



BALLOT MEASURE CW – FULL TEXT

Parcel Tax:

Culver City Safe/Clean Water Protection Measure

City of Culver City November 8, 2016 Special Municipal Election

To protect public health/groundwater supplies and prevent toxins and pollutants from contaminating local waterways, creeks and beaches, by improving storm drains/infrastructure to capture/clean urban runoff; preserving open space; and complying with clean water laws, shall Culver City establish a \$99 clean water parcel tax; generating approximately \$2,000,000 annually until ended by voters, requiring independent audits, public oversight, low-income senior citizens discounts and local control of funds?

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ORDINANCE NO. 2016 -

AN ORDINANCE OF THE PEOPLE OF THE CITY OF CULVER CITY AMENDING TITLE 5 OF THE CULVER CITY MUNICIPAL CODE TO ADD A NEW CHAPTER 5.06 ENTITLED "CULVER CITY SAFE AND CLEAN WATER PROTECTION MEASURE," WHICH ESTABLISHES A CLEAN WATER PARCEL TAX.

WHEREAS, Culver City is required by State and Federal law to prevent polluted runoff from contaminating groundwater and local waterways feeding into beaches and bays; and

WHEREAS, the 1972 Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) Program to regulate the discharge of pollutants from point sources to waters of the United States. In 1990, Phase 1 of the NPDES Program established a framework for regulating municipal and industrial discharges of storm water and non-storm water. The program addressed sources of storm water and dry-weather urban runoff that had the greatest potential to negatively impact water quality; and

WHEREAS, on November 8, 2012, the California Regional Water Quality Control Board - Los Angeles Region adopted NPDES No. CAS004001, Order No. R4-2012-0175, "Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) discharges within the Coastal Watersheds of Los Angeles County, except those discharges originating from the City of Long Beach MS4" (the "Permit"); and

WHEREAS, the Permit includes strict requirements termed Total Maximum Daily Loads (TMDLs) which are numerical limits for pollutants such as bacteria, heavy metals, toxics and trash in the affected water bodies (Ballona Creek and Marina del Rey); and

WHEREAS, there are severe penalties for non-compliance with these numerical limits, up to \$10,000 per day per violation. In addition, non-compliance exposes the City to potential third party lawsuits, which is another potentially significant impact to the City's fiscal health. These financial impacts could reduce funding for City

services that benefit Culver City residents, including, but not limited to, public safety, parks and general government services; and

WHEREAS, in order to address the strict requirements of the Permit, the Permit allows the City the flexibility to develop an Enhanced Watershed Management Program (EWMP) to implement the requirements of the Permit on a watershed basis through customized strategies, control measures, and Best Management Practices (BMPs). After years of planning and development, the City along with other cities in the Ballona Creek and Marina del Rey watersheds submitted their draft EWMP to the Regional Board and received approval in March 2016; and

WHEREAS, in the coming months, the City must implement its portion of the approved EWMP to remain compliant with the Permit. The EWMP comprehensively identifies project opportunities within the City and watershed boundaries. Such opportunities include development of a green streets program including projects that infiltrate and filter storm water and urban runoff within public right-of-way, such as parkways and parks; construction of multi-beneficial regional projects that capture and clean large volumes of storm water/urban runoff; and implementation of Low Impact Development practices that require new developments to clean and infiltrate storm water and urban runoff emanating from private property; and

WHEREAS, the construction and operation of the projects proposed in the EWMP will require the expenditure of significant City funds and currently there is no dedicated funding source for this purpose.

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

SECTION 1. Culver City Safe and clean Water Protection Measure.

Title 5 of the Culver City Municipal Code is hereby amended to add a new Chapter 5.06, entitled "Culver City Safe and Clean Water Protection Measure," and it shall read as follows:

5.06.005. Title

This Chapter may be cited as the “Culver City Safe and Clean Water Protection Measure.”

5.06.010. Definitions

The following words and phrases whenever used in this Chapter shall be construed and defined by this Section. The definition of a word or phrase applies to any variants thereof.

CFO. The Chief Financial Officer of the City of Culver City, or his/her designee.

CITY. The City of Culver City.

CITY COUNCIL. The City Council of the City of Culver City.

DIRECTOR. The Public Works Director of the City of Culver City, or his/her designee.

IMPROVED PARCEL. A parcel improved with a structure (including a parking structure) and/or a parcel improved with man-made ground covering, such as pavement or other similar surfaces (including parking lots).

LOW-INCOME HOUSEHOLD. A household in the City that meets the Low-Income limit of eighty percent (80%) of the Area Median Income (AMI) or lower for Los Angeles County, as determined annually by the California Department of Housing and Community Development.

MULTI-FAMILY RESIDENTIAL PARCEL. A parcel containing more than one residential dwelling unit, including condominiums, townhouses, mobile home parks, duplexes, triplexes, fourplexes, apartments, and any other residential parcel containing more than one residential dwelling unit.

NON-RESIDENTIAL PARCEL. All improved parcels that do not meet the definition of a Single-Family Residential Parcel or Multi-Family Residential Parcel and are not otherwise exempted by this Chapter.

PARCEL. The smallest, separately segregated lot, unit or plot of land having an identified property owner, boundaries and surface area which is documented for property tax purposes and given an assessor's identification number by the County of Los Angeles Assessor.

PARCEL TAX. A special tax, entitled the City of Culver City Safe and Clean Water Protection Measure, approved by the voters of the City at the consolidated State general election held on November 8, 2016.

PARCEL TAX PROCEEDS. The proceeds of the Parcel Tax, including any interest and penalties thereon.

POSSESSORY INTEREST. Possession of, claim to, or right to the possession of, land or improvements, including any exclusive right to the use of such land or improvements.

PROPERTY OWNER. The legal owner of any parcel of real property, except when the legal owner of the real property is such due to the holding of a mortgage, note or other security, in which case the "owner" shall be deemed to be the beneficial owner of said parcel of real property.

SENIOR CITIZEN. A person 65 years of age or older, both owning and residing on a Single-Family Residential Parcel or Multi-Family Residential Parcel within the City.

SINGLE-FAMILY RESIDENTIAL PARCEL. A parcel of land improved with a single residential dwelling unit.

5.06.015. Necessity, Authority and Purpose

A. The City Council hereby determines as follows:

1. That the cost to implement the City of Culver City Enhanced Watershed Management Program Plan (the "EWMP Plan")

throughout the City at the level required to provide for the health, safety, and general welfare of the residents of the City;

2. That the cost to implement the EWMP exceeds the amount of revenues from available sources;

3. That additional revenues are needed to fund a portion of the cost of implementing the EWMP Plan, including financing the operation, administration, maintenance, improvement, environmental restoration, upgrade and replacement of the existing and future storm drainage system, on-site storm water management systems, storm drain conveyance system upgrades, storm water infiltration galleries, green street projects and other multipurpose capital improvement projects;

4. That the levy of a City-wide Parcel Tax as hereinafter provided is necessary to fund a portion of the foregoing municipal improvements and services.

B. The Ordinance codified in this Chapter was approved by the voters of the City at the consolidated State General Election held on November 8, 2016 by the following vote:

Yes: _____ No: _____

C. Accordingly, the Parcel Tax is levied under this Chapter pursuant to the City's Charter, Government Code Section 50075 et seq., and other applicable laws. It is hereby expressly provided that, as an exercise of municipal affairs powers, the City shall be authorized to use all or a portion of the tax allocated for capital improvements to pay installments of principal and interest on bonded indebtedness or with respect to leases, or similar instruments for the purposes of providing financing for any capital improvements hereunder.

5.06.020. Tax Levy

A. For each fiscal year beginning in Fiscal Year 2017-2018, a Parcel Tax shall be levied on all improved property within the City of Culver City as follows:

1. Each Improved Single-Family Residential Parcel shall be taxed \$99 per Parcel.

2. Each Improved Multi-Family Residential Parcel shall be taxed at \$69 per residential dwelling unit.

3. Each Improved Non-Residential Parcel shall be taxed \$1,096 per acre of land or portion thereof.

4. All publicly owned Parcels shall be exempt from the Parcel Tax. Publicly owned Parcels include, but are not limited to, Parcels owned by the City, County, State, federal government, public school district, water district, or flood control district. However, a Possessory Interest in a publicly owned Parcel may be taxed pursuant to the rates above based on the actual use of such Parcel, as long as the Possessory Interest holder is not otherwise exempt pursuant to this Chapter. If a Parcel is owned by an entity that can be taxed using the Los Angeles County's utility roll, such Parcel shall be taxed as a Non-Residential Parcel.

5. All Parcels that do not receive a secured property tax bill for ad valorem taxes shall be exempt from the Parcel Tax.

6. Each multi-use Improved Parcel shall be taxed the sum of the Parcel Tax rate for the various applicable Parcel Tax classifications described herein.

B. The number of units and acreage used for purposes of calculating the Parcel Tax shall be as shown on the Los Angeles County

| Parcel Tax Classification¹ | Typical County Land Use Codes | Special Tax Rate |
|--|--|---|
| Single-Family Residential Parcel | Use codes beginning with 01, excluding condominium and townhouse use codes | \$99 per parcel |
| Multi-Family Residential Parcel | Use codes 010C, 010D, 010E Use codes in the following ranges: 0200 - 0299 0300 - 0399 0400 - 0499 0500 - 0599 (excluding 0541) 0700 – 0799 ² 0800 - 0899 0900 – 0999 ² | \$69 per dwelling unit |
| Non-Residential Parcel | Use Code 0541 (homes for the aged) Use codes in the following ranges: 1000 - 1999 2000 - 2999 3000 - 3999 4000 - 4999 5000 - 5999 6000 - 6999 7000 – 7999 | \$1,096 per acre of land (or portion thereof) |
| Public | Use codes in the following range: 8000 – 8899 | Exempt |
| Parcels exempt from ad valorem taxes | Any | Exempt |

¹ The Parcel Tax classification shall be assigned based on data from the Los Angeles County Assessor's most recent secured property tax roll, or on data otherwise known to the City.

² Assessor's parcel numbers ("APNs") with land use codes beginning with 07 (mobile home) in the City currently represent only the mobile home itself, and not the underlying land. The underlying land has a separate APN with a land use code beginning with 09 and is assigned multiple dwelling units. It is anticipated that the Parcel Tax for Multi-Family Residential Parcels will be levied on the APN with the land use code beginning with 09. If no underlying land APN exists, the Parcel Tax for the Multi-Family Residential Parcel will be levied on the APN with a land use code beginning with 07.

5.06.030. Appeals Process

If any Property Owner believes there is an error in either the Los Angeles County Assessor's assigned land use code, dwelling units, or acreage or if there are unique characteristics particular to the Parcel in question that could warrant an adjustment to the land use type, dwelling units, or taxable acreage, the Property Owner may file an appeal with the Director. The Director shall review the appeal and make a final decision.

Appeals for any upcoming fiscal year shall be submitted to the Director prior to March 1 preceding such fiscal year. Appeals for Parcel Taxes previously placed on the secured property tax roll and paid in full shall be submitted to the Director within six months of payment being made and the Director may correct the database based on his/her findings and, if applicable, issue a refund.

Appeals for Parcel Taxes previously placed on the secured property tax roll and not paid in full shall be submitted to the Director, and, if applicable and permitted by the Los Angeles County Auditor-Controller, the Director may correct the secured property tax roll based on his/her findings. The Property Owner shall be responsible for the payment of all processing costs related to the correction of the secured property tax roll.

5.06.035. Purposes and Uses of Tax

There is hereby established a special fund entitled "Culver City Safe and Clean Water Protection Measure" to be maintained by the City. Parcel Tax Proceeds shall be collected each fiscal year and deposited in said special fund, and shall be used exclusively for the implementation of the EWMP Plan, including but not limited to, financing the operation, administration, maintenance, improvement, environmental restoration, upgrade and replacement of the existing and future storm drainage system, on-site storm water management systems, storm drain

conveyance system upgrades, and multipurpose capital improvement projects, improving the quality of storm water, as well as complying with local, state, and federal storm water regulations and paying for, or securing the payment of, any indebtedness incurred for these purposes, and any and all other purposes as more fully discussed therein. The following are goals of the EWMP Plan:

- Reduce urban runoff pollution;
- Reduce urban flooding;
- Increase water reuse and conservation;
- Increase recreational opportunities and open space;
- Increase wildlife and marine habitat.

Parcel Tax Proceeds may also be used to enforce and administer the Parcel Tax, including costs for submission of any measure to the voters for the establishment or alteration of the Parcel Tax, including but not limited to the calculation and submittal of the Parcel Tax to the Los Angeles County Assessor, fees for the placement and collection of the Parcel Tax on the secured property tax roll, and any costs for consultants and legal counsel.

5.06.040. Exemptions

The Parcel Tax imposed by this Chapter shall not be construed as imposing a tax upon any person when the imposition of such tax upon that person would be in violation of either the Constitution of the United States or the Constitution of the State of California. In addition to the exemptions set forth in Section 5.06.025, the City Council is authorized to establish by resolution other exemption procedures and eligibility criteria for natural persons based on income, age or disability. The Parcel Tax imposed by this Chapter shall be subject to the exemptions set forth in this Section or adopted by resolution as authorized herein.

5.06.045. Computation and Collection of Tax—Interest and Penalties.

A. The Director or his/her designee or employee is hereby authorized and directed each fiscal year, commencing with the fiscal year 2017-2018, to determine the Parcel Tax amount to be levied for each ensuing fiscal year for each taxable Parcel of real property within the City, in the manner and as provided in Section 5.06.020. The Director, in conjunction with the CFO, is hereby authorized and directed to provide all necessary information to the Los Angeles County Auditor-Controller to effect proper billing and collection of the Parcel Tax, so that the installments of the Parcel Tax shall be included on the secured property tax roll of the Los Angeles County Assessor. Unless otherwise required by the City Council, no City Council action shall be required to authorize the annual collection of the Parcel Tax as herein provided.

B. The Parcel Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes collected by the Los Angeles County Assessor; provided, however, that the City Council may provide for other appropriate methods of collection of the Parcel Tax by appropriate resolution(s) of the City Council.

C. The Parcel Tax shall constitute a lien upon the Parcel upon which it is levied until it has been paid. Any unpaid Parcel Tax due under this Chapter shall be subject to all remedies provided under the Culver City Municipal Code and as provided by law.

5.06.050. Senior Discount and Assistance.

A. Senior Citizens that qualify as a Low Income Household shall be eligible for a fifty percent (50%) reduction of the Parcel Tax if they own and reside on a Single-Family Residential Parcel or Multi-Family Residential Parcel within the City. Eligible Senior Citizens meeting the criteria to qualify for the reduction shall complete and submit annually to the City a Parcel Tax Reduction Claim Form. The Parcel Tax Reduction Claim Form must be submitted to CFO on an annual basis and no later than March 1 of each tax year. An applicant must become a Senior Citizen prior to July 1 of the fiscal year for which the reduction is requested.

B. This Parcel Tax is a property tax and qualified Property Owners and renters shall be entitled to the benefits of the Gonsalves-Deukmejian-Petris Senior Citizen's Property Tax Assistance Law (California Revenue and Taxation Code Section 20501 et seq.) and the Senior Citizens and Disabled Property Tax Postponement Law (California Revenue and Taxation Code Section 20581 et seq.), as provided by law.

5.06.055 Accountability

A. Pursuant to Sections 50075.1 and 50075.3 of the California Government Code, the specific purposes of the Parcel Tax, the requirement that the Parcel Tax Proceeds be applied to such purposes, and the establishment of a special fund for the Parcel Tax Proceeds are set forth in Section 5.06.035. So long as the Parcel Tax is collected hereunder, commencing no later than January 1, 2019, and annually thereafter, the CFO is hereby authorized and directed to cause to be prepared and filed with the City Council a report that shows the amount of Parcel Tax collected and expended and the status of any projects funded with the Parcel Tax Proceeds. For purposes of this Section, the CFO is

authorized to retain such consultants, accountants or agents as may be necessary or convenient to accomplish the foregoing.

B. On an annual basis, the City's Finance Advisory Committee shall review the revenues and expenditures of the Parcel Tax Proceeds consistent with the City Council Adopted Budget, and submit a report of its findings to the City Council.

5.06.060. Examination of Books and Records and Annual Audit

A. The CFO or Director is hereby authorized and directed to examine assessment rolls, property tax records, records of the Los Angeles County Recorder and any other records of the County of Los Angeles deemed necessary in order to determine ownership of parcels and computation of the tax.

B. A certified public accounting firm retained by the City will perform an annual audit to assure accountability of the proper disbursement of the Parcel Tax Proceeds in accordance with the objectives stated herein.

5.06.065. Refund of Tax, Penalty or Interest Paid More Than Once, or Erroneously or Illegally Collected

Unless otherwise covered under Section 5.06.030 of this Chapter, when the amount of the Parcel Tax, any penalty, or any interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded provided a verified claim in writing therefor, stating the specific ground upon which the claim is founded, is filed with the CFO within six months from the date of payment. If the claim is approved by the CFO, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the person from whom it is collected or by

whom it has been paid, and the balance may be refunded to such person or his/her administrators or executors.

5.06.070. Savings Clause

The provisions of this Chapter shall not apply to any person, or to any property as to whom or which it is beyond the power of the City to impose the tax herein provided. If any provision, sentence, clause, Section or part of this Chapter 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 Chapter and shall not affect or impair any remaining provisions, sentences, clauses, Sections or parts of this Chapter. It is hereby declared to be the intention of the City that the Ordinance codified in this Chapter would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, Section or part thereof not been included herein.

5.06.075. Regulations

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

5.06.080. Increase Appropriations Limit

Pursuant to California Constitution Article XIII B, the appropriations limit for the City of Culver City is hereby increased by the aggregate sum authorized to be levied by this Parcel Tax for the fiscal year 2017-2018 and each year thereafter.

SECTION 2. AMENDMENT OR REPEAL. The City Council is hereby authorized to adopt additional provisions consistent with the intent of this Ordinance and to amend the provisions of this Ordinance without voter approval, provided such amendments do not extend the Parcel Tax to a taxpayer not subject to the Parcel Tax

or increase the amount of the Parcel Tax beyond the amount authorized by this Ordinance. Any amendment to this Ordinance which extends the Parcel Tax to a taxpayer who would otherwise not be subject to it or increase the amount of Parcel Tax beyond the tax rates authorized by this Ordinance must be approved only by a vote of the qualified electors of the City.

SECTION 3. 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 4. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the Parcel Tax by the City and shall be in full force and effect 10 days after the certification by the City Council of the election returns indicating passage of this Ordinance by two-thirds of the voters casting votes in the election.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Culver City voting on the 8th day of November, 2016.

JIM B. CLARKE, Mayor
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY GREEN, Deputy City Clerk

CAROL A. SCHWAB, City Attorney

A16-00589