

**NOTICE TO CALL FOR A SPECIAL ELECTION  
AND  
NOTICE OF MEASURE TO BE VOTED ON  
AND  
NOTICE TO VOTERS OF DATE AFTER WHICH  
NO ARGUMENTS FOR OR AGAINST  
CITY OF HAYWARD MEASURE  
MAY BE SUBMITTED TO THE CITY CLERK**

NOTICE IS HEREBY GIVEN that a Special Municipal Election will be held in the City of Hayward on Tuesday, the 19th day of May 2009, to be consolidated with the California Statewide Special Election. The City Council unanimously proposes on its own motion, Resolution No. 09-19, this Special Municipal Election for the purpose of submitting the following Measure\_\_\_\_, as introduced by Council Member Quirk, to the voters of the City of Hayward:

**BALLOT TITLE**

“TO PREVENT SEVERE CUTS TO HAYWARD CITY SERVICES INCLUDING: MAINTAINING FIREFIGHTERS, PARAMEDICS, FIRE STATIONS, AND NEIGHBORHOOD POLICE PATROLS; PROTECTING EMERGENCY RESPONSE TIMES; PRESERVING YOUTH/ANTI-GANG PROGRAMS, DISASTER PREPAREDNESS, AND JOB/ECONOMIC DEVELOPMENT SERVICES; SHALL THE CITY OF HAYWARD ADOPT AN ORDINANCE ENACTING A UTILITY USERS TAX OF 5.5% ON GAS, ELECTRICITY, VIDEO, AND TELECOMMUNICATIONS SERVICES, FOR 10 YEARS ONLY, WITH EXEMPTIONS AVAILABLE FOR LOW-INCOME/LIFELINE USERS; AND ALL MONEY DEDICATED TO PRESERVING HAYWARD CITY SERVICES?”

SYNOPSIS OF THE MEASURE

ORDINANCE NUMBER ME-2009-\_\_

AN INITIATIVE ORDINANCE OF THE VOTERS OF THE CITY OF HAYWARD ADOPTING A FIVE AND ONE-HALF PERCENT (5.5 %) UTILITY USERS TAX ON UTILITY SERVICES (ELECTRICITY, GAS, TELECOMMUNICATIONS AND VIDEO) AND ADDING ARTICLE 18 TO CHAPTER 8 OF THE HAYWARD MUNICIPAL CODE

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

Section 1. Chapter 8 of the Hayward Municipal Code is hereby amended to add Article 18, entitled “Utility Users Tax”, to read in full as follows:

CHAPTER 8, ARTICLE 18  
UTILITY USERS TAX

8-18.10	SHORT TITLE
8-18.20	DEFINITIONS
8-18.30	CONSTITUTIONAL, STATUTORY, AND OTHER EXEMPTIONS
8-18.40	LOW INCOME AND LIFELINE EXEMPTIONS
8-18.50	TELECOMMUNICATION USERS TAX
8-18.60	VIDEO USERS TAX
8-18.70	ELECTRICITY USERS TAX
8-18.80	GAS USERS TAX
8-18.90	COLLECTION OF TAX FROM SERVICE USERS RECEIVING DIRECT PURCHASE OF GAS OR ELECTRICITY
8-18.100	BUNDLING TAXABLE ITEMS WITH NON-TAXABLE ITEMS
8-18.110	SUBSTANTIAL NEXUS/MINIMUM CONTACTS
8-18.120	DUTY TO COLLECT - PROCEDURES
8-18.130	COLLECTIONS PENALTIES - SERVICE SUPPLIERS
8-18.140	ACTIONS TO COLLECT
8-18.150	DEFICIENCY DETERMINATION AND ASSESSMENT-TAX APPLICATION ERRORS
8-18.160	ADMINISTRATIVE REMEDY - NON-PAYING SERVICE USERS
8-18.170	ADDITIONAL POWERS AND DUTIES OF THE TAX ADMINISTRATOR
8-18.180	RECORDS
8-18.190	REFUNDS
8-18.200	APPEALS
8-18.210	NO INJUNCTION/WRIT OF MANDATE
8-18.220	NOTICE OF CHANGES TO ORDINANCE
8-18.230	EFFECT OF STATE AND FEDERAL REFERENCE /AUTHORIZATION
8-18.240	INDEPENDENT AUDIT OF TAX COLLECTION, EXEMPTION, REMITTANCE, AND EXPENDITURE
8-18.250	REMEDIES CUMULATIVE
8-18.260	TERMINATION OF UTILITY USERS TAX

Section 2. Amendment or Repeal. Article 18 of Chapter 8 of the Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Ordinance. The People of the City of Hayward affirm that the following actions shall not constitute an increase of the rate of a tax:

1. The restoration of the rate of the tax to a rate that is no higher than that set by this Ordinance, if the City Council has acted to reduce the rate of the tax;
2. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Ordinance;
3. The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Ordinance); and
4. The collection of the tax imposed by this Ordinance, even if the City had, for some period of time, failed to collect the tax.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People hereby declare that they would have adopted each section, subsection, sentence, clause, phrase or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions of this Ordinance be declared invalid or unenforceable.

Section 4. Effective Date. This Article shall become effective immediately upon the date that this Ordinance is confirmed and approved by the voters of the City of Hayward at the election on May 19, 2009.

Section 5. Execution. The City Clerk/City Elections Official is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

The full text of this proposed ordinance is available for examination by the public in the Office of the City Clerk.

**NOTICE IS FURTHER GIVEN** that pursuant to Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, the City Council, or any member or members thereof authorized by the body, or any individual voter or bona fide association of citizens, or any combination of voters and associations may file a written argument, not to exceed 300 words in length, for or against the city measure. The City Council has determined not to allow submittal of rebuttal arguments.

**NOTICE IS FURTHER GIVEN** that based upon the time reasonably necessary to prepare and print the arguments and sample ballots for the election, the City Clerk has fixed 3 PM Friday, March 13, 2009, as a reasonable date prior to the election after which no argument for or against the City Measure may be submitted to the City Clerk for printing and distribution to the voters as provided in Article 4. Arguments shall be submitted to the City Clerk at the City Hall offices located at 777 B Street, Hayward, California, 94541. City Hall offices are open from 8 AM until 5 PM, Monday through Friday. Arguments may be changed or withdrawn until and including the date of March 13, 2009.

**NOTICE IS FURTHER GIVEN** that any direct argument filed under this authority of the Elections Code will be available for public examination in the Office of the City Clerk for not less than ten (10) calendar days from the deadline for filing arguments.

On Election Day, May 19, 2009, the polls will be open from 7 AM through 8 PM.

DATED: March 7, 2009

Miriam Lens, Acting City Clerk  
CITY OF HAYWARD