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election in time, form, and manner as required by law.

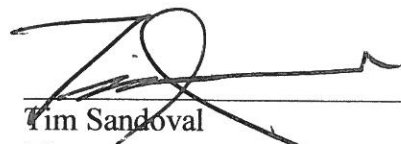
SECTION 10. That in the event of a tie vote (if any two or more persons receive an equal and the highest number of votes for an office) as certified by the County of Los Angeles Registrar-Recorder/County Clerk, the City Council, in accordance with Election Code 15651(a), shall set a date and time and place and summon the candidates who have received the tie votes to appear and will determine the tie by lot.

SECTION 11. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 12. That the City Clerk shall certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.

PASSED, APPROVED AND ADOPTED this 1st day of June, 2020.

CITY OF POMONA:



Tim Sandoval
Mayor

APPROVED AS TO FORM:



Sonia Carvalho
City Attorney


ATTEST:



Rosalia A. Butler, MMC
City Clerk

I, HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of Pomona at a regular meeting thereof held on June 1, 2020 by the following vote of the Council:

AYES: Garcia, Lustro, Ontiveros-Cole, Preciado, Torres, Sandoval
NOES: None
ABSTAIN: None
ABSENT: Gonzalez



Rosalia A. Butler, MMC
City Clerk

THE PEOPLE OF THE CITY OF POMONA, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. That Chapter 50, Article V, Section 50-203 (a) (Telecommunication Utility User's tax) of the Pomona City Code is hereby amended to read as follows:

- (a) There is hereby imposed a tax upon every person in the City using telecommunications services for intrastate, interstate, or international calls billed to a customer with a service address within the City's tax jurisdiction ("Telecommunication Utility User's Tax") to the extent permitted by federal and state law. Interstate calls shall be deemed to include calls to all districts, territories and possessions of the United States, including charges made for (i) telephone service, (ii) minimum charges for service, including customer charges, demand charges, standby charges, and the annual and monthly charges, and (iii) the value of any other service credits, property of every kind or nature, or other considerations provided by the service user in exchange for telecommunication services provided. Telecommunication Utility User's Tax is intended to, and does, apply to all charges within the City's tax jurisdiction, such as charges billed to a telephone account having sites in the City as permitted by the Mobile Telecommunications Sourcing Act 2000, 4 USC Section 116, et seq. The tax imposed by this Section shall be as follows:

- (1) Residential users: Nine percent (9%), effective January 1997.
- (2) Commercial/Industrial users: Nine percent (9%), effective January 1997.
- (3) Effective after voter approval, or as soon thereafter as legally possible ("Effective Date"), an additional three-quarter percent (0.75%) tax shall be imposed upon both residential and commercial/industrial users, resulting in the rate of nine and three-quarter percent (9.75%). The tax rate shall remain at nine and three-quarter percent (9.75%) for a period of ten (10) years from the Effective Date. At the end of the ten (10) year period, the rate shall be suspended to nine percent (9%), unless the City Council overrides the suspension by a majority vote.

SECTION 2. That Chapter 50, Article V, Section 50-204 (Electricity User's Tax) of the Pomona City Code is hereby 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 following rates of percentage of the charges made for such energy and shall be paid by the persons paying for such energy. The term "charges," as used in this Section, includes charges made for (i) metered energy; and (ii) minimum charges for service, including customer charges, service charges, demand charges, standby charges, and annual monthly charges. The tax imposed by this Section shall be as follows:

- (1) Residential users: nine percent (9%), effective January 1997.
- (2) Commercial/Industrial users: nine percent (9%), effective January 1997.
- (3) Effective after voter approval or as soon thereafter as legally and practically possible ("Effective Date"), an additional three-quarter

percent (0.75%) tax shall be imposed upon both residential and commercial/industrial users, resulting in the rate of nine and three-quarter percent (9.75%) for a period of ten (10) years from the Effective Date. At the end of the ten (10) year period, the rate shall be suspended to nine percent (9%), unless the City Council overrides the suspension by a majority vote.

- (b) As used in this Section, the term “using electrical energy” shall not mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received; provided, however, that the term shall include the mere receiving of such energy by an electric public utility or governmental agency at a point within the City for resale.
- (c) The tax imposed in this Section shall be collected from the service user by the person supplying the energy. The amount of the tax collected in one month shall be remitted to the City Treasurer on or before the 20th day of the following month.

SECTION 3. That Chapter 50, Article V, Section 50-205 (Gas User’s Tax) of the Pomona City Code is hereby amended to read as follows:

- (a) There is an imposed tax upon every person in the City using gas in the City. The tax imposed by this Section shall be at the following rates of percentage of the charges made for such gas. The term “charges,” as used in this Section, includes charges made for (i) metered gas; and (ii) minimum charges for service, including customer charges, service charges, demand charges, standby charges, and annual and monthly charges. The tax imposed by this Section shall be as follows:

- (1) Residential users: nine percent (9%), effective January 1, 1997.
- (2) Commercial/Industrial users: nine percent (9%), effective January 1, 1997.
- (3) Effective after voter approval, or as soon thereafter as legally and practically possible (“Effective Date”), an additional three-quarter percent (0.75%) shall be imposed upon both residential and commercial/industrial users, resulting in the rate of nine and three-quarter percent (9.75%) for a period of ten (10) years from the Effective Date. At the end of the ten (10) year period, the rate shall be suspended to nine percent (9%) unless the City Council overrides the suspension by majority vote.

- (b) There shall be excluded from the base on which the tax imposed in this Section is computed charges made:

- (1) For gas which is to be resold and delivered through mains or pipes;
- (2) For gas sold for use in generation of electrical energy by a public utility or governmental agency; and
- (3) By a gas public utility for gas used and consumed in the conduct of business of gas public utilities.

- (c) The tax imposed in this Section shall be collected from the service user by the person selling the gas. The amount collected in one month shall be remitted to the City Treasurer on or before the 20th day of the following month.

SECTION 4. That Chapter 50, Article V, Section 50-206 (Water User's Tax) of the Pomona City Code is hereby amended to read as follows:

- (a) There is a tax imposed upon every person in the City using water in the City. The tax imposed by this Section shall be at the following rate of percentage of the charges made for such water and shall be paid by the person paying for such water. The term "charges," as used in this Section, includes charges made for such water and shall be paid by the person paying for such water. The term "charges," as used in this Section, includes charges made for (i) metered water, and (ii) minimum charges for service, including customer charges, service charges, demand charges, standby charges, and annual and monthly charges. The tax imposed by this Section shall be as follows:

- 1) Residential users: nine percent (9%), effective January 1, 1997.
- 2) Commercial/Industrial users: nine percent (9%), effective January 1, 1997.
- 3) Effective after voter approval, or soon thereafter as legally possible ("Effective Date"), an additional three-quarter percent (0.75%) tax shall be imposed upon both residential and commercial/industrial users, resulting in the rate of nine and three-quarter percent (9.75%). The rate shall remain at nine and three-quarter percent (9.75%) for a period of ten (10) years from the Effective Date. At the end of the ten (10) year period, the rate shall be suspended to nine percent (9%), unless the City Council overrides the suspension by a majority vote.

- (b) The tax imposed in this Section shall be collected from the service user by the person supplying the water.
- (c) The term "using water," as used in this Section, shall not include the mere receiving of water by a public utility or governmental agency at a point within the City for resale.

SECTION 5. That Chapter 50, Article V, Section 50-218 is amended to add Subsections (d) and (e) to read as follows:

- (d) The tax imposed pursuant to this article, including the three-quarter percent (0.75%) tax imposed in Subsections 50-203(a), 50-204(a), 50-205(a), and 50-206(a), shall not apply during any calendar year to the following persons residing in the City for residential telephone, gas, electric, or water service in or upon the premises where their residential unit is situated;

- (1) Any legally disabled persons with such utility accounts in his or her name, residing at the service address at the time of the adoption of this ordinance or at a newly established address in the City after the adoption of this Ordinance.

- (e) For purposes of this Subsection, (d), "legally disabled person" shall mean a person who meets the definition of blind or disabled as defined in Section 1614(a)(2) and/or (3) of Part A of Title XVI of the Social Security Act, as amended, Proof of

qualifications for such exemption shall be submitted to the City, and the City may yearly certify that the person continues to qualify for such exemption.

SECTION 6. Amendment or Repeal. Chapter 50 of Article V of the Pomona City Code may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution and Section 1015 of the City Charter, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Ordinance. The people of the City of Pomona affirm the following actions shall not constitute an increase of the rate of the tax:

- 1) The overriding, by a majority vote of the City Council, of the suspension of the tax rate, as provided by this Ordinance;
- 2) 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;
- 3) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is consistent with the language of this Ordinance;
- 4) The establishment of a class of persons that is exempt or excepted (other than the discontinuation of an exemption or exception specifically set forth in this Ordinance); and
- 5) 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 7. Effective Date. The tax rates enacted by this Ordinance shall be effective as soon as thereafter as legally and practically possible ("Effective Date"). Until the Effective Date, each tax affected by this Ordinance shall continue in effect, and shall be collected, at the rates in effect prior to the adoption of this Ordinance.

SECTION 8. Severability. If any section, subsection, sentence, clause, phrase, portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declare that they have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this ordinance be declared invalid or unenforceable.

SECTION 9. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

SECTION 10. Majority Approval. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared or legally possible after the vote is declared by the City Council.

ATTEST:

CITY OF POMONA

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney