

RESOLUTION NO. 2016-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD PRESENTING TO VOTERS A MEASURE TO LEVY A UTILITY USERS TAX ON TELECOMMUNICATIONS, ELECTRIC, GAS, AND CABLE AT THE GENERAL MUNICIPAL ELECTION PREVIOUSLY CALLED FOR NOVEMBER 8, 2016

THE CITY COUNCIL OF THE CITY OF BRENTWOOD DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. MEASURE TO BE VOTED ON AT GENERAL MUNICIPAL ELECTION

a. Ballot Language

The City Council, hereby orders the following question submitted to the voters at the November 8, 2016 General Municipal Election called by Resolution No. 2016-64, adopted on May 24, 2016:

UTILITY USERS TAX. To maintain and enhance essential City services, such as fire and emergency medical response, shall an Ordinance be adopted to enact a utility users tax on telecommunications, electricity, gas, and cable television phasing in over two years (3% in 2017 and an additional 3% in 2018, for a total of 6%) to ultimately raise ongoing funding of approximately \$6.1 million each year?	YES NO
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b. Proposed Ordinance

The full text of the ordinance authorizing the utility users tax to be approved by the voters, entitled the "Utility Users Tax Law of the City of Brentwood," is attached to this Resolution as Exhibit "A." and incorporated herein by reference.

c. Passage of the Measure

The utility users tax is a general tax requiring the approval of a majority of qualified electors of the City voting in the election on the issue and its proceeds may be used for any lawful purpose of the City.

d. Publication of Measure

The City Clerk is hereby directed to cause notice of the measure to be published in accordance with California Elections Code section 12111 in the form attached as Exhibit "A" to this Resolution.

e. Letter Designation and Consolidation

This measure shall be designated by letter by the Contra Costa County Clerk-Recorder-Registrar and/or the City Clerk pursuant to California Elections Code section 13116. Pursuant to California Elections Code section 10400 et seq., the election for this measure shall be consolidated with the Statewide General Election to be held on November 8, 2016.

f. Impartial Analysis

Pursuant to California Elections Code section 9280, the City Council hereby directs the City Clerk to transmit to the City Attorney a copy of the ordinance attached to this Resolution as Exhibit A. The City Attorney shall prepare an impartial analysis of the ordinance showing the effect of the ordinance on the existing law and the operation of the ordinance. The analysis shall not exceed 500 words and shall contain a statement that the ordinance was placed on the ballot by the City Council. The City Attorney shall transmit the impartial analysis to the City Clerk and the Contra Costa County Clerk-Recorder-Registrar by the deadline established therefor by the Contra Costa County Clerk-Recorder-Registrar.

g. Arguments for the Measure

Pursuant to California Elections Code Section 9282, subdivision (b), the City Council hereby authorizes the following Council Members to prepare and file the primary written argument on behalf of the City Council in support of the Measure:

1. Robert Taylor, Mayor
2. Joel Bryant, Vice Mayor
3. Steve Barr, Council Member
4. Gene Clare, Council Member
5. Erick Stonebarger, Council Member

h. Rebuttal Arguments

Pursuant to California Elections Code Section 9285, subdivision (b), the City Council hereby adopts the provisions of California Elections Code Section 9285, subdivision (a), relating to rebuttal arguments for the Measure only for the November 8, 2016 election and thereafter repeals this adoption.

SECTION 2. IMPLEMENTATION

The City Clerk is directed to file with the Contra Costa County Board of Supervisors a certified copy of this Resolution, with a copy to the County Clerk-Recorder-Registrar, pursuant to California Elections Code section 10403. The City Clerk is further authorized and directed to perform all other acts necessary or required by law to implement this Resolution and related to the election on the measure it proposes.

SECTION 3. CEQA

The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq. ("CEQA") and 14 Cal. Code Reg. §§ 15000 et seq. ("CEQA Guidelines"). Placing measures on the ballot is not a project within the meaning of CEQA Guidelines section 15378. The utility users tax submitted to the voters is a general tax that can be used for any governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Brentwood hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

SECTION 6: CERTIFICATION

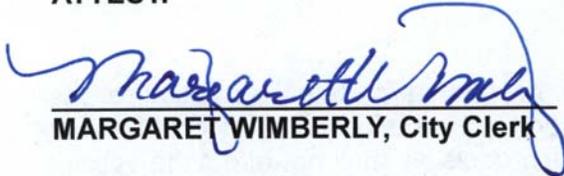
The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND ADOPTED this 26th day of July, 2016.



ROBERT TAYLOR, Mayor

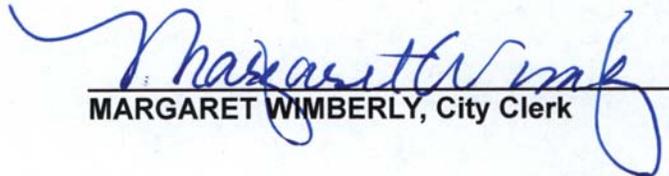
ATTEST:



MARGARET WIMBERLY, City Clerk

I **HEREBY CERTIFY** that the foregoing Resolution was adopted by the City Council of the City of Brentwood as a regular meeting thereof held on the 26th day of July, 2016, by the following vote, to wit:

AYES:	Council Members:	Barr, Bryant, Clare, Stonebarger, Mayor Taylor
NOES:	Council Members:	None
ABSTAIN:	Council Members:	None
ABSENT:	Council Members:	None



MARGARET WIMBERLY, City Clerk

Exhibit "A"

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF BRENTWOOD ADOPTING CHAPTER 3.18 OF ARTICLE 3 OF THE BRENTWOOD MUNICIPAL CODE LEVYING A UTILITY USERS TAX ON TELECOMMUNICATIONS, ELECTRICITY, GAS, AND CABLE TELEVISION SERVICES

The People of the City of Brentwood do ordain as follows:

Section 1.

Chapter 3.18 of Title 3 of the Brentwood Municipal Code is hereby adopted to read as follows:

"Chapter 3.18 Utility Users Tax Law of the City of Brentwood

3.18.010 Short title.

The ordinance codified in this chapter and adopted by the voters of the City of Brentwood on November 8, 2016, shall be known as the "Utility Users Tax Law of the City of Brentwood."

3.18.020 Purpose.

This chapter is required to impose a utility users tax for the usual and current expenses of the City of Brentwood.

3.18.030 Definitions.

Whenever used in this chapter, the following words and phrases shall be construed as defined in this section, unless the context plainly requires otherwise.

A. "Ancillary telecommunication services" means services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to:

1. "Conference bridging service" means an ancillary service that links two or more participants in an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

2. "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a billing statement.

3. "Directory assistance" means an ancillary service of providing telephone number information, and/or address information.

4. "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow

customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

5. "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that may be required to use voice mail service.

B. "Billing address" shall mean the mailing address of the service user to which the service supplier addresses invoices for payment by or on behalf of the service user.

C. "Cable television service" shall mean service of one or more channels of video programming to a residence, including, but not limited to, a home, condominium, apartment, or mobilehome, where a charge is made, whether directly or as included in dues or rental charges, for such service, whether or not public rights-of-way are utilized in the delivery of such service, including by means of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution service, and other providers of video programming whatever their technology.

D. "City" shall mean the City of Brentwood, either the municipality or the territorial limits of the city as the context requires.

E. "Day" shall mean a calendar day.

F. "Gas" shall mean natural or manufactured gas or any alternate hydrocarbon fuel that may be substituted therefore.

G. "Mobile telecommunications service" shall mean commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations and as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124) and the regulations thereunder.

H. "Month" shall mean a calendar month.

I. "Non-utility service supplier" means:

1. A service supplier, other than a supplier of electric distribution services to all or a significant portion of the city, which generates electricity for sale to others, and shall include but is not limited to any publicly-owned electric utility, investor-owned utility, cogenerator, distributed generation provider, exempt wholesale generator (15 U.S.C. Section 79z-5a), municipal utility district, federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity;

2. An electric service provider (ESP), electricity broker, marketer, aggregator, pool operator, or other electricity supplier other than a provider of electric distribution services to all or a significant portion of the city, which sells or supplies electricity or supplemental services to electricity users within the city; and,

3. A gas service supplier, aggregator, marketer or broker, other than a supplier of gas distribution services to all or a significant portion of the city, which sells or supplies gas or supplemental services to gas users within the city.

J. "Paging service" means a "telecommunications service" that provides transmission of coded radio signals to activate specific pagers; such transmissions may include messages and/or sounds.

K. "Person" shall mean, without limitation, any natural individual; firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and non-profit); joint power agency, special district or municipal corporation (other than the city); cooperative; or a receiver, trustee, guardian, or other representative appointed by any court.

L. "Place of primary use" means the place where a service user primarily uses telecommunications service, and, in the absence of persuasive evidence to the contrary, is presumed to be the service address.

M. "Post-paid telecommunication service" means a telecommunication service obtained by making a payment on a communication-by-communication basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.

N. "Prepaid telecommunication service" (including prepaid mobile telecommunication service) shall mean the right to access telecommunication services, which must be paid for in advance and which enables the origination of communications using an access number or authorization code, whether manually or electronically dialed.

O. "Private telecommunication service" means a telecommunication service that entitles the service user to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. A communications channel is a physical or virtual path over which signals are transmitted between or among customer channel termination points (i.e., the place at which the service user inputs or receives the communications).

P. "Service address" means the residential street address or the business street address of a service user. As to a telecommunication service, "service address" means either:

1. The location of the service user's telecommunication equipment from which the telecommunication originates or terminates, regardless of where the telecommunication is billed or paid; or

2. If the location in subsection 1. of this definition is unknown (e.g., as for mobile telecommunications service or VoIP service), the service address means the location of the service user's place of primary use.

3. As to prepaid telecommunication service, "service address" means the point of sale of the services if that point of sale is known and in the city; otherwise, it means the place of primary use.

Q. "Service supplier" shall mean any entity or person, including the city, that provides, sells, or resells a utility service to a user of such service in the city.

R. "Service user" shall mean a person required to pay a tax imposed under the provisions of this article.

S. "State" shall mean the State of California.

T. "Streamlined sales and use tax agreement" means the multi-state agreement commonly known and referred to as the streamlined sales and use tax agreement.

U. "Tax administrator" shall mean the city manager or his or her designee.

V. "Telecommunications service" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used.

1. The term "telecommunications services" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that are functionally integrated with "telecommunication services."

2. "Telecommunications services" include, but are not limited to the following services, regardless of the manner or basis on which the charges for such services are calculated or billed: ancillary telecommunication services; intrastate, interstate, and international telecommunication services; mobile telecommunications service; prepaid telecommunication service; post-paid telecommunication service; private telecommunication service; paging service; 800 service; 900 service. The term "telecommunication services" shall include, but is not limited to, charges for: connection, reconnection, termination, movement, or change of telecommunication services; late payment fees; detailed billing; central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory or administrative fees, charges or surcharges, including charges or surcharges for programs imposed by state or federal law (whether such charges or surcharges are imposed on the service supplier or the service user); local number portability charges; and text and instant messaging.

3. "Telecommunication services" shall not include:

a. digital downloads that are not "ancillary telecommunication services," such as music, ringtones, games, and similar digital products; or,

b. "telecommunications services" used to access the internet as provided in the federal Internet Tax Freedom Act.

W. "VoIP (Voice over Internet Protocol)" means the digital process of making and receiving real-time voice transmissions over any Internet Protocol network.

X. "800 Service" means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800," "855," "866," "877," and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

Y. "900 Service" means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission.

3.18.030 Exemptions and Credits.

A. Nothing in this chapter shall be construed as imposing a tax upon:

1. Any person or service when imposition of such tax upon that person or service would violate a federal or state statute, the Constitution of the United States or that of the State of California; and

2. The city as a municipal corporation.

3. A customer of record of a service supplier who is eligible for a reduced utility rate charged by any service supplier, such as Pacific Gas & Electric Co.'s California Alternate Rates for Energy (CARE) Program, shall be exempt from the tax imposed by this chapter on charges for the services of that service supplier.

B. Upon request of the tax administrator, a service supplier or non-utility service supplier, or its billing agent, shall provide a list of the names and addresses of those customers which, according to its billing records, are deemed exempt from the utility users tax. With respect to a service user of telephone communication service, a service supplier of such telephone communication services doing business in the city shall, upon the request of the tax administrator, provide a copy of the federal exemption for each exempt customer within the city that is served by such service supplier.

3.18.040 Telephone users tax.

A. There is hereby imposed a tax upon every person using telecommunication services in the city. The tax imposed by this section shall be at the percentage of the charges made for such services specified in section 3.18.310 and shall be collected from the service user by the telecommunication services supplier or its billing agent. There is a rebuttable presumption that telecommunication services billed to an address in the city, are used, in whole or in part, within the city, and such services are subject to tax under this section. There is also a rebuttable presumption that prepaid telecommunication services sold within the city are used, in whole or in part, within the city and are therefore subject to taxation under this section. If the billing address of the service user is different from his or her service address, the service address 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 telecommunication services.

B. "Mobile telecommunications service" shall be sourced in accordance with the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124). The tax administrator may issue and disseminate to telecommunication service suppliers subject to the tax collection requirements of this chapter sourcing rules for the taxation of other telecommunication services, including but not limited to post-paid telecommunication services, prepaid telecommunication services, VoIP, and private communication services, provided that such rules are based upon custom and common practice that further administrative efficiency and avoid multi-jurisdictional taxation (e.g., streamlined sales and use tax agreement).

C. The tax administrator may issue and disseminate to telecommunication service suppliers subject to the tax collection requirements of this chapter administrative rulings identifying those telecommunication services, or charges therefor, that are subject to or not subject to the tax of subsection A. above.

D. To prevent actual multi-jurisdictional taxation of telecommunication services subject to tax under this section, any service user, upon proof to the tax administrator that the service user has previously paid tax in another state or city on such telecommunication services, shall be allowed a credit against the tax imposed in the amount of such tax legally imposed in such other state or city; provided, however, the amount of credit shall not exceed the tax owed to the city under this section.

E. The service supplier shall collect tax on telecommunication services imposed by this section from the service user. The amount of tax collected in a month shall be remitted to the tax administrator on or before the 20th day of the following month in accordance with section 3.18.140 of this chapter.

F. Notwithstanding the provisions of subsection A. above, the tax imposed by this section shall not be imposed upon any person using telecommunication services in the city under the following circumstances:

1. Except with respect to local telephone service, on any charges for services used in the collection of news for the public press; a news ticker service furnishing a general news service similar to that of the public press; radio broadcasting; in the dissemination of news through the public press; or a news ticker service furnishing a general news service similar to that of the public press or by means of radio broadcasting.

2. On any charges for services used by a public international organization in which the United States Government participates pursuant to a treaty or a federal statute; or the American National Red Cross.

3. On any charges for toll telephone services used, which originate within a combat zone from a member of the Armed Forces of the United States performing service in the combat zone, as defined under Section 112 of Title 26 of the United States Code.

4. On any charges for services used by a common carrier, telephone or telegraph company, or radio broadcasting station or network, in the conduct of its business.

5. On any charges for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment, to the extent properly attributable to such installation.

6. On any charges for services used by a "nonprofit hospital" as defined in Section 170(b)(1)(A)(iii) of Title 26 of the United States Code, which is exempt from federal income taxation under Section 501(a) of Title 26 of the United States Code.

7. On any charges for services used by any federal or state government, or any of their political subdivisions, or the District of Columbia.

8. On any charges for services used by a "nonprofit educational organization" as defined in Section 170(b)(1)(A)(ii) of Title 26 of the United States Code, which is exempt from federal income taxation under Section 501(a) of Title 26 of the United States Code. "Nonprofit educational organization" also includes a school operated as an activity of an organization described in Section 501(c)(3) of Title 26 of the United States Code, which is exempt from federal income taxation under Section 501(a) of Title 26 of the United States Code, if the school normally maintains a regular facility and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

3.18.050 Bundling taxable items.

If any nontaxable charges are combined with and not separately stated from taxable service charges on a bill, the combined charge is subject to tax unless the service supplier apportions, by reasonable and verifiable standards, the combined charge between nontaxable and taxable services using books and records kept in the regular course of the service supplier's business, and in accordance with generally accepted accounting principles, and not created and maintained only for tax purposes. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the apportionment shall use books and records kept in the regular course of the service supplier's business and in accordance with generally accepted accounting principles, and not created and maintained only for tax purposes. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges.

3.18.060 Substantial nexus/minimum contact.

For purposes of imposing a tax or establishing a duty to collect and remit a tax under this chapter, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the tax to the fullest extent permitted by state and federal law, and as it may change from time to time by judicial interpretation or by statutory or constitutional enactment. Any telecommunication service (including VoIP) used by a person with a service address in the city, which service is capable of terminating a call to another person on the general telephone network, is rebuttable presumed to have "substantial nexus/minimum contacts" with the city for purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this chapter. A service supplier shall be deemed to have sufficient activity in the city to be obliged to collect and remit tax if its activities include, but are not limited to, any of the following: maintains or has within the city, directly or through an agent, affiliate, or subsidiary, a place of business of any nature; solicits business in the city by employees, independent contractors, resellers, agents or other representatives; solicits business in the city on a continuous, regular, seasonal or systematic basis by means of advertising that is broadcast or

relayed from a transmitter in the city or distributed from a location with the city; or advertises in newspapers or other periodicals printed and published within the city or through materials distributed in the city by means other than the United States mail; or if there are activities performed in the city on behalf of the service supplier that are significantly associated with the service supplier's ability to establish and maintain a market in the city for the provision of utility services that are subject to a tax under this chapter (e.g., electronic advertising received within the city or activities in the city by an affiliated person that inure to the benefit of the service supplier in its developing or maintaining a market in the city).

3.18.070 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 percentage specified in section 3.18.310 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.

B. As used in this section, the term "charges" shall apply to all services, components and items that are: (i) necessary or common to the receipt, use and enjoyment of electric service; or (ii) historically have been, included in a single or bundled rate for electric service to a class of retail customers. "Charges" includes but is not limited to, the following:

1. Energy charges;
2. Distribution or transmission charges;
3. Metering charges;
4. Stand-by, reserves, firming, ramping, voltage support, regulation, emergency, or other similar minimum charges for services;
5. Customer charges, late charges, service establishment or reestablishment charges, demand charges, fuel or other cost adjustments, power exchange charges, independent system operator (ISO) charges, stranded investment or competitive transition charges (CTC), public purpose program charges, nuclear decommissioning charges, trust transfer amounts (bond financing charges), franchise fees, franchise surcharges, annual and monthly charges, and any other charges, fees and surcharges which are necessary to or common for the receipt, use and enjoyment of electric service; and
6. Charges, fees, or surcharges for electricity services or programs, which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees or surcharges appear on a bundled or line item basis on the customer billing.

C. As used in this section, the term "charges" shall also 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 electricity or services related to the provision of electricity. If a non-taxable service and a taxable service are billed together under a single charge, the entire

charge shall be deemed taxable unless the service supplier can reasonably identify charges not subject to tax based upon books and records that are kept in the regular course of business, which shall be consistent with generally accepted accounting principles and which are not created and maintained only for tax purposes.

D. The tax administrator, from time to time, may survey electric service suppliers to identify unbundled billing components of electrical retail service they commonly provide to retail customers in the city, and the charges therefor, including those items that are mandated by state or federal regulatory agencies as a condition of providing electric service. The tax administrator may issue and disseminate to electric service suppliers administrative rulings identifying those components and items which are: (i) necessary or common to the receipt, use and enjoyment of electric service; or, (ii) currently, or historically have been, included in a single or bundled rate for electric service to a class of retail customers. Unbundled charges for such components and items shall be subject to the tax of subsection A. above.

E. As used in this section, "using electricity" shall not be construed to include the mere receiving of such electricity by an electric public utility or governmental agency within the city for resale or the use of such electricity by such entity in the production or distribution of water.

F. The tax on electricity provided by a non-utility service supplier not under the jurisdiction of this chapter shall be collected and remitted in the manner set forth in section 3.18.090 of this chapter. All other taxes on charges for electricity imposed in this section shall be collected from the service user by the electric service supplier or its billing agent. The amount of tax collected in a month shall be remitted to the tax administrator on or before the 20th day of the following month in accordance with section 3.18.140 of this chapter; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user on or before the 20th day of the following month in accordance with section 3.18.140 of this chapter.

3.18.080 Gas user tax.

A. There is hereby imposed a tax upon every person in the city, other than a gas corporation or electrical corporation, using gas in the city which is delivered through a pipeline distribution system. The tax imposed by this section shall be at percentage specified in section 3.18.310 of the charges made for such gas, including all services related to the storage, transportation and delivery of such gas, and shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent.

B. As used in this section, the term "charges" shall apply to all services, components and items for gas service that are: (i) necessary or common to the receipt, use and enjoyment of gas service; or (ii) currently, or historically have been, included in a single or bundled rate for gas service to a class of retail customers. "Charges" shall include, but is not limited to, the following:

1. Commodity charges for purchased gas, or the cost of gas owned by the service user (including the actual costs attributed to drilling, production, lifting, storage, gathering, trunkline, pipeline, and other operating costs associated with the production and delivery of such gas), which is delivered through a gas pipeline distribution system;

2. Gas transportation charges (including interstate charges to the extent not included in commodity charges);

3. Storage charges; provided, however, that the service provider shall not be required to apply the tax to any charges for gas storage services when the service provider cannot, as a practical matter, determine the jurisdiction in which such stored gas is ultimately used; but it shall be the obligation of the service user to pay the tax not applied to any charge for gas storage by the service provider and to remit the tax to the city if the storage services have minimum contacts with the city;

4. Capacity or demand charges, late charges, service establishment or reestablishment charges, transition charges, customer charges, minimum charges, annual and monthly charges, and any other charges which are necessary or common to the receipt, use and enjoyment of gas service, and

5. Charges, fees, or surcharges for gas services or programs mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees or surcharges appear on user's bills on a bundled or line item basis.

C. As used in this section, "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by a service user in exchange for gas or services related to the delivery of gas. If a non-taxable service and a taxable service are billed together under a single charge, the entire charge shall be deemed taxable unless the service supplier can reasonably identify charges not subject to the utility users tax based upon books and records kept in the regular course of its business, which shall be consistent with generally accepted accounting principles and which are not created and maintained only for tax purposes.

D. The tax administrator, from time to time, may survey gas service suppliers to identify the various unbundled billing components of gas retail service they commonly provide to retail customers in the city, and the charges therefor, including items mandated by state or federal regulatory agencies as a condition of providing gas service. The tax administrator may issue and disseminate to such gas service suppliers administrative rulings identifying those components and items which are: i) necessary or common to the receipt, use and enjoyment of gas service; or, ii) currently, or historically have been, included in a single or bundled rate for gas service to a class of retail customers. Unbundled charges for such components and items shall be subject to the tax of subsection A. above.

E. There shall be excluded from the base on which the tax imposed in this section is computed:

1. Charges made for gas which is to be resold and delivered through a pipeline distribution system;

2. Charges made for gas sold for use in the generation of electricity or for the production or distribution of water by a public utility or governmental agency; and

3. Charges made by a gas public utility for gas used and consumed in the conduct of the business of gas public utilities.

F. The tax that is calculated on charges for gas provided by self-production or by a non-utility service supplier shall be collected and remitted as set forth in section 3.18.090 of this chapter. A gas service supplier or its billing agent shall collect from service users all other taxes imposed in this section. The tax collected in a month shall be remitted to the tax administrator on or before the 20th day of the following month in accordance with section 3.18.140 of this chapter; or, at the option of the person required to collect or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user on or before the 20th day of the following month in accordance with section 3.18.140 of this chapter.

3.18.090 Collection of tax from service users receiving direct purchase of gas or electricity.

A. Any service user in the city subject to the tax imposed by section 3.18.070 or by section 3.18.080 of this chapter, who or which produces gas or electricity for self-use, or which receives gas or electricity, including any related supplemental services, directly from a non-utility service supplier, or which, for any other reason, is not having the full tax collected and remitted by its service supplier, a non-utility service supplier, or its billing agent on the use of gas or electricity, including any related supplemental services, shall report that fact to the tax administrator and remit the tax due to the tax administrator within 30 days of such use. Alternatively, a service user may, at its option, remit to the tax administrator within 30 days of such use an estimated amount of tax measured by the tax due in the previous month, or upon the payment pattern of similar customers of the service supplier using similar amounts of gas or electricity, provided that the service user shall submit an adjusted payment or request for credit, as appropriate, within 60 days following each calendar quarter. The credit, if approved by the tax administrator, may be applied against any tax due subsequently.

B. The tax administrator may require such a service user to identify its non-utility service supplier and provide subject to audit, invoices, books of account, or other satisfactory evidence documenting: (i) the quantity of gas or electricity used, including any related supplemental services, and (ii) the cost or price thereof. If a service user is unable to provide such satisfactory evidence, or, if the tax administrator deems the cost to the service user to calculate the tax to be unreasonable, the tax administrator may determine the tax by applying the tax rate to the equivalent charges the service user would have incurred had the primary provider of gas or electricity services in the city provided the gas or electricity used, including any related supplemental services by. Rate schedules for this purpose shall be available from the tax administrator.

3.18.100 Cable television user tax.

A. There is imposed a tax on every person in the city, other than a cable television corporation, using cable television service in the city whether delivered by cable, microwave, or any other method within the city. The tax imposed by this section shall be at percentage specified in section 3.18.310 of the charges made for such cable television and shall be collected from the service user by the service supplier, or its billing agent.

B. As used in this section, "charges" shall apply to all services, components, and items that are: (i) necessary or common to the receipt, use and enjoyment of cable television service; or (ii) currently, or historically have been, included in a single or bundled rate for cable

television service by a service supplier. "Charges" shall include, but is not limited to, the following:

1. 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 and enjoyment of cable television service; and

2. Charges, fees, or surcharges for cable television services or programs, which are mandated by a state or federal agency, whether or not such charges, fees, or surcharges appear on customer bills on a bundled or line item basis.

C. As used in this section, "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by a service user for cable television services. If a non-taxable service and a taxable service are billed together under a single charge, the entire charge shall be deemed taxable unless the service supplier can reasonably identify charges not subject to tax based upon books and records that are kept in the regular course of its business, which shall be consistent with generally accepted accounting principles and not created and maintained only for tax purposes.

D. The tax on cable television service imposed by this section shall be collected from a service user by a service supplier or its billing agent. The amount of tax collected in a month shall be remitted to the tax administrator on or before the 20th day of the following month in accordance with section 3.18.140 of this chapter.

3.18.110 Decisions on amounts imposed.

If any court of competent jurisdiction holds any tax, penalty, or interest charge imposed by this chapter to be discriminatory or invalid in amount for any reason such holding shall not affect the validity of a lesser amount imposed by the tax administrator upon the advice of the city attorney. The city council hereby declares that it would have imposed a valid utility users tax, penalty, or interest charge of the maximum nondiscriminatory amount permitted by law, up to but not exceeding, the amount provided under this chapter on the person or persons in question, irrespective of the fact that any one or more of the taxes, penalties, or interest charges imposed herein may be declared discriminatory or invalid in amount.

3.18.120 Duty to collect; procedures.

The duty of service suppliers to collect and remit the taxes imposed by this chapter shall be performed as follows:

A. The tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with the regular billing practice of each service supplier.

B. Section 3.18.170(B) of this chapter applies when a service user has notified a service supplier of refusal to pay the tax.

C. The duty to collect tax from a service user shall commence as provided in Public Utilities Code section 799. Provided, however, that the tax administrator may enter into agreements with service suppliers to induce them to collect the tax more quickly than the 60

days provided by that section in exchange for the right to withhold from taxes remittances to the city their reasonable costs, as specified in such agreement, to initially implement the tax.

D. Where a service user receives more than one billing for different periods, the duty to collect shall arise separately for each billing period.

E. Whenever a service supplier negligently fails in its duty to determine and collect the required tax from a service user, any other amount collected by the service supplier from the service user shall then be subject to a constructive trust in the favor of the city for the full amount of the uncollected tax.

3.18.130 Duty to remit; procedures.

A. Each person required by this chapter to remit a tax shall file a return with the tax administrator on forms approved by the tax administrator on or before the due date in accordance with section 3.18.140 of this chapter. The full amount of the tax owed shall be included with the return and filed with the tax administrator. The tax administrator is authorized to require such additional information as he or she deems necessary to determine if the tax is being levied and collected in accordance with this chapter. Returns are due immediately upon cessation of business for any reason. Pursuant to state Revenue and Taxation Code Section 7284.6, the tax administrator, and his or her agents, shall maintain such filing returns as confidential information not subject to the Public Records Act.

B. If a service supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the service supplier shall: (i) provide to the tax administrator the name, address, and telephone number of each billing agent and billing aggregator authorized by the service supplier to bill, collect, and/or remit the tax to the city; and (ii) upon request of the tax administrator, deliver any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the tax administrator, is or are necessary to verify the proper application, calculation, collection and/or remittance of such tax.

3.18.140 Timely filing and remittance.

A. Returns and taxes may be filed and remitted by the following means: (i) personally, (ii) by United States Mail, (iii) by express carrier, and (iv) by electronic means acceptable to the tax administrator. Returns and taxes actually received by the tax administrator on or before the due dates provided in this chapter shall be timely; otherwise, returns are late and subject to any remedy permitted under this Code and taxes are delinquent and subject to the penalties imposed pursuant to section 3.18.150 of this chapter. Provided, however, that when the last day upon which a return may be filed or a tax remitted falls on a Saturday, Sunday, or a holiday or a day city hall is not open for business, a timely filing and remittance may be made upon the first following business day.

B. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between financial accounts, made by a service supplier in satisfaction of its obligations under this chapter shall be timely if the transfer is initiated on or before the due dates provided in this chapter, and settles into the city's account on the following business day.

3.18.150 Penalty and interest; delinquencies and deficiencies in collection and

remittance.

A. Taxes collected but not remitted by due date—delinquencies in remittance. If taxes collected by a service supplier from a service user, or self-collected by a service user subject to section 3.18.090 of this chapter are not remitted to the tax administrator on or before the due dates provided in this chapter, such taxes shall be delinquent. The tax administrator shall attach a one-time penalty for such delinquencies in remittance of 15 percent of the delinquent amount.

B. Taxes not collected—delinquencies in collection. If a service supplier required to collect any tax hereunder fails to collect such tax, or, if a service user required to pay and remit the tax pursuant to section 3.18.090 of this chapter, fails to timely do so, the tax administrator shall attach a penalty for such delinquencies in collection at the rate of 15 percent of the total tax amount that is determined to be due.

C. Taxes not fully collected—deficiencies in collection. If a service supplier required to collect and remit any tax hereunder fails to collect the full amount of the tax, or, if a service user subject to section 3.18.090 of this chapter fails to properly pay the full amount of the tax, the tax administrator shall attach a one-time penalty of 15 percent of the unpaid tax.

D. Taxes not fully remitted—deficiencies in remittance. If a service supplier required to collect and remit any tax hereunder fails to remit the full amount of the tax collected, the tax administrator shall attach a one-time penalty of 15 percent of the unpaid tax.

E. Fraud or gross negligence—additional penalties. If the tax administrator determines any delinquency or deficiency in collection and/or remittance by any service supplier, or service user required to pay and remit the tax pursuant to section 3.18.090 of this chapter, is due to fraud or gross negligence, the tax administrator may impose an additional one-time penalty of 15 percent of the unpaid tax.

F. Penalties—maximum amount. The cumulative amount of all applicable penalties imposed under this chapter shall not exceed the tax originally owed.

G. Interest—due from date of delinquency. Any person subject to any penalty imposed by this section, shall also pay interest on the unpaid tax and penalties at the rate of 0.75 percent per month, or any fraction thereof from the date on which the remittance of such amount first became delinquent or deficient, and the date the penalty was or penalties were imposed, until fully paid.

H. Penalties and interest. All penalties and all interest imposed under this chapter shall constitute a single debt to the city of the person obligated to pay and shall therefore be subject to the same actions to collect and the same provisions for enforcement as the tax imposed by this chapter.

I. Penalties, interest, delinquencies, and deficiencies owed. All penalties and interest imposed under this chapter together with all delinquencies and deficiencies owed shall be due and payable as of the date of notification which shall be given in the manner as administrative assessments under section 3.18.180 of this chapter. Any person assessed any amount as delinquency, or deficiency, or penalty, or interest shall have the same right of appeal as provided in the case of administrative assessments under section 3.18.180 of this chapter.

3.18.160 Actions to collect.

Any tax, penalty, or interest required to be paid by a service user under the provisions of this chapter shall be deemed a debt owed by the service user to the city. Any such tax collected from a service user together with any penalties or interest due thereon which have not been remitted to the tax administrator shall be deemed a debt owed to the city by the service supplier required to collect and remit. The amount of any tax required to be collected from a service user by a service supplier which is held in constructive trust in the favor of the city shall be a debt owed by the service supplier to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount plus related costs incurred by the city and such other legal and equitable remedies as are provided by this Code or other law.

3.18.170 Tax administrator, ex officio collector of utility user taxes; additional powers and duties of tax administrator.

- A. The tax administrator shall be ex officio utility users tax collector.
- B. The tax administrator shall have the power and authority to interpret and enforce all of the provisions of this chapter.
- C. The tax administrator may adopt administrative rules, regulations, and guidelines, or make administrative agreements consistent with the intent of the provisions of this chapter for the purpose of administering the provisions herein regarding the payment, collection, and remittance of said taxes.

3.18.180 Assessment; administrative remedy.

The tax administrator may make an assessment for taxes not collected and/or not remitted or paid by any person required to collect and/or remit or pay.

- A. Service supplier or service user—failure to collect and/or remit tax. If any service supplier, or any service user subject to section 3.18.090 of this chapter, (hereinafter in this subsection, "service supplier") required to collect and/or remit the tax imposed by this chapter shall fail or refuse to collect said tax or to timely make any report and remittance of said tax or any portion thereof, the tax administrator shall determine the tax due (tax, penalties, and interest on both; collectively hereinafter in this subsection, "amount assessed"). The tax administrator shall give a written notice of the amount assessed by personal service or by depositing it in the United States mail, addressed to the service supplier at the service supplier's address last known to the city. The service supplier may, within 10 days after serving or mailing such notice, apply in writing to the tax administrator for a hearing on the amount assessed under section 3.18.230 of this chapter. If such application is not made in that time, the amount assessed shall become final and immediately due and payable.
- B. Service user—failure to pay tax. Whenever the tax administrator determines a service user has deliberately withheld from a service supplier tax owed by him or her, or has failed to pay the tax to such service supplier for two or more billing periods, or whenever the tax administrator deems it in the best interest of the city, he or she may relieve such service supplier of the obligation to collect taxes due under this chapter from such service users for specified billing periods. In the case, the service supplier shall provide the tax administrator the

names, account numbers, billing and service addresses, and other required information of such non-paying service users together with the amounts owed under this chapter and the specified billing periods for which they are owed. The tax administrator shall give written notice to the non-paying service user that he or she has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by personal service or by notice via the United States mail, addressed to the service user at the address to which billing was made by the person required to collect the tax or such other address for the service user as is last known to the tax administrator. If a service user fails to remit the tax to the tax administrator within 15 days of mailing or personal service of the notice, the tax administrator shall impose an additional, one-time penalty of 25 percent of the amount assessed, but not less than five dollars. Interest shall thereafter accrue at the rate of 0.75 percent per month, or any fraction thereof, on the amount assessed plus the additional penalty.

3.18.190 Records.

A. It shall be the duty of every person required to collect and/or remit to the city any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been obliged to collect and remit to the tax administrator, which records the tax administrator shall have the right to inspect at all reasonable times. The city may issue an administrative subpoena to compel a person to deliver to the tax administrator copies of all records deemed necessary by the tax administrator to establish compliance with this chapter, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the person in the usual and ordinary course of business. The tax administrator is authorized to execute a non-disclosure agreement approved by the city attorney to protect the confidentiality of customer information pursuant to state Revenue and Taxation Code Sections 7284.6 and 7284.7.

B. The tax administrator may request from any person providing transportation or distribution services of gas or electricity to service users in the city, a list of the names, billing, and service addresses, quantities of gas or electricity delivered, and other pertinent information, of its transportation customers within the city pursuant to Public Utilities Code section 6354, subdivision (e).

C. The tax administrator may impose a penalty of \$500.00 on any person subject to record-keeping under this section who unreasonably denies the tax administrator, or any designated agent of the tax administrator, access to such records, or fails to produce the information requested in an administrative subpoena within the time specified for each day he or she refuses such access. This penalty shall be in addition to any other penalty imposed by this chapter.

3.18.200 Refunds.

A. The tax administrator may refund any tax that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, as provided in this section.

B. The tax administrator shall pay no refund under this section unless the claimant or his or her guardian, conservator, executor, or administrator submits a written claim to the tax

administrator within 12 months of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. Nothing herein shall permit the filing of a claim on behalf of a class or group of taxpayers.

C. The submission of a written claim shall be a prerequisite to a suit thereon as provided in Government Code section 935. The city shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the city fails or refuses to act on a refund claim within that time, the claim shall be deemed rejected on the last day on which the city might have timely acted upon the claim under that section.

D. Notwithstanding subsection B. above, a service supplier may take any overpayment as a credit against an underpayment whenever such overpayment has been received by the city within 3 years before a notice of tax deficiency or assessment by the tax administrator, or during any year for which the service supplier, at the request of the tax administrator, has executed a waiver of the defense of the statute of limitations with regard to any claim the city may have for a utility users tax. Under no circumstances shall an overpayment taken as a credit against an underpayment pursuant to this subsection qualify a service supplier for a refund to which it would not otherwise be entitled under the 12-month written claim requirement of this section.

3.18.210 Reserved

3.18.220 Violation; misdemeanor; remedies cumulative.

A. Any person other than the city or an officer, agent or employee of the city acting within the course and scope of his or her relationship with the city who violates any provision of this chapter shall be guilty of a misdemeanor and shall upon conviction be punishable thereafter as provided in this code and applicable law.

B. The conviction and fine or imprisonment of any person for violation of this chapter shall not relieve such person from paying the tax together with any penalty or interest due, nor shall the payment of any tax, penalty, or interest prevent a civil action or criminal prosecution for violation of any provision of this chapter. All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code section 17000 et seq.), are cumulative. The city's use of one or more remedies to enforce this chapter shall not bar the use of any other remedy.

3.18.230 Right to administrative hearing; appeals.

A. If any service user or service supplier (hereinafter in this subsection, "applicant") is aggrieved by any decision, assessment, or ruling of the tax administrator, or by denial of a refund or exemption, under this chapter, he or she may request reconsideration by the tax administrator in writing within 30 days of the decision, assessment, ruling or denial. If no application is timely made, the decision, assessment, ruling or denial shall be final. If such application is made, the tax administrator shall conduct a hearing on the appeal after five or more days' written notice. Such notice shall be given by personal service or by depositing it in the United States mail, addressed to the applicant's last known address. The applicant may

appear before the tax administrator or a hearing officer he or she appoints (hereinafter in this subsection, "hearing officer") and offer evidence. After such hearing the hearing officer shall determine the appeal under the standards of this chapter and give the applicant written notice of that determination. The hearing officer's determination shall be final. A final decision under this subdivision A. is not subject to further administrative appeal, but is subject to judicial review as provided in Code of Civil Procedure section 1094.5.

3.18.240 Nonpayment of tax – Bar to writ of mandate or other legal or equitable process; "pay first, litigate later" rule.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this city or against any officer of the city to prevent or enjoin the collection of any tax, penalty or interest owed. Rather, the persons obliged under this chapter shall perform the duties it prescribes under protest, seek an administrative hearing under section 3.18.220 and thereafter seek judicial review and a post-payment judicial remedy.

3.18.250 Savings clause.

The adoption of this chapter shall not be construed to affect prosecution for violation of any chapter, article, code, or ordinance before the effective date hereof, nor be construed as a waiver of any tax or any penal provision applicable to any such violation, and all rights and obligations thereunto appertaining shall continue in full force and effect.

3.18.260 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held to be unconstitutional or unenforceable for any reason, such decision, and the decision not to enforce such, shall not affect the validity of the remaining portion of this chapter or any part thereof. To that end, the City Council hereby declares the provisions of this chapter to be severable.

3.18.270 Notice of changes to utility user tax.

If a tax under this chapter is added, repealed, increased, reduced, or the tax base is changed with any voter approval required by the California Constitution, the tax administrator shall provide the notice required by Public Utilities Code section 799. Before the effective date of the change, the service supplier shall provide the tax administrator with a copy of any written procedures describing the information the service supplier needs to implement the change. If the service provider fails to provide such written instructions, the tax administrator, or his or her agent, shall send, by first class mail, a copy of the change to all collectors and remitters of the city's utility user taxes according to the latest payment records of the tax administrator.

3.18.280 Effect of state and federal reference/authorization.

A. Any reference to a statute in this chapter shall mean such statute, as amended from time to time; excluding, however, any amendment or change of interpretation by a state or federal agency or court that would: (i) increase the tax imposed by this chapter or otherwise trigger voter approval under article XIII C of the California Constitution or Government Code section 53720 et seq., or (ii) result in a tax decrease (as by excluding all or a part of a utility service, or charge therefor, from taxation). If a statute referenced in this chapter is amended as

provided in subdivisions (i) and (ii) of the previous sentence, the prior version or interpretation of the statute shall remain applicable under this chapter unless and until it is amended with any requisite voter approval.

B. To the extent that the city's authorization to collect or impose any tax imposed under this article is expanded or limited as a result of changes in state or federal law, no amendment or modification of this article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this article without additional voter approval to the full extent permitted by law.

3.18.290 No increase in tax percentage or change in methodology without voter approval; amendment or repeal.

The city council may repeal or amend this chapter without a vote of the people. However, as required by Government Code section 53720 et seq. and Chapter XIII C of the California Constitution, voter approval is required for any amendment to increase the tax due under this chapter from any taxpayer. The following actions shall not constitute an increase of the rate of a tax requiring further voter approval:

A. Restoration of the rate of the tax to a rate that is no higher than that last approved by the voters following city council action to reduce the tax;

B. An administrative or legislative 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 chapter;

C. The exemption of a class of service users or class of service from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception expressed in this chapter); or

D. The collection of the tax imposed by this chapter, even if the city had, for some period of time, failed to collect the tax.

3.18.300 Accountability.

A. The City shall annually contract with an independent auditor, in conjunction with its fiscal audit, for an audit or review of the expenditure of the proceeds of the taxes imposed by this chapter. The report of that independent auditor shall be presented at a public meeting of the City Council and posted to the City's website for public inspection.

B. The City shall annually report on how it spends the proceeds of the taxes imposed by this chapter, in conjunction with its annual budget, fiscal audit, or both. That expenditure report shall be presented at a public meeting of the City Council and posted to the City's website for public inspection.

3.18.310 Tax Rate.

The taxes imposed under this chapter shall be imposed as a percentage of the taxable charges as follows:

Calendar year 2017	3.0%
Calendar year 2018 and thereafter	6.0%

3.18.320 Sunset of Tax.

If the share of property taxes distributed to the city and to special districts providing municipal services to the city, including but not limited to the East Contra Costa Fire Protection District, is increased so as to provide additional funding for those services in amounts comparable to those provided by the taxes imposed by this chapter, the City Council shall repeal this tax."

Section 2. Severability.

If any section, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unenforceable by a court of competent jurisdiction for any reason, the remaining sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain in full force and effect. The People of the City of Brentwood hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are hereby declared to be severable.

Section 3. General Tax; Majority Approval; Effective Date.

The tax imposed by this Ordinance is a general tax for general governmental purposes. If a majority of votes cast on the question favor the ballot measure regarding this Ordinance, this Ordinance shall be effective on the date the vote therefor is declared by the City Council and shall go into effect 10 days thereafter in accordance with California Elections Code section 9217.

Section 4. Execution of Ordinance.

The People of the City of Brentwood hereby authorize the Mayor and City Clerk of the City to execute this Ordinance to reflect its adoption at the November 8, 2016 election.

I hereby certify that the foregoing ordinance was duly adopted by a majority of the voters of the City casting votes on the question on November 8, 2016.

Robert Taylor
Mayor

(date)

ATTEST:

Margaret Wimberly
City Clerk

(date)