

RESOLUTION NO. 18-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DALY CITY ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF DALY CITY A MEASURE TO APPROVE AN INCREASE TO THE BUSINESS LICENSE TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018; REQUESTING CONSOLIDATION BY THE SAN MATEO COUNTY BOARD OF SUPERVISORS OF THE ELECTION REGARDING SAID MEASURE WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE AND THAT SAN MATEO COUNTY PROVIDE ELECTION SERVICES WITH FULL REIMBURSEMENT BY THE CITY OF DALY CITY; SETTING CITY COUNCIL PRIORITY FOR FILING WRITTEN ARGUMENT; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AUTHORIZING THE FILING OF REBUTTAL ARGUMENT; AND AUTHORIZING THE RELEASE OF CITY COUNCIL REBUTTAL ARGUMENT

WHEREAS, at its May 14, 2018 regular meeting the City Council adopted the FY 2018-19 and 2019-20 biennial budget, and the General Fund Operating Budget includes a \$10.6 million transfer from the General Fund Reserve to cover anticipated budget shortfalls; and

WHEREAS, Daly City's Police and Fire Departments have seen a dramatic increase in calls for service in the past few years while the cost of providing services is increasing every year; and

WHEREAS, the City wishes to maintain the City's level of police officers, firefighters and paramedics, and ensure the City is properly prepared for a natural disaster; and

WHEREAS, maintaining 911 emergency response, local fire and paramedic services, improving police protection, and keeping streets and public areas safe and clean are all priorities identified by our public; and

WHEREAS, a reliable source of locally-controlled revenue will assist in maintaining the City's long-term financial stability; and

WHEREAS, the proposed measure is simply an update to the rate businesses pay for the right to do business in our City, paying their fair share for maintaining City streets, public safety, and other services—City residents who are not business proprietors are not taxed; and

WHEREAS, the proposed measure includes tough accountability provisions by requiring annual independent financial audits and public review of expenditures; and

WHEREAS, all funds remain in the City of Daly City and cannot be taken by the Sacramento; and

WHEREAS, salaries and benefits have been reduced for staff, and significant reductions have been made in direct services to the public and departmental operations; and

WHEREAS, increasing workforce costs, rising healthcare costs, overtime due to staffing shortages, and escalating pension obligations, have all contributed to a perfect storm when coupled with a sluggish economic recovery affecting the City's revenues; and

WHEREAS, accordingly the City Council directed staff to examine new revenue measures and City staff presented the City Council with the proposed "ORDINANCE AMENDING SECTIONS 5.16.040 AND 5.16.050 OF CHAPTER 5.16 OF ARTICLE 1 OF TITLE 5 OF THE CITY OF DALY CITY MUNICIPAL CODE PROVIDING FOR AN INCREASE IN BUSINESS LICENSE TAXES", attached hereto and incorporated herein by reference as Exhibit "A" (the "Business License Tax Ordinance"), which would increase the business license tax rate (i) for businesses with annual gross receipts up to \$100,000 from \$100 to \$110, (ii) for businesses with annual gross receipts greater than \$100,000 from \$100 plus one-tenth of one percent of gross receipts to \$110 plus eleven-one hundredths of one percent of gross receipts, and (iii) for persons engaged in rental or leasing of buildings for dwelling, lodging or sleeping purposes, other than transient lodging, from one-half of one percent of gross receipts, but not less than \$100, to fifty five-one hundredths of one percent of gross receipts, but not less than \$110; and

WHEREAS, a general municipal election consolidated with the statewide general election to be held on Tuesday, November 6, 2018, has been called and pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council desires to submit the Business License Tax Ordinance to the qualified electors of the City of Daly City at the consolidated election;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Daly City does hereby declare, determine and order as follows:

**MEASURE TO BE SUBMITTED TO THE VOTERS**

Section 2(b) of Article XIIC of the California Constitution (Proposition 218) and Government Code Section 53723 requires that a general tax must be submitted to the voters for approval and Government Code Section 53724 (c) requires that *any* tax submitted to the voters for approval shall be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the local government or district are entitled to vote, and the City Council desires that the Business License Tax Ordinance be submitted to the voters for approval at the general municipal election consolidated with the statewide general election to be held on Tuesday, November 6, 2018.

✓ The full text of the Business License Tax Ordinance, attached to this Resolution as Exhibit A, shall be printed in the voter pamphlet. Pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council hereby submits the Business License Tax Ordinance to the voters at the general municipal election consolidated with the statewide general election and orders the following question to be submitted to the voters on the ballot as follows:

Ballet question

**“Daly City Public Safety/Vital City Services Protection Measure.** To maintain police/fire protection, paramedics, 911 emergency response, address homelessness; clean/repair streets/and public areas; retain and attract jobs/businesses; maintain Daly City financial stability and other general services, shall an ordinance be adopted increasing the City’s business license tax by up to 0.05%, with a minimum of \$110 per business; providing \$420,000 annually until ended by voters, requiring independent audits and oversight, with all funds only for Daly City?”

Yes \_\_\_\_\_ No \_\_\_\_\_

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This question requires the approval of a majority vote of the City of Daly City electorate voting on the measure at the election to become effective. If this ordinance is approved by the City of Daly City electorate as outlined above, then this ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code §9217; and, be it, further

✓ RESOLVED, on June 11, 2018, the City Council adopted a resolution requesting the Board of Supervisors of the County of San Mateo to consolidate the City of Daly City’s general municipal election for the purpose of electing three (3) Councilmembers with the Statewide election to be held on November 6, 2018, and accordingly, pursuant to the requirements of Elections Code §10403, the City Council hereby requests that the consolidated election of November 6, 2018, include the submission of the Business License Tax Ordinance measure to the voters of the City of Daly City; and, be it, further

RESOLVED, the City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed by Elections Code §10418; the City of Daly City requests the services of San Mateo County to conduct said general municipal election and the Board of Supervisors is requested to issue instructions to the County staff to take any and all steps necessary for the holding of a consolidated election; San Mateo County and its staff are authorized and instructed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and other necessary items in order to properly and lawfully conduct the election; San Mateo County is authorized to canvass the returns of the election, which shall be held in all respects as if there were only one election, and only one form of ballot shall be used; and the City of Daly City recognizes that additional cost will be incurred by the County by reason of the consolidation of the Business License Tax Ordinance measure with the Statewide election and agrees to reimburse the County for any costs that are not reimbursed by the State; and, be it, further

RESOLVED, that in accordance with California Elections Code §9282, the City Council of the City of Daly City does resolve, declare, determine, and order that the City Council of the City of Daly City is authorized to file a written argument in favor of the City measure as specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk; and, be it, further

RESOLVED, that in accordance with California Elections Code §9282, arguments in favor and against, not exceeding 300 words, shall be filed with the City Clerk no later than **5:00 p.m. on Friday, August 17, 2018**, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the *Form of Statement to Be Filed By Author(s) of Argument*, which can be obtained from the Office of the City Clerk; and be it, further

RESOLVED, that in accordance with California Elections Code §9280, the City Council directs the City Clerk to transmit a copy of the Business License Tax Ordinance measure to the City Attorney, who shall prepare an impartial analysis showing the effect of the measure on the existing law and the operation of the measure; the City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than **5:00 p.m. on Friday, August 27, 2018**; and, be it, further

RESOLVED, the City Council elected to author ballot argument in support of the Business License Tax Ordinance measure, and California Elections Code §9285 authorizes the City Council to adopt provisions for the filing of rebuttal arguments for measures submitted at municipal elections; accordingly, when the City Clerk has selected the argument for and against the measure which will be printed and distributed to the voters, the City Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against, and a copy of the argument against to the authors of the argument in favor of the measure immediately upon receiving the arguments. The authors may prepare and submit rebuttal arguments not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be filed no later than **5:00 p.m. on Monday, August 27, 2018**, accompanied by the printed names and signatures of the persons submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers. The rebuttal arguments shall be accompanied by the *Form of Statement To Be Filed By Author(s) of Argument*, which can be obtained from the Office of the City Clerk. Rebuttal arguments shall be printed in the same manner as the direct arguments, and rebuttal argument shall immediately follow the direct argument which it seeks to rebut; and, be it, further

RESOLVED, that all previous resolutions providing for the filing of rebuttal arguments for city measures are hereby repealed and the provisions of this resolution providing for the filing of rebuttal arguments regarding a city measure to approve a Business License Tax Ordinance shall only apply to the election to be held on November 6, 2018, and shall thereafter be repealed; and, be it, further

RESOLVED, the City Council elected to author ballot argument in support of the measure and to permit rebuttal argument, and as authorized by California Elections Code §9285, the City Council wishes to authorize the release of the City Council's rebuttal argument to individual voters and thus hereby authorizes each individual member of the City Council to release rebuttal argument in writing to any other person or persons to prepare, submit, or sign the rebuttal argument; and, be it, further

RESOLVED, should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being

expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid; and, be it, further

RESOLVED, the City Council hereby finds that the proposed Business License Tax Ordinance involves the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) pursuant to CEQA Guidelines Section 15378 (b)(4); additionally, it can be seen with certainty that there is no possibility the adoption and implementation of the ordinance may have a significant effect on the environment, and accordingly the adoption of the ordinance is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

I hereby certify the foregoing to be a true copy of a Resolution adopted by the City Council of Daly City, California, at a regular meeting thereof held on the 23<sup>rd</sup> day of July, 2018, by the following vote of the members thereof:

AYES, and in favor thereof, Councilmembers: Buenaventura, Christensen, Guingona  
Sylvester, Manalo

NOES, Councilmembers: None

Absent, Councilmembers: None

  
CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

JUSLYN C. MANALO  
MAYOR OF THE CITY OF DALY CITY

Full text starts

EXHIBIT "A"

ORDINANCE NO. 1419

**AN ORDINANCE OF THE CITY OF DALY CITY AMENDING SECTIONS 5.16.040 AND 5.16.050 OF CHAPTER 5.16 OF ARTICLE 1 OF TITLE 5 OF THE CITY OF DALY CITY MUNICIPAL CODE PROVIDING FOR AN INCREASE IN BUSINESS LICENSE TAXES**

**SECTION ONE. AMENDING SECTIONS 5.16.040 AND 5.16.050 OF CHAPTER 5.16 OF ARTICLE 1 OF TITLE 5 OF THE CITY OF DALY CITY MUNICIPAL CODE.**

Sections 5.16.040 and 5.16.050 of Chapter 5.16 of Article 1 of Title 5 of the City of Daly City Municipal Code are hereby amended in their entirety to read as follows:

5.16.040 - License tax schedule.

The general business license tax schedule under this chapter is as follows:

- A. For businesses with annual gross receipts up to one hundred thousand dollars, the tax shall be one hundred ten dollars, nonrefundable.
- B. For businesses with annual gross receipts greater than one hundred thousand dollars, the tax shall be the total of one hundred ten dollars, nonrefundable, plus eleven-onehundredths of one percent of gross receipts greater than one hundred thousand dollars.
- C. For purposes of calculating the tax, the total annual tax due may be rounded to the nearest whole dollar.

5.16.050 - Taxes for certain businesses.

Every person transacting and carrying on the following businesses herein enumerated shall pay a license tax as follows:

- A. Any person engaged in the business of operating or maintaining any building or buildings constructed on one parcel or upon separate parcels of land available for rental or lease and intended to be used for dwelling, lodging or sleeping purposes other than for transient lodging, shall pay a license tax equal to fifty-five-one hundredths of one percent of gross receipts, but not less than one hundred ten dollars. Any unit or spaces occupied by the actual owner of such building or buildings for living purposes shall be exempt.
- B. Any person engaged in operating a place of business not generating gross receipts shall pay a business license tax equal to the greater of twenty-five dollars per employee or two cents per square foot of usable square footage of the building or space being occupied, but not less than one hundred ten dollars

**SECTION TWO. 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, and to this end the provisions of this ordinance are declared to be severable

**SECTION THREE. CODIFICATION.** Section One of this ordinance shall be codified in the City of Daly City municipal code. Sections Two, Three, Four, and Five of this ordinance shall not be codified

**SECTION FOUR. COMPLIANCE WITH CEQA.** The action to adopt this ordinance involves the increase to the business license tax and does not involve any commitment to any specific project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) pursuant to CEQA Guidelines Section 15378 (b)(4); additionally, it can be seen with certainty that there is no possibility the adoption and implementation of this ordinance may have a significant effect on the environment, and accordingly the adoption of this ordinance is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

**SECTION FIVE. EFFECTIVE DATE.** This ordinance relates to the increase of business license taxes in the City of Daly City authorized 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), for unrestricted general revenue purposes, and submitted to the City of Daly City electorate at an election called for November 6, 2018. This ordinance may be approved by a majority vote of the City of Daly City electorate voting on the measure at the election. If this ordinance is approved by the City of Daly City electorate as outlined above, then this ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code §9217.

Full Text Ends

IT IS HEREBY FURTHER CERTIFIED that the foregoing Ordinance was adopted by Declaration of the November 6, 2018 election results by the City Council of the City of Daly City at a meeting held on \_\_\_\_\_, 2018, by the following vote

AYES: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

NOES: Councilmembers: \_\_\_\_\_

ABSENT; Councilmembers: \_\_\_\_\_

ABSTAIN: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

\_\_\_\_\_  
MAYOR OF THE CITY OF DALY CITY