

Measure C (November 7, 2006)

**A CITY COUNCIL-SPONSORED SPECIAL TAX TO FIGHT
CRIME THROUGH COMMUNITY PREVENTION AND LAW
ENFORCEMENT PROGRAMS**

The City Council of the City of East Palo Alto does hereby submit to the voters at the November 7, 2006 General Municipal Election, an ordinance adding Chapter 3.69 to Title 3 of the East Palo Alto Municipal Code, which Ordinance reads as follows:

PART 1. GENERAL

Section 1. TITLE AND PURPOSE.

(A) Title. This Ordinance may be cited as the 'City Council-sponsored Crime-Fighting Act of 2007.'

(B) Purpose. The taxes imposed or increased under this Ordinance are solely for the purpose of raising revenue necessary to retain and enhance services and programs to prevent violence and crime in the City of East Palo Alto.

The parcel tax imposed in Part 2 is not an ad valorem tax on real property, nor a transaction tax or sales tax on the sale of real property. It is an excise tax on the privilege of using and use of municipal services. Such municipal services increase and provide a greater benefit to owners of parcels when programs aimed at preventing violence and crime in the City are enhanced. Because the proceeds of the tax will be deposited in a special fund restricted for the services and programs specified herein, the tax is a special tax.

Section 2. FINDINGS

1. Investing in a coordinated system of early intervention, community policing and violence-prevention efforts before crime occurs will reduce economic and emotional costs and be a cost-effective use of taxpayer dollars.

2. Violence and crime occurs at workplaces, on school grounds, and in residential neighborhoods within the East Palo Alto community.

3. Due to budget constraints, the City's police department is staffed at a level significantly lower than cities of similar size in the United States.

4. This special tax is based on a community assessment of innovative prevention strategies and is intended to be proportional to and based on estimates of typical use and benefit from these municipal services.

5. Crime in East Palo Alto disrupts local commercial activity, reduces business and industrial productivity, deters tourism and outside financial investments, and depreciates the value of real estate.

6. The apportionment of the parcel tax to various types of properties is based, in part, on the intensity of policing and violence prevention needed for different kinds of land uses and on the average number of occupants of a parcel of each type of property. Users of residential property typically generate more calls for service to the police and fire departments, and the intensity of use of police protection services increases as the number of residential units on a parcel increases. On the other hand, because of the typically large size of commercial and industrial parcels, and because the employees who work for businesses located on such parcels and the customers who visit such businesses generally outnumber the residents of even a similarly sized parcel of residential property (partly because nonresidentially developed real property often has more than one business operating on it), the tax on commercial/industrial properties is calculated based on single family equivalent units.

7. As the density of residential development increases, the cost of providing policing and violence and crime prevention services also increases. The differing tax rates accurately reflect the differing costs of providing services to the different densities of residential development.

8. The parcel tax rates established in this Ordinance are intended to be proportional to and based on estimates of typical use of and benefit to occupants of different residential parcels of policing and violence prevention services. The rates are not tailored to individual use both because such tailoring is not administratively feasible and because the City must make police services available to all parcels and owners of parcels equally.

9. Each occupant of a parcel derives value from the availability policing and violence and crime prevention services. The value of such services is in their availability and benefit to all residents, and it would be unfair to charge their costs only to those persons who actually use the services. Even if such services are not presently used by an occupant, they may be used in the future and, in any event, their availability benefits each occupant. The City's policing and violence prevention enhance the health, safety and welfare of all occupants of property in the City and improve their quality of life both directly and indirectly. Reducing violence and crime is vitally important to the health, safety, and welfare of the occupants.

10. It is not feasible for the City to collect the tax from the non-owner occupants on whom it is imposed because the records available to the City do not include the names of non-owner occupants. Therefore, the only practical way to collect a tax imposed on occupants is to collect it from the owners of the occupied properties.

11. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., as it can be seen with certainty that there

is no possibility that the activity authorized herein may have a significant effect on the environment.

~~12. Non-payment of the special tax required herein will not be a lien on the property but a personal obligation of the Owner thereof.~~

Section 3. USE OF PROCEEDS

The tax proceeds raised by this Ordinance may only be used as part of the following integrated program of violence prevention and public safety intervention, in accordance with the following specific purposes:

1. Community and neighborhood policing, training, crime suppression and investigations.
2. Violence prevention services with an emphasis on youth and families. Such services include preventive social services provided by the City of East Palo Alto, or by adding capacity to community-based nonprofit programs with a focus on youth, ex-felons, domestic violence and support for senior citizens.
3. Not less than 1% or more than 3% of funds appropriated to each police service or social service program shall be set aside for the purpose of independent evaluation of the program, including the number of people served and the rate of crime or violence reduction achieved.
4. Mandated Apportionment of funds: Of the total proceeds spent on programs enumerated in this Section 3, Paragraphs 1 and 2, not less than 50% of such proceeds shall be directed at violence prevention programs with emphasis on youth, ex-felons and senior protection.

PART 2. OVERSIGHT AND TERM OF TAX IMPOSITION

Section 1. ANNUAL AUDIT.

An independent audit shall be performed to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the objectives stated herein

in accordance with Government Code sections 50075.1 and 50075.3. Tax proceeds may be used to pay for the audit.

Section 2. SPECIAL FUND

All funds collected by the City from the taxes imposed by this Ordinance shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

The incremental increases approved by Part 3 of this Ordinance shall be dedicated to the purposes specified by this Ordinance.

Section 3. OVERSIGHT

To ensure proper administration of the revenue collection and spending, and the implementation of the programs mandated by this Ordinance, the City Council shall appoint 15 members of a "Crime-Fighting Act Oversight Committee, with each member of the City Council appointing three members." The committee shall review the annual audit, evaluate, inquire and review the administration, coordination and evaluations of the programs and make recommendations to the City Council on programs and for any new policies for the administration of the programs to comply with the requirements and intent of this Ordinance. The Committee's recommendations shall be made at least once annually, prior to the City Council's adoption of the fiscal year budget.

Section 4. TERM OF TAX IMPOSITION

The taxes imposed by this Ordinance shall become effective on July 1, 2007 and shall continue in effect for 10 years.

Section 5. SAVINGS CLAUSE.

If any provision, sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intention of the City, that the City would have adopted this Ordinance had such illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

Section 6. REGULATIONS.

The City Council is hereby authorized to promulgate such regulations or ordinances as it shall deem necessary in order to implement the provisions of this Ordinance.

Section 7. NO AMENDMENT.

The tax rates may not be amended by action of the City Council without the applicable voter approval.

Section 8. CHALLENGE TO TAX.

Any action to challenge the taxes imposed by this Ordinance shall be brought pursuant to Government Code section 50077.5 and Code of Civil Procedure section 860 et seq.

PART 3. PARCEL TAX

Section 1. DEFINITIONS.

For purposes of this part only, the following terms shall be defined as set forth below:

(A) "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "Building" includes the word "structure."

(B) "Disabled Person" shall mean any person who is determined to be totally disabled as a result of a determination by the Social Security Administration.

(C) "Family" shall mean one or more persons related by blood, marriage, domestic partnership, or adoption, who are living together in a single residential unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

(D) "Hotel" shall mean as defined by East Palo Alto Municipal Code section 3.68.020.

(E) "Multiple Residential Unit Parcel" shall mean a parcel zoned for a building, or those portions thereof, that accommodates or is intended to contain two or more residential units.

(F) "Non-Residential" shall mean all parcels that are not classified by this Ordinance as Residential Parcels, and shall include, but not be limited to, industrial, commercial and institutional improvements, whether or not currently developed.

(G) "Occupancy" shall be as defined by East Palo Alto Municipal Code section 3.68.020.

(H) "Operator" shall be as defined by East Palo Alto Municipal Code section 3.68.020

(I) "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the San Mateo County Assessor.

(J) "Parcel" shall mean a unit of real estate in the City of East Palo Alto as shown on the most current official assessment role of the San Mateo County Assessor.

(K) "Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(L) "Senior Citizen" shall mean a person 65 years of age or older.

(M) "Possessory Interest" as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or Improvements and shall include any exclusive right to the use of such land or Improvements.

(N) "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

(O) "Single Family Residential Parcel" shall mean a parcel zoned for single-family residences, whether or not developed.

(P) "Transient" shall mean any individual who exercises Occupancy of a hotel or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any individual so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days as elapsed.

Section 2. IMPOSITION OF PARCEL TAX.

There is hereby imposed a special tax on all Owners of parcels in the City of East Palo Alto for the privilege of using municipal services and the availability of such services. The tax imposed by this Section shall be assessed on the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of any Possessory Interest in such parcel, unless such holder is also by law exempt from taxation. The tax is imposed as of July 1 of each year on the person who owned the parcel on that date.

The tax hereby imposed shall be at the following rates, subject to annual adjustment as provided in Section 4:

(A) For owners of all Single Family Residential Parcels, the tax shall be at the annual rate of \$100.00 per Parcel.

(B) For owners of all Multiple Residential Unit Parcels, the tax shall be at the annual rate of \$75.00 per occupied Residential Unit. Owners of units that are vacant for six months or more per year, may apply to the Director of Finance to have the rate reduced by 50% to \$37.50 per vacant Residential Unit located on the Parcel.

(C) The tax for a Non-Residential Parcels is calculated using both frontage and square footage measurements to determine total Single Family Residential Unit Equivalents. A frontage of 80 feet for a commercial/industrial parcel, for example, is equal to one (1) single family resident unit equivalent. (See matrix.) An area of 6,400

square feet for the commercial industrial parcel is equal to one (1) single-family resident unit equivalent. The tax is the annual rate (\$50.00) multiplied by the total number of Single Family Equivalents (determined by the frontage and square footage).

LAND USE CATEGORY	FRONTAGE	AREA(SF)
Commercial Institutional	80	6,400
Industrial	100	10,000
Public Utility	1,000	100,000

Example: assessment calculation for an owner of a commercial parcel with a frontage of 160 feet and an area of 12,800 square feet:

1. Frontage - 160 feet:
160 ft. / 80 ft. = 2 SFE
2. Area - 12,800 sf:
12,800 SF / 6,400 SF = 2 SFE
3. Add Single Family Equivalents
from Frontage and Area:
2 SFE + 2 SFE = 4 SFE
4. Tax = Annual Rate (\$50.00)
multiplied by total SFE:
4 SFE x \$50.00 = \$200.00 tax

(D) The tax for an undeveloped Parcel is 50% of the Single-Family Residential Unit Equivalent rate.

Section 3. HOTELS

The tax imposed by this Ordinance shall be imposed on each Hotel within the City in accordance with the following:

1. Residential Hotels. If rooms in a Hotel were occupied by individuals who were not Transients for 80% or more of the previous fiscal year, such Hotel shall be deemed a Residential Hotel, and such rooms shall be deemed Residential Units and shall be subject to the Parcel tax imposed on Multiple Residential Units. The remainder of the Building shall be subject to the applicable Square Footage tax computed in accordance with the Single Family Residential Unit Equivalent calculations.

2. Transient Hotels. Notwithstanding the previous sub-section, if 80% or more of the Operator's gross receipts for the previous fiscal year were reported as rent received from Transients on a return filed by the Operator in compliance with Chapter 3.68 of the East Palo Alto Municipal Code (commonly known as the Transient Occupancy Tax of the City of East Palo Alto), such Hotel shall be deemed a Transient Hotel. The entire Building shall be deemed a Non-Residential Parcel, categorized as Commercial, Institutional, and shall be subject to the Square Footage and Single Family Residential Unit Equivalent calculations set forth in Section 4(C), and the parcel tax imposed on Residential Units shall not apply.

Section 4. DUTIES OF THE DIRECTOR OF FINANCE: NOTICE OF DECISIONS.

It shall be the duty of the Director of Finance to collect and receive all taxes imposed by this Ordinance, and to keep an accurate record thereof.

The Director of Finance is charged with the enforcement of this Ordinance, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Ordinance, including provisions for the re-examination and correction of returns and payments. The Director of Finance may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Upon disallowing any claims submitted pursuant to this Ordinance, the Director of Finance shall mail or cause to be mailed written notice thereof to the claimant at his/her address as shown on the San Mateo County Assessor's property tax rolls.

Section 5. EXAMINATION OF BOOKS. RECORDS. WITNESSES: PENALTIES.

The Director of Finance or his/her designee is hereby authorized to examine assessment rolls, property tax records, records of the San Mateo County Recorder and any other records of the County of San Mateo deemed necessary in order to determine ownership of Parcels and computation of the tax imposed by this Ordinance.

The Director of Finance or his/her designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this Ordinance for the purpose of verifying the accuracy of any petition, claim or return filed and to ascertain the tax due. The Director of Finance or his/her designee is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any petition, claim or return filed or to ascertain the tax due under this Ordinance and for this purpose may compel the production of books, papers and records before him/her, whether as parties or witnesses, whenever s/he believes such persons have knowledge of such matters. The refusal of such examination by any person subject to the tax shall be deemed a violation of this Ordinance.

Section 6. COLLECTION OF TAX: INTEREST AND PENALTIES.

~~_____ The tax levied and imposed by this Ordinance shall be due and payable on July 1 of each year, but it may be paid in two installments due no later than December 10 and April 10. The tax shall be delinquent if not received on or before the delinquency date set forth in the notice mailed to the Owner's address as shown on the most current assessment roll of the San Mateo County Tax Collector and shall be collected in such a manner as the City Council may decide.~~

~~_____ A one-time penalty of 25% of the tax due per year is hereby imposed by this Ordinance on all taxpayers who fail to timely pay the tax provided by this Ordinance; in~~

addition, interest shall be assessed at the rate of 1% per month on the unpaid tax and the penalty thereon.

~~Every penalty imposed and such interest as accrues under the provisions of this Ordinance shall become a part of the tax herein required to be paid.~~

The City hereby authorizes the taxes imposed by this Ordinance to be collected by the County of San Mateo in conjunction with and at the same time and in the same manner as the County's collection of property taxes for the City.

~~Section 7. COLLECTION OF UNPAID TAXES.~~

~~In no event shall anything herein be construed to impose a tax lien on the Parcel to secure payment of the tax. The amount of any tax, penalty, and interest imposed under the provisions of this Ordinance shall be deemed a debt to the City. Any person owing money under the provisions of this Ordinance shall be liable to an action brought in the name of the City for the recovery for such amount.~~

Section 8. REFUND OF TAX, PENALTY, OR INTEREST PAID MORE THAN ONCE: OR ERRONEOUSLY OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty, or interest imposed by this Ordinance has been paid more than once, or has been erroneously or illegally collected or received by the City, it may be refunded provided a verified claim in writing therefore, stating the specific ground upon which such claim is founded, is filed with the Director of Finance within one (1) year from the date of payment. The claim shall be filed by the person who paid the tax or such person's guardian, conservator of the executor of her or his estate. No claim may be filed on behalf of other taxpayers or a class of taxpayers. The claim shall be reviewed by the Director of Finance and shall be made on forms provided by the Director of Finance. If the claim is approved by the Director of Finance, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the Person from who it was collected or by whom paid, and the balance may be refunded to such Person, his/her administrators or executors. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax.

Section 9. EXEMPTION FOR SENIOR CITIZEN PROPERTY OWNERS AND DISABLED PROPERTY OWNERS.

(A) Qualification for Exemption. Any senior citizen property Owner may qualify for an exemption from the tax imposed by this chapter by establishing, to the satisfaction of the City's Director of Finance, that the owner of the household subject to the tax is 65 years of age or older. A disabled person is also eligible for such exemption.

(B) Application for Exemption. Applications for an exemption pursuant to this section shall be submitted to the City's Director of Finance on such form as he/she shall prescribe. The application shall be accompanied by such evidence as the Director of Finance deems necessary to determine eligibility for the exemption. No fee shall be charged for filing or processing the application.

(C) Granting of Exemption. Upon a determination by the Director of Finance that the applicant qualifies for an exemption by reason of being senior citizen property Owner or is totally disabled, the Director of Finance shall issue to the applicant a certificate of exemption and cause the tax to be removed from the applicant's property tax bill. In the event the tax, or any portion thereof, has already been paid, the City shall refund such payment to the applicant.

(D) Expiration and Renewal of Exemption. An exemption pursuant to this section may be granted for a period of one year. The exemption may be renewed for additional one year periods upon the filing of an application for renewal with the Director of Finance on such form as he/she shall prescribe. No fee shall be charged for such application. The application shall be granted and a renewal certificate of exemption shall be issued if the Director of Finance determines that the applicant still qualifies as senior citizen property Owner or a totally disabled property Owner.

(E) Termination of Exemption. An exemption granted pursuant to this section shall automatically terminate upon any sale or other transfer by the exempt person of his or her ownership interest in the property, or upon any change in fact or circumstance which would disqualify such person from receiving the exemption. It is unlawful and a misdemeanor for any person to knowingly receive the benefits of an exemption provided by this section when the basis for such exemption does not exist or ceases to exist.

(F) Appeals. Any decision or determination made by the Director of Finance with respect to the granting or denial of an exemption, or renewal of an exemption, may be appealed to the City Council as provided by Section 12 of this enacting Ordinance.

Section 10. CITY COUNCIL APPEAL.

(A) Any person dissatisfied with any decision of the Director of Finance adversely affecting the rights or interests of such person may appeal to the City Council by filing a notice of appeal with the City Clerk within ten days after the date on which such order was rendered.

(B) The City Clerk shall set the matter for hearing at the next available regular meeting of the City Council and shall mail notice of such hearing to the appellant and to any other interested person requesting the same.

(C) The City Council shall either affirm the decision of the Director of Finance or make such modifications, amendments or corrections thereto as the Council deems appropriate.

(D) Any tax, penalty or interest found to be owed is due and payable at the time of the City Council's decision becomes final.

(E) All decisions rendered by the City Council shall be final, and no further administrative appeal of these decisions is provided or intended.

Section 11. MISDEMEANOR VIOLATION.

Any Owner who fails to perform any duty or obligation imposed by this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000 or by imprisonment for a period of not more than one year, or by both such fine and imprisonment. The penalties provided in this section are in addition to the various civil remedies provided in this Ordinance, or as may otherwise be provided by law.

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This Ordinance shall become effective only upon approval of two-thirds (2/3) of the voters voting on such measure at the November 7, 2006 General Municipal Election, as certified by the San Mateo County Elections Office.