

City Council Meeting: July 23, 2024

Santa Monica, California

RESOLUTION NUMBER 11607 (CCS)

(City Council Series)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA SUBMITTING TO THE VOTERS A MEASURE TO AMEND CHAPTER 6.70 OF THE SANTA MONICA MUNICIPAL CODE TO INCREASE THE CITY'S PARKING FACILITY TAX TO 18%, EXEMPTING CITY-OWNED LOTS AND STRUCTURES FROM THE ADDITIONAL TAX, ACCOMPANIED BY AN ADVISORY MEASURE ASKING WHETHER HALF OF THE INCREASED REVENUE FROM THE ADDITIONAL TAX SHOULD BE SPENT ON PUBLIC SAFETY AND HOMELESSNESS, AND AUTHORIZING CITY COUNCILMEMBERS TO FILE WRITTEN ARGUMENTS FOR OR AGAINST THE MEASURES AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURES

WHEREAS, Santa Monica Municipal Code Chapter 6.70 contains the City's parking facility tax (the "PFT"); and

WHEREAS, the PFT is a general tax imposed for general revenue purposes; and

WHEREAS, the PFT is imposed on any Operator that charges an Occupant a Parking Fee in exchange for using a Parking Facility; and

WHEREAS, Santa Monica Municipal Code section 6.70.020 currently sets the PFT rate at 10% of the total Parking Fee charged by an Operator; and

WHEREAS, the PFT was last amended in 1995 by Ordinance No. 1789 (CCS); and

WHEREAS, 90% of the parking lots and structures owned by the City are in the Coastal Zone; and

WHEREAS, the parking rates approved by the Coastal Commission are inclusive of the City's 10% PFT rate; and

WHEREAS, the Coastal Commission has taken the position that the City's parking

rates in the Coastal Zone are subject to Coastal Commission approval and require a coastal development permit prior to increasing rates; and

WHEREAS, the City's advertised parking rates at City-owned lots and structures are inclusive of the City's existing PFT rate; and

WHEREAS, with voter approval, the City could increase the PFT rate, while maintaining the existing parking rates in City-owned lots and structures at the existing levels; and

WHEREAS, increasing the PFT rate while maintaining the existing parking rates in City-owned lots and structures would be revenue neutral because any increase in PFT revenue would be offset by an equal decline in parking revenue; and

WHEREAS, the City desires to partially exempt City-owned lots and structures from the PFT rate increase proposed by this measure out of administrative convenience and to promote public access to the beach; and

WHEREAS, many residents live in the City of Santa Monica because the City invests in community priorities, offers extensive services and programs that substantially enhance the quality of life of its residents; and

WHEREAS, an additional locally-controlled revenue source is needed to restore and enhance Santa Monica's essential city services; and

WHEREAS, the City desires to raise the PFT rate to 18%; and

WHEREAS, the additional revenue from increasing the PFT rate is estimated to raise an additional \$6,700,000 in general fund revenue that may be used to fund general governmental services, such as: addressing homelessness, enhancing public safety, improving emergency response times, creating safe routes to schools, reducing fatal

pedestrian and bike accidents, improving city streets and sidewalks, and maintaining clean and safe parks; and

WHEREAS, the measure is accompanied by an advisory measure that allows voters to express their preference that if the PFT measure is approved, then should half of the additional revenue from the PFT increase be used to support public safety in Santa Monica, including attracting and retaining well-trained police officers and firefighters, improving crime and homelessness prevention services, and increasing police patrols and enhancing emergency medical response in neighborhoods and public areas, including downtown, the pier, and the beach; and

WHEREAS, under applicable law, the City Council of the City of Santa Monica must present a proposed increase to the PFT to the electorate of the City of Santa Monica for adoption by majority vote of the electorate; and

WHEREAS, pursuant to California Elections Code Section 10403, the City Council has previously requested that the County of Los Angeles consent and agree to the consolidation of all aspects of a General Municipal Election with the Statewide General Election scheduled for Tuesday, November 5, 2024, for the purpose of electing members of the Santa Monica City Council, the Santa Monica Rent Control Board, the Santa Monica-Malibu Unified School District, and the Santa Monica Community College District.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES RESOLVE AND PROCLAIM AS FOLLOWS:

SECTION 1. At the General Municipal Election called for November 5, 2024, the following measure shall be submitted to the qualified electors of the City of Santa

Monica:

<p>MEASURE " ":</p> <p>To enhance public safety, create safe routes to school to protect children, lower the risk of fatal traffic accidents, and maintain other essential city services, shall the measure increasing the City of Santa Monica Parking Facility Tax by 8% for users including visitors and tourists, causing no additional cost in City-owned lots and structures (including downtown and the beach) because of a partial City exemption, generating approximately \$6,700,000 annually until ended by voters, be adopted?</p>	<p>YES _____</p> <p>NO _____</p>
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SECTION 2. At the General Municipal Election called for November 5, 2024, the following measure shall be submitted to the qualified electors of the City of Santa Monica:

<p>MEASURE " ":</p> <p>ADVISORY VOTE ONLY: If Measure ___ is enacted, should at least half of the additional revenue raised be used to protect public safety in Santa Monica, including attracting and retaining well-trained police officers and firefighters, improving crime and homelessness prevention services, and increasing police patrols and enhancing emergency medical response in neighborhoods and public areas, including downtown, the pier, and the beach?</p>	<p>YES _____</p> <p>NO _____</p>
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SECTION 3. The City Clerk shall file a certified copy of this resolution with the Board of Supervisors and with the county election department of the County of Los Angeles.



SECTION 4. The vote requirement for either measure to pass is a majority (50%+1) of the votes cast.

SECTION 5. The City of Santa Monica recognizes that additional costs may be incurred by the County by reason of the addition of these measures to the ballot and agrees to reimburse the County for any additional costs.

SECTION 6. The City Clerk shall transmit to the City Attorney, in accordance with applicable law, copies of both measures. The City Attorney shall prepare an impartial analysis of the measures, which shall not exceed 500 words in length each. The impartial analyses shall be filed by the date set by the City Clerk for the filing of primary arguments. In accordance with applicable law, not less than 10 calendar days before the City Clerk submits the official election materials for printing, the City Clerk shall make a copy of all applicable election materials available for public examination in the City Clerk's office.

SECTION 7. The City Council authorizes its members, as follows, to file written arguments for or against the measures described above, which are contained in Exhibit 1 (Parking Facility Tax Measure) and Exhibit 2 (Parking Facility Tax Advisory Measure), which are incorporated by reference herein:

Parking Facility Tax Measure

FOR: Councilmember Jesse Zwick

AGAINST: None

Parking Facility Tax Advisory Measure

FOR: Councilmember Jesse Zwick

AGAINST: None

All written arguments filed by any person in favor of, or against any measure, including any rebuttal arguments, shall be accompanied by the names and signatures of the persons submitting the argument as required by applicable law, and any names, signatures and arguments may be filed until the time and date fixed by the City Clerk in accordance with applicable law, after which no change may be submitted to the City Clerk unless permitted by law.

SECTION 8. The City Clerk shall cause the text of the measures, which is contained in Exhibit 1 (Parking Facility Tax Measure) and Exhibit 2 (Parking Facility Tax Advisory Measure), together with the City Attorney impartial analyses, and any arguments for or against the measures, as well as any rebuttal, to be mailed to all qualified voters with the sample ballot. In addition to other notices and publications required by law, the City Clerk, not less than forty (40) days and not more than sixty (60) days before the General Municipal Election, shall cause the text of the measures to be published once in the official newspaper and in each edition thereof during the day of publication. The City Clerk is authorized to give such notices and to fix such times and dates as are required by law or which are appropriate to properly conduct the election.

SECTION 9. The provisions of Resolution Numbers 11591 and 11592 are referred to and incorporated into this resolution for more particulars concerning the conduct of the General Municipal Election to be held on November 5, 2024, and in all respects the election shall be held and conducted as provided for by applicable law. The City Clerk is authorized and directed to procure and furnish any official ballots, notices, printed materials and all supplies or equipment that may be necessary in order to properly and lawfully conduct the election.

SECTION 10. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

APPROVED AS TO FORM:

DocuSigned by:  
*DOUGLAS SLOAN*  
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Douglas Sloan, City Attorney

Exhibit 1 – Text of Parking Facility Tax Measure

Exhibit 2 – Text of Parking Facility Tax Advisory Measure

## **Exhibit 1 – Parking Facility Tax Measure**

WHEREAS, this measure shall be known as the “2024 Parking Facility Tax Measure” (“Measure”); and

WHEREAS, Chapter 6.70 of the Santa Monica Municipal Code contains the City’s parking facility tax (the “PFT”); and

WHEREAS, the PFT is a general tax imposed for general revenue purposes; and

WHEREAS, the PFT is imposed on any Operator that charges an Occupant a Parking Fee in exchange for using a Parking Facility; and

WHEREAS, Santa Monica Municipal Code section 6.70.020 currently sets the PFT rate at 10% of the total Parking Fee charged by an Operator; and

WHEREAS, the PFT was last amended in 1995 by Ordinance No. 1789 (CCS); and

WHEREAS, 90% of the parking lots and structures owned by the City are in the Coastal Zone; and

WHEREAS, the parking rates approved by the Coastal Commission are inclusive of the City’s 10% PFT rate; and

WHEREAS, the Coastal Commission has taken the position that the City’s parking rates in the Coastal Zone are subject to Coastal Commission approval and require a coastal development permit prior to increasing rates; and

WHEREAS, the City’s advertised parking rates at City-owned lots and structures are inclusive of the City’s existing PFT rate; and

WHEREAS, with voter approval, the City could increase the PFT rate, while maintaining the existing parking rates in City-owned lots and structures at the existing levels; and

WHEREAS, increasing the PFT rate while maintaining the existing parking rates in City-owned lots and structures would be revenue neutral because any increase in PFT revenue would be offset by an equal decline in parking revenue; and

WHEREAS, the City desires to partially exempt City-owned lots and structures from the PFT rate increase proposed by this measure out of administrative convenience and to promote public access to the beach; and

WHEREAS, many residents live in the City of Santa Monica because the City invests in community priorities, offers extensive services and programs that substantially enhance the quality of life of its residents; and

WHEREAS, an additional locally-controlled revenue source is needed to restore and enhance Santa Monica's essential city services; and

WHEREAS, the City desires to raise the PFT rate to 18%; and

WHEREAS, the revenue from the increasing the PFT rate is estimated to raise an additional \$6,700,000 in general fund revenue that may be used to fund general governmental services, such as: addressing homelessness, enhancing public safety, improving emergency response times, creating safe routes to schools, reducing fatal pedestrian and bike accidents, improving city streets and sidewalks, and maintaining clean and safe parks.

NOW, THEREFORE:

SECTION 1. As of January 1, 2025 (the "Effective Date"), Chapter 6.70 of the Santa Monica Municipal Code is amended to read as follows (new language underlined, proposed deletions in ~~strikethrough~~):

Chapter 6.70. PARKING FACILITY TAX

§ 6.70.010. Definitions.

Except where the context otherwise requires, the definitions in this Section govern the construction of this Chapter.

City-owned Parking Facility. "City-owned Parking Facility" means a Parking Facility owned by the City of Santa Monica, irrespective of whether the City uses a managing agent, or other designated third party, to operate the Parking Facility.

Motor vehicle. "Motor vehicle" means every self-propelled vehicle operated or suitable for operation on the highway.

Occupancy. "Occupancy" means the use or possession or the right to the use or possession of any space for the parking of a motor vehicle or any other purpose in a parking facility.

Occupant. "Occupant" means a person who, for a consideration, uses, possesses or has the right to use or possess any space for the parking of a motor vehicle in a parking facility under any lease, concession, permit, right of access, license to use or other agreement or otherwise, whether voluntarily or involuntarily. Occupant shall be deemed to include any person required to pay any valet or service labor charge in connection with the parking of motor vehicles on public or private property and any person required to pay

a charge for the occupancy of parking space by another person by means of validation or otherwise.

Operator. "Operator" means the person who conducts a parking facility, whether in the capacity of owner, lessee, mortgage in possession, licensee, valet or other service supplier or any other capacity. When the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for purposes of this Article and shall have the same duties and liabilities as his or her principal. When the managing agent collects parking fees and tax on behalf of his or her principal and deposits the same into the principal's account in a financial institution, such principal shall be responsible for reporting and remitting the tax to the City. It shall be the duty of the managing agent to provide the Director of Finance with the name and address of each principal who will be responsible for reporting and remitting the tax to the City. Compliance with the provisions of this Article by either the principal or the managing agent shall be considered to be compliance by both. A person who qualifies as an operator shall not, by reason of being exempt from the tax imposed in this Article, be exempt from the duties and liabilities of an operator imposed under this Article.

Parking meter. "Parking meter" means any device, which, when the recording device thereof is set in motion, or immediately following the deposit of any coin, shall register the period of time that any motor vehicle may be parked adjacent thereto.

Parking facility. "Parking facility" means any outdoor space or uncovered plot, place, street, lot, parcel, yard or enclosure, or any portion thereof, or any building or structure,

or any portion thereof, where or in which a motor vehicle may be parked, stored, housed or kept, for which any charge is made.

Parking fee. "Parking fee" means the consideration charged, whether or not received, for the occupancy or use of space in a parking facility valued in money, whether received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom. The parking fee shall be deemed to include the total charges required to be paid by an occupant, including, but not limited to, any valet or service labor charge in connection with the use or occupancy of parking space on public or private property. Nothing shall be construed to mean that a parking fee is charged to the occupant of space in a parking facility for the sale of petroleum products, automobile parts or other tangible personal property, the rendering of services, including car wash services, totally unconnected with the use or occupancy of parking space, or where parking space is provided to the occupant as a compliment from the operator and where no consideration is charged to or received from any other person.

Person. "Person" means any natural person, partnership, joint venture, joint stock company, corporation, estate, trust, business trust, receiver, administrator, executor, assignee, trustee in bankruptcy, firm, company, association, club, syndicate, society, municipal corporation, the State of California, political subdivision of the State of California, the United States, instrumentality of the United States, or any group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.



§ 6.70.020. Parking facility tax.

On or after January 1, 2025 ~~July 1, 1993~~, there is imposed a tax upon every person in the City who occupies a parking facility or who is obligated to pay a parking fee. Subject to the exemption in section 6.70.025, ~~The~~ the tax imposed by this Chapter shall be at the rate of ~~ten~~ eighteen (18%) percent of the total parking fee charged by the operator for use of the parking facility.

§ 6.70.025. Partial Exemption on City-Owned Parking Facilities

On or after January 1, 2025, City-owned Parking Facilities shall be exempt from 8% of the tax imposed by section 6.70.020.

§ 6.70.030. Collection.

(a) On or after the effective date of this Chapter, every operator or person receiving any payment for use of a parking facility shall collect the amount of the tax imposed by this Chapter from the person paying the parking fee or who is obligated to pay the parking fee.

(b) Unless otherwise prohibited by law, every person occupying a parking space in a parking facility shall be required to pay the tax imposed by this Chapter to the operator or the person collecting the parking fee. If the parking fee is paid in installments, or if an amount paid is less than the full amount of the parking fee and tax accrued at the time of payment, a proportionate share of the tax shall be deemed to have been paid with each such partial payment or installment.

(c) The taxes required to be collected pursuant to this Chapter shall be deemed to be held in trust by the operator or the person required to collect the tax

on behalf of the City until the taxes are remitted to the City as required by this Chapter and shall constitute a debt owed by the operator to the City.

§ 6.70.040. Reports and tax remittance.

(a) The person or operator collecting or obligated to collect any parking facility tax pursuant to this Chapter shall prepare a report upon a form prescribed by the Director of Finance. The report shall include the amount of parking fees collected and the amount of the tax collected pursuant to this Chapter. Additionally, the report shall include such information as is required by the Director of Finance to carry out the purposes of this Chapter.

(b) The person or operator collecting or obligated to collect any parking facility tax shall remit to the City the parking facility tax together with the report prepared pursuant to subsection (a) of this Section.

(c) The reports and tax remittances of parking facility taxes shall be delinquent if not paid on or before the twenty-fifth day following the end of each reporting quarter as specified herein, and shall cover the reporting quarter just ended. For purposes of this Chapter, the reporting quarters are as follows: December 1st through February 28th/29th, March 1st through May 31st, June 1st through August 31st, September 1st through November 30th.

§ 6.70.050. Interest and penalties.

If any person fails or refuses to remit to the Director of Finance the tax required to be collected by this Chapter, there shall be added to such tax a penalty of ten percent of the amount of the tax due for each thirty days that the tax is unpaid. If the tax due remains

unpaid for a period of ninety days or longer, in addition to the penalty prescribed by this Section, the person owing the tax shall pay to the City interest on the amount due from the date the tax was due, in the amount determined by the Director of Finance as equal to the City's actual rate of return on its invested funds.

§ 6.70.060. Failure to collect and report tax.

If any person shall fail or refuse to collect the parking facility tax or to make, within the time provided in this Chapter, any report or remittance required by this Chapter, the Director of Finance shall proceed in such manner as he or she may deem best to obtain facts and information on which to estimate the tax due. As soon as the Director of Finance shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect the same and to make such report or remittance, the Director of Finance shall proceed to determine and assess against such person the tax and penalties provided for by this Chapter and shall notify such person by mail sent to his or her last known place of address of the total amount of such tax including interest and penalties, and the total amount thereof shall be payable within ten days from the date of such notice.

§ 6.70.070. Records.

It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of two years, such suitable records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Director of Finance shall have the right to inspect at all reasonable times.

§ 6.70.080. Cessation of business.

Whenever any person required to collect and pay to the City a tax under this Chapter shall cease to operate or otherwise dispose of his or her business, any tax payable hereunder to the City shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

§ 6.70.090. Exceptions.

No tax shall be payable hereunder in any of the following instances:

(a) On the parking fee paid by any federal, State of California, or City of Santa Monica, official or employees when on official business provided that a tax exempt certificate is executed no later than the time when payment of the parking fee is due, on a form to be provided by the Director of Finance.

(b) On the parking fee deposited in any parking meter owned or operated by the City.

(c) On the parking fee paid for any City preferential parking permit.

(d) On the parking fee paid as part of any residential dwelling unit lease, rental agreement or obligation, including on the parking fee paid as part of any hotel, motel or other lodging facility occupancy, but only when the length of the occupant's stay exceeds thirty consecutive days in the hotel, motel or other lodging facility.

§ 6.70.100. Penalty.

Any person violating or failing to comply with any of the provisions of this Chapter, shall upon conviction thereof, be guilty of a misdemeanor and shall, in addition to any jail

sentence, be fined not more than five hundred dollars. Each violation of this Chapter shall constitute a separate offense. Any conviction for violation of this Chapter shall not relieve any person from the payment, collection or remittance of the parking facility tax as provided in this Chapter.

§ 6.70.110. Director of Finance - Powers and duties.

It shall be the duty of the Director of Finance to ascertain the name of every person operating a parking facility in the City of Santa Monica, liable for the collection of the tax levied by this Chapter, who fails, refuses or neglects to collect the tax or to make, within the time provided by this Chapter, the reports or remittances required herein. In addition to any other remedy or proceeding, the Director of Finance is authorized to request that the City Attorney commence any proceeding as may be appropriate to obtain payment of any tax, including penalty and interest, as may be due the City under this Chapter.

SECTION 2. Any provision of the Santa Monica Municipal Code inconsistent with the provisions of this measure, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this measure.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this measure is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The City Council hereby declares that it would have placed this measure and the resulting Santa Monica Municipal Code amendment, and the voters declare that they would have adopted this measure and the resulting Santa Monica Municipal Code amendment, and each and every section, subsection, sentence, clause,

or phrase not declared invalid or unconstitutional, without regard to whether any portion may be subsequently declared invalid or unconstitutional.

## EXHIBIT 2 – PARKING FACILITY TAX ADVISORY MEASURE TEXT


CITY COUNCIL PROPOSED ADVISORY MEASURE ASKING WHETHER HALF OF THE ADDITIONAL REVENUES FROM INCREASING THE CITY PARKING FACILITY TAX BY 8% SHOULD BE USED TO PROTECT PUBLIC SAFETY IN SANTA MONICA

This Advisory Measure Does Not Increase Taxes. It is an Advisory Measure which states the intent of the Voters in the City of Santa Monica that, if the Parking Facility Tax Measure is enacted, then it is the voter's preference that at least half of any increased revenues should be spent on programs and services to protect and enhance public safety, including:

- Attracting and retaining well-trained police officers and firefighters; or
- Improving crime and homelessness prevention services; or
- Increasing police patrols and enhancing emergency medical response in neighborhoods and public areas, including downtown, the pier and the beach.

If this Advisory Measure is passed by the Voters and the Parking Facility Tax Measure does not pass, there will be no change to existing policy.

Adopted and approved this 23<sup>rd</sup> day of July, 2024.

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Phil Brock, Mayor


I, Nikima S. Newsome, City Clerk of the City of Santa Monica, do hereby certify that Resolution No. 11607 (CCS) was duly adopted at a meeting of the Santa Monica City Council held on the 23<sup>rd</sup> day of July, 2024, by the following vote:

AYES: Councilmembers de la Torre, Torosis, Davis, Parra, Zwick  
Mayor Pro Tem Negrete, Mayor Brock

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:  
  
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Nikima S. Newsome, City Clerk