

ORDINANCE NO. 1725

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AUTHORIZING COLLECTION OF THE UTILITY USER'S TAX AT THE RATE OF FIVE PERCENT (5%) AS AUTHORIZED BY THE VOTERS AND AMENDING SECTION 3.24.260 OF THE GARDENA MUNICIPAL CODE IN ACCORDANCE THEREWITH AND AMENDING SECTION 3.24.100 TO LOWER THE SENIOR CITIZEN EXEMPTION TO AGE 60**

WHEREAS, Gardena has had a Utility User's Tax since 1983; and

WHEREAS, on March 3, 2009, the voters of Gardena approved Measure A in accordance with Proposition 218, authorizing a 5% Utility User's Tax for intrastate communication, electricity, gas, and water; and

WHEREAS, Section 3.24.260 of the Utility User's Tax approved by Measure A provides that the tax rate imposed on every telephone user, electricity user, gas user, and water user shall be a maximum of 5%, but would temporarily be collected at the rate of 4%, until the rate is adjusted by the City Council; and

WHEREAS, the City Council in consultation with the Finance Committee, has determined that, based on the financial condition of the City, the Utility User's Tax for telephone, electricity, gas, and water should now be collected at the rate of 5%; and

WHEREAS, in accordance with Proposition 218, implementing statutes, and case law, the City Council's decision to adjust the rate to 5% in accordance with Measure A does not constitute an increase in taxes which requires any additional hearings or vote;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 3.20.100 of the Gardena Municipal Code is hereby amended by revising subsection B and adding a new subsection H to read, as follows:

**3.20.100 Senior Citizen/Supplemental Social Security Exemptions**

B. An individual shall be made exempt from the taxes imposed by this chapter if he or she is the head of a household and either or both:

(1) Are is ~~sixty-two (62)~~ (60) years old or older; or

(2) Receives supplemental social security benefits.

H. At any time the City voluntarily lowers the tax rate imposed by section 3.20.260 below five percent (5%), the City may increase the minimum age of the senior citizen exemption to sixty two (62) years of age.

SECTION 2. Section 3.20.060 of the Gardena Municipal Code is hereby amended to read, as follows:

**3.20.260 Temporary Adjustments to Amount to be Collected.**

A. The tax rate imposed upon every telephone user, electricity user, gas user, and water user

shall be a maximum of five percent (5%), except where any service user or service supplier is made expressly exempt from the utility users' tax by this chapter. However, beginning on December 1, 1987, the amount to be collected from every telephone user, electricity user, gas user and water user in the city shall be calculated at the rate of four percent (4%) of the charges made for such service and shall be paid by the person paying for such service. The utility users tax shall be reviewed annually by the City Council, in consultation with the Finance Committee, and the City Council may, by ordinance or resolution, adjust the rate or temporarily suspend all or a portion of the tax, as appropriate to the financial condition of the city. No adjustment to the rate or temporary suspension of the tax shall constitute a decrease in a tax, or an increase in a tax requiring voter approval under California Constitution Article XIII C (Proposition 218); provided the City Council's action does not increase the tax beyond the maximum rate or methodology set forth in this voter-approved ordinance. To the extent that any aspect of a rate adjustment or temporary tax suspension is found to invoke such a requirement under Proposition 218, the entire City Council action shall be deemed null and void ab initio, and there shall be no entitlement to adjustment or suspension for any service user.


B. Effective April 1, 2011, the taxes referenced in subsection (a) above shall all be collected at the rate of five percent (5%).

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 4. City Clerk Direction. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, publish the Ordinance as required by law.


SECTION 5. Effective Date. The modifications enacted by this ordinance shall be become effective April 1, 2011.

PASSED, APPROVED AND ADOPTED, this 8th day of February, 2011.

  
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PAUL K. TANAKA, Mayor

ATTEST:

  
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MARIA E. MARQUEZ-BROOKES, City Clerk

APPROVED AS TO FORM:  
  
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PETER L. WALLIN, City Attorney


STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) SS:  
CITY OF GARDENA                )

I, **PATRICIA K. YANAGA**, Chief Deputy City Clerk/Records Management Officer of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being Ordinance No. **1725** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a meeting of said City Council held on the **8<sup>th</sup>** day of **February**, **2010**, and that the same was so passed and adopted by the following roll call vote:

AYES:     COUNCIL MEMBERS MEDINA, CERDA, IKEJIRI, AND JOHNSON, AND  
          MAYOR TANAKA

NOES:     NONE

ABSENT:  NONE

  
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CHIEF DEPUTY CITY CLERK/  
RECORDS MANAGEMENT OFFICER,  
CITY OF GARDENA

(SEAL)