

City of Piedmont  
COUNCIL AGENDA REPORT

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DATE: November 18, 2019

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Introduction and First Reading of Ord. 746 N.S.–Regarding Renewal of the Municipal Services Special Tax Effective July 1, 2021

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RECOMMENDATION

Approve the 1<sup>st</sup> reading of Ord. 746 N.S. regarding renewal of the Municipal Services Special Tax, effective July 1, 2021.

BACKGROUND

In 1981, 1984, and every four years since, the City Council has placed a measure before the voters of Piedmont to approve the Municipal Services Special Tax (Parcel Tax), which provides approximately 8% of the City's general fund budget. The parcel tax is levied against all improved lots in the city, with a rate based upon the use, and in most cases, parcel size. The current tax, approved by the voters on June 7, 2016, expires on June 30, 2021.

At its meeting of October 7, 2019 the Council received a recommendation from the Budget Advisory and Financial Planning Committee (BAFP) that a renewal of the parcel tax should be placed before the voters and that the Council should maintain the current tax rate. The BAFP's report is available on the City's web site at <https://piedmont.ca.gov/common/pages/DisplayFile.aspx?itemId=16086868> The Committee stated that, "...The continued need for the Parcel Tax is demonstrated with a review of the City's recently provided ten-year General Fund financial projections, as well as an analysis of the City's facilities maintenance needs. It also made the following conclusions, among others:

- The City has done "...a commendable job of implementing prior recommendations to control costs and improve the long-term financial health of the City."
- Though the City's long term plan provides a reasonable way forward, that "... the City currently lacks sufficient resources to maintain City infrastructure including facilities, streets and sidewalks, and meet deferred maintenance needs, without additional revenues."
- The Committee indicted its support for considering new revenue sources and the balancing of the needs of basic operations with the aspirational desires of the public.

After much discussion, Council directed staff to prepare an ordinance placing a renewal of the parcel tax on the March 3, 2020 ballot with a four year duration and no increase beyond that of the Consumer Price Index to the current rates. Attached to this report is Ordinance 746 N.S. This ordinance implements a four year renewal of the Municipal Services Special Tax with no increase in the tax rate beyond CPI. Under the provisions of this ordinance, each year the tax is in force, the City Council will determine the actual levy amount as a part of the annual process of approving the City’s budget. The proposed maximum rates for FY 21-22 are shown in the table below:

Per Parcel According to Size	Single Family Residence	Developed Commercial Properties	Multi-Family Residence	Parcels Divided by Tax Code Area Line
0 to 4,999 sq. ft.	\$551			
5,000 to 9,999 sq. ft.	\$620			
10,000 to 14,999 sq. ft.	\$715			
15,000 to 20,000 sq. ft.	\$817			
Over 20,000 sq. ft.	\$930			
0 to 10,000 sq. ft.		\$930		
Over 10,000 sq. ft.		\$1,395		
Per Dwelling Unit			\$383	
Per Parcel				\$565

It is the City’s experience in providing municipal services that parcels of higher intensity use or parcels of greater size have a higher demand for service. Though there have been minor changes to the text of the ordinance to update the language, it is, for all practical purposes, identical to the existing Municipal Services Special Tax.

If the Council wishes to place this matter before the voters at the Presidential Primary Election of March 3, 2020, the first reading must be approved at this meeting or a special meeting more than five days before the second reading, which would take place on December 2, 2019. State law requires that this ordinance be passed by a 4/5<sup>th</sup> vote of the Council. Because it is parcel based, a two thirds majority of voters is required to approve the tax.

The attached ordinance has been reviewed and approved as to form and legality by the City Attorney.

Attachment: Ordinance 746 N.S.

By: John O. Tulloch, Assistant City Administrator / City Clerk  
 Michael Szczech, Finance Director

ORDINANCE NO. 746 N.S.

AN ORDINANCE AMENDING CHAPTER 20B  
OF THE PIEDMONT CITY CODE PROVIDING FOR A SPECIAL  
MUNICIPAL SERVICES TAX

The City Council of the City of Piedmont hereby ordains as follows:

SECTION 1

It is the intent of the City Council of the City of Piedmont in adopting this Ordinance to provide for the continuation of an excise tax, specifically a non-ad valorem parcel tax to be imposed as a special tax for the availability and provision of municipal services in Piedmont. Further, the availability and provision of City services and the demand for City services is closely tied to the uses and occupancies of property within the City, and it is logical to base such tax on use and occupancy of improved real property.

SECTION 2

Chapter 20B of the Piedmont City Code is hereby amended in its entirety to read as follows:

“CHAPTER 20B  
MUNICIPAL SERVICES SPECIAL TAX

SECTION 20B.1 AUTHORITY TO ADOPT MEASURE

This Ordinance and the tax authorized herein is adopted pursuant to the provisions of Article 3.7 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code (Sections 53720-53730) and the California Constitution Articles XI, Section 5, XIII A, Section 4 and XIII D, Section 3(a)(2). The tax authorized herein is based on use and occupancy of improved real property.

SECTION 20B.2 AUTHORIZATION TO LEVY SPECIAL MUNICIPAL TAX

If in any fiscal year commencing on or after July 1, 2021, the City Council shall determine that municipal services, including, but not limited to, police and fire protection, street maintenance, building regulations, library services, recreation, parks maintenance, planning and public works and similar services, are necessary for the public good, welfare and safety, and that the cost of making available such services will exceed the amount of funds generated through other revenue and income of the City for such services, then it may levy a special tax for such fiscal year on each parcel of real property within the City in a manner provided herein. This is a non-ad valorem parcel tax which, pursuant to California Constitution Article XIII D, Section 3, shall be deemed a special tax as defined pursuant to Section 53721 of the California Government Code.

SECTION 20B.3 DETERMINATION OF AMOUNT TO BE RAISED

Each year concurrent with the adoption of the annual budget, the City Council will determine the total amount of expenditures necessary to provide adequate levels of municipal services as defined in Section 20B.2 and deduct therefrom the projected revenue to be collected from sources other than this special tax. The difference, if any, shall be the maximum amount of funds to be derived from the tax authorized by this Ordinance for such year.

**SECTION 20B.4 MAXIMUM TAX RATE/METHOD OF ASSESSMENT**

After determining the amount of tax to be raised under Section 20B.3, the City Council shall apportion said amount among the parcels of real property within the City not exempted by law or exempted pursuant to Section 20B.12, as follows:

**BASIC MUNICIPAL SERVICES TAX MAXIMUM RATE SCHEDULE**

Per Parcel According to Size	Single Family Residence	Developed Commercial Properties	Multi-Family Residence	Parcels Divided by Tax Code Area Line
0 to 4,999 sq. ft.	\$551			
5,000 to 9,999 sq. ft.	\$620			
10,000 to 14,999 sq. ft.	\$715			
15,000 to 20,000 sq. ft.	\$817			
Over 20,000 sq. ft.	\$930			
0 to 10,000 sq. ft.		\$930		
Over 10,000 sq. ft.		\$1,395		
Per Dwelling Unit			\$383	
Per Parcel				\$565

The foregoing tax rate schedule shall apply for the 2021/2022 tax year commencing July 1, 2021, and ending on June 30, 2022. For each tax year thereafter commencing with the 2022/2023 tax year, the foregoing tax rate schedule shall be adjusted as follows:

An amount equal to the percentage increase or decrease in the Consumer Price Index (CPI) for all Urban Consumers (All items) (Base Year 1984 = 100) (Not Seasonally Adjusted) for the San Francisco-Oakland-San Jose, California area, as published by the United States Department of Labor, Bureau of Labor Statistics, for the period from December 2016 to December of the fiscal year immediately prior to the year in which the percentage adjustment will apply, multiplied by the specific tax rate in the foregoing Maximum Municipal Services Tax Maximum Rate schedule. Notwithstanding the foregoing, the maximum percentage increase of this tax as compared to the same tax in the prior fiscal year shall be 4%.

For purposes of example only, if the maximum tax rate in the 2021/2022 fiscal year for a single family resident parcel of 5,000 square feet is \$620.00, and the Consumer Price Index for December 2020 is 100 and for December 2021 is 103, the increase of 3 is a 3% increase, meaning an additional maximum tax of \$18.60 for the 2022-2023 fiscal year or a total maximum tax of \$638.86 for such fiscal year.

The records of the Alameda County Assessor as of March 1 of the fiscal year immediately preceding the fiscal year in which the special taxes are payable shall determine whether or not any particular parcel is unimproved for purposes of this Ordinance. All improved parcels which are located entirely within the City of Piedmont shall be subject to the special taxes assessed pursuant to Chapter 20B. In addition, on improved parcels which are located partially within the City of Piedmont, all such parcels whose residents are eligible to register to vote in Piedmont and/or all such parcels which are eligible to receive services from the City of Piedmont pursuant to the 911 Emergency System as of March 1 of the fiscal year immediately preceding the fiscal year in which the special taxes are payable shall be subject to the special taxes assessed pursuant to Chapter 20B. Each parcel shall be taxed pursuant to this Section 20B.4 according to its actual use as of March 1 of the fiscal year immediately preceding the fiscal year in which any such special tax is payable.

#### SECTION 20B.5 HEARING, TAX LIEN AND INCLUSION IN CITY TAXES

Prior to levying a tax under this Ordinance in any fiscal year, the City Council shall conduct a public hearing on the proposed tax. Such hearing may be conducted simultaneously with a hearing relating to the annual budget for the fiscal year in which the special tax is to apply. Notice of such hearing shall be posted on the official bulletin board at City Hall at least 10 days prior to the hearing. All of the information and material which the City Council intends to consider at such hearing and the proposed amount of tax to be raised shall be made available to the public by being on file in the office of the City Clerk for at least 10 days prior to said hearing.

Following said hearing, the Council may adopt a resolution fixing the amount of tax to be raised.

#### SECTION 20B.6 COLLECTION

Pursuant to Government Code section 53087.4, any special tax authorized under this chapter shall be collected by the Tax Collector of the County of Alameda. Any charges made by such Tax Collector shall be paid out of funds deducted from the gross proceeds of the tax.

#### SECTION 20B.7 INCREASE APPROPRIATIONS LIMIT

Pursuant to California Constitution Article XIII B, the appropriations limit for the City of Piedmont will be increased by the aggregate sum collected by levy of this special tax in each of the years covered by this Ordinance.

#### SECTION 20B.8 FUNDING AND EXPENDING PROCEEDS

Proceeds of any tax levied under this Ordinance shall be deposited into the General Fund of the City.

#### SECTION 20B.9 UNEXPENDED RESIDUE

To the extent it has actually determined by an audit of the City's finances that there is an unexpended residue (as defined hereafter) of any money raised by the City under this Ordinance

for a particular fiscal year, then the City Council shall use such residue in the next fiscal year for which the tax under this Ordinance has not been established, and shall reduce the amount of the tax for such subsequent fiscal year by the amount of the unexpended residue. Unexpended residue of any money raised by the City under this Ordinance may only be used in the succeeding year for the purposes stated in this Ordinance or and to the extent there is an unexpended residue for the 2020-2021 fiscal year ending June 30, 2021, such unexpended residue shall be returned to the taxpayer on the same pro rata basis as originally levied by a refund or by a reduction in subsequent taxes. “Unexpended residue” as used in this Section 20B.9 shall mean the amount the General Fund Reserve of the City exceeds twenty-five percent (25%) of the actual general operating expenses of the City in the fiscal year in question. “General Fund Reserve” as used in this Section 20B.9 is defined as the unencumbered balance maintained in the general fund for the purpose of meeting unforeseen expenses, unrealized revenue estimates, or other emergencies of the City.

#### SECTION 20B.10 SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications, and to this end the provisions this Ordinance are declared to be severable.

#### SECTION 20B.11 DURATION, AMENDMENT OR REPEAL

The authorization to levy a tax under this Ordinance shall expire with the fiscal year 2024-2025 ending June 30, 2025. This Ordinance, or any provision thereof, may only be amended or repealed by approval of a two-thirds majority of the voters voting on the proposition at any initiative or referendum election.

This Ordinance shall be adopted, if approved by a two-thirds majority of the voters voting on the proposition at an election to be held on Tuesday, March 3, 2020, and shall be effective commencing with the fiscal year that begins on July 1, 2021; provided that the provisions of Chapter 20B in effect on March 3, 2020 shall remain in effect for all purposes relating to the taxes provided thereunder through the fiscal year ending June 30, 2021.

#### SECTION 20B.12 EXEMPTIONS

The City Council may from time to time by Council resolution adopt exemptions to the tax measures set further herein.”

#### SECTION 3

This Ordinance shall require passage by a 4/5<sup>th</sup>s vote of the City Council in compliance with the provisions of Section 53724(b) of the California Government Code, shall be posted at City Hall after its second reading by the City Council for at least 30 days, and shall not become effective unless approved by a two-thirds majority of the voters voting on the proposition at an election to be held on Tuesday, March 3, 2020.

[END OF ORDINANCE]