

## **Text of Measure**

### PROPOSED INITIATIVE MEASURE TO AMEND SANTA MONICA MUNICIPAL CODE CHAPTER 6.96 TO EXEMPT MULTIFAMILY DEVELOPMENTS FROM A THIRD TIER TRANSFER TAX

The proposed municipal code amendment reads as follows:

#### **SECTION I: TITLE**

This measure may be known and referred to as “Restore Housing Affordability in Santa Monica Initiative” (the “Initiative”).

#### **SECTION II: FINDINGS AND PURPOSE**

The People of the City of Santa Monica find as follows:

California faces a severe housing crisis throughout the state, including within the greater Los Angeles region and the City of Santa Monica. The Department of Housing and Community Development (“HCD”) identifies reduced annual housing production as one of the key contributing factors to the current housing crisis.

As part of State housing law, the City is required to plan for a specified number of new housing units in eight year periods or “cycles.” As part of this process, known as the Regional Housing Needs Allocation or (“RHNA”), the State is requiring cities in Southern California to plan for and accommodate up to 1.3 million new housing units between 2021-2029. The City of Santa Monica has received a historically high allocation of 8,874 new housing units. To comply with this requirement, the City must plan for just over 1,100 units per year.

In November 2022, the City of Santa Monica aimed to address the City’s rise in homelessness and need for more affordable housing with adoption of Measure GS. Measure GS increased the transfer tax on the sale of properties worth \$8 million or more to fund programs and services to improve affordable housing, help homeless prevention, and improve local schools. However, instead of alleviating the housing crisis, Measure GS has actually undercut the production of much-needed multifamily housing in the City by making such development projects financially unviable. The City is losing out on unbuilt multifamily housing units as well as the anticipated funding from Measure GS.

Repealing the City’s third tier transfer tax for just the sale of multifamily developments will spur production of new market-rate and affordable housing, which will increase overall housing affordability. Should the voters adopt this measure commercial properties and single-family homes worth \$8 million or more will still be subject to Measure GS’ increased transfer tax, ensuring ongoing funding for affordable housing, homelessness and education related programs. This measure would keep Measure GS largely intact while at the same time relieving the tax burden only on multifamily housing to spur the construction of needed new homes in Santa Monica.

Now, therefore, the People of the City of Santa Monica do ordain as follows:

### **SECTION III: AMENDMENT OF SANTA MONICA MUNICIPAL CODE, CHAPTER 6.96**

Chapter 6.96 of the Santa Monica Municipal Code is amended to read (new text is shown by underlining and deleted text is shown by ~~strikeout~~; text that is neither underlined, nor stricken out is shown for information and context only and is not amended or adopted by this initiative):

#### **6.96.010 Title.**

This Chapter shall be known as the "Real Property Transfer Tax Ordinance of the City of Santa Monica." It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California and other authority held as a charter city.

#### **6.96.015 Definitions.**

For purposes of this Chapter, the following terms shall have the following meanings:

"Affordable housing transfer" shall mean a transfer of property to: (1) a nonprofit corporation; (2) a limited partnership or limited liability company in which a nonprofit corporation is the managing general partner or managing member; or (3) a community land trust (as defined by Revenue and Taxation Code Section 402.1) and operated in accordance with Revenue and Taxation Code Section 214.18, if the property is subject to a binding agreement or covenant recorded on the real property and enforceable by the City to provide all residential units on the property (other than units reserved for on-site property managers) at an affordable rent or affordable housing cost to lower income households as defined in California Health and Safety Code Section 50079.5;

"City" shall mean the City of Santa Monica;

"City collected portion" shall mean, with respect to any Second Tier Tax owed, one-half of that Second Tier Tax;

"County" shall mean the County of Los Angeles;

"County collected portion" shall mean, with respect to any Second Tier Tax owed, one-half of that Second Tier Tax;

"First tier tax" shall mean the City-imposed tax pursuant to this Chapter to be paid at the First Tier Tax Rate on any sale or transfer within the City;

"First tier tax rate" shall mean the tax rate of three dollars for each one thousand dollars of consideration or property value, or fractional part thereof, which tax rate is equivalent to the tax rate that shall remain in effect prior to March 1, 2021;

"Multifamily development transfer" shall mean a transfer of property that is developed with either: (1) a residential use consisting of two or more residential units, excluding accessory dwelling units as defined in Santa Monica Municipal Code Section 9.52.020.0095; or (2) a mixed-use development consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use;

"Second tier tax" shall mean the City-imposed tax pursuant to this Chapter to be paid at the Second Tier Tax Rate on any sale or transfer within the City;

"Second Tier Tax Agreement" shall mean a fully executed and binding agreement between City and County that requires the County to administer the entirety of the Second Tier Tax;

"Second tier tax rate" shall mean the tax rate of six dollars for each one thousand dollars of consideration or property value, or fractional part thereof;

"Third tier tax" shall mean the City-imposed tax pursuant to this Chapter to be paid at the Third Tier Tax Rate on any sale or transfer within the City;

"Third tier tax agreement" shall mean a fully executed and binding agreement between City and County that requires the County to administer the entirety of the Third Tier Tax;

"Third tier tax rate" shall mean the tax rate of fifty-six dollars for each one thousand dollars of consideration or property value, or fractional part thereof;

"City imposed portion of the third tier tax" shall mean fifty-three dollars for each one thousand dollars of consideration or property value, or fractional part thereof.

#### **6.96.020 Transfers affected and amount of tax.**

Effective March 1, 2023, there is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rates set forth below:

(a) For sales or transfers when the consideration or value of the interest or property conveyed is less than five million dollars, the First Tier Tax Rate;

(b) For sales or transfers when the consideration or value of the interest or property conveyed is greater than or equal to five million dollars but less than eight million dollars, the Second Tier Tax Rate; and

(c) For sales or transfers when the consideration or value of the interest or property conveyed is greater than or equal to eight million dollars, the Third Tier Tax Rate.

Prior to March 1, 2021, the tax at the rate of three dollars for each one thousand dollars of consideration or property value, or fractional part thereof, shall remain in effect.

From on and after March 1, 2021, and prior to March 1, 2023, the tax rate of three dollars for each one thousand dollars of consideration or property value, or fractional part therefor, shall remain in effect for sales or transfers when the consideration or value of the interest or property conveyed is less than five million dollars, and the tax rate of six dollars for each one thousand dollars of consideration or property value, or fractional part therefor, shall remain in effect for sales or transfers when the consideration or value of the interest or property conveyed is greater than or equal to five million dollars.

**6.96.030 Taxpayer designated.**

Any tax imposed pursuant to Section 6.96.020 hereof shall be paid by: (1) any person who makes, signs or issues any document or instrument subject to the tax; (2) any person for whose use or benefit any document or instrument subject to the tax is made, signed or issued; or (3) any combination thereof. The obligation to pay any tax imposed pursuant to Section 6.96.020 shall be a joint and several liability of the taxpayers identified in this Section.

**6.96.035 Payment of First Tier Tax to County, payment of Second Tier Tax and Third Tier Tax to County and City.**

Any taxes due under this Chapter shall be paid prior to recording any deed, instrument, or writing subject to the tax. Payment shall be made as follows:

(a) Any First Tier Tax owed shall be paid directly to the County on behalf of the City;

(b) Unless the County enters into a Second Tier Tax Agreement, any Second Tier Tax owed shall be paid in two equal parts:

(1) The County collected portion (three dollars for each one thousand dollars of consideration or property value, or fractional part thereof) shall be paid to the County on behalf of the City, and

(2) The City collected portion (three dollars for each one thousand dollars of consideration or property value, or fractional part thereof) shall be paid directly to City;

(c) Unless the County enters into a Third Tier Tax Agreement, any Third Tier Tax owed shall be paid in part to the County and in part to the City as follows:

(1) If the County entered into a Second Tier Tax Agreement prior to March 1, 2023:

(A) Six dollars for each one thousand dollars of consideration or property value, or fractional part thereof shall be paid to the County on behalf of the City, and

(B) Fifty dollars for each one thousand dollars of consideration or property value, or fractional part thereof shall be paid directly to the City, and

(2) If the County has not entered into a Second Tier Tax Agreement prior to March 1, 2023:

(A) Three dollars for each one thousand dollars of consideration or property value, or fractional part thereof shall be paid to the County on behalf of the City; and

(B) Fifty-three dollars for each one thousand dollars of consideration or property value, or fractional part thereof shall be paid directly to the City.

**6.96.036 Payment of entire Second Tier Tax and entire Third Tier Tax to County upon execution of binding agreement-Notice**

(a) In the event that the City and County enter into a Second Tier Tax Agreement, the County is authorized to collect the entirety of the Second Tier Tax as if Section 6.96.035(b) did not exist. The City shall provide at least ninety days' notice of the effective date of any Second Tier Tax Agreement on its website;

(b) In the event that the City and County enter into a Third Tier Tax Agreement, the County is authorized to collect the entirety of the Third Tier Tax as if Section 6.96.035(c) did not exist. The City shall provide at least ninety days' notice of the effective date of any Third Tier Tax Agreement on its website.

**6.96.040 Debt-securing instrument exempted.**

Any tax imposed pursuant to this Chapter shall not apply to any instrument in writing given to secure a debt.

**6.96.050 Certain governmental units exempted.**

The United States or any agency or instrumentality thereof, any State or territory, or political subdivision thereof including any City or County, or the District of Columbia shall not be liable for any tax imposed pursuant to this Chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.

**6.96.051 Partial exemption for certain affordable housing developments by non-profit corporations and community land trusts.**

For an affordable housing transfer in which the consideration or value of the interest or property conveyed is greater than or equal to five million dollars:

(a) If prior to the time an obligation to collect the City collected portion of the Second Tier Tax arises under Section 6.96.095 of this Chapter, or if prior to the time an obligation to collect all or part of the City imposed portion of the Third Tier Tax arises under Section 6.96.096 of this Chapter, a taxpayer with respect to the transfer, as defined in Section 6.96.030 of this Chapter, obtains from the Director of Finance a certification that the transfer is an affordable housing transfer, no taxpayer with respect to the affordable housing transfer shall be required to pay the City collected portion of the Second Tier Tax, or the City imposed portion of the Third Tier Tax subject to Section 6.96.096 of this Chapter, on the affordable housing transfer;

(b) If the City collected portion of the Second Tier Tax is paid on an affordable housing transfer, or if all or part of the City imposed portion of the Third Tier Tax is paid on an affordable housing transfer, any taxpayer with respect to the transfer, as defined in Section 6.96.030 of this Chapter, may apply to the Director of Finance for a refund of that portion of the City collected portion of the Second Tier Tax or the City imposed portion of the Third Tier Tax paid by the taxpayer on the affordable housing transfer; any such application for a refund must be submitted within one hundred twenty days of the transfer subject to the Second Tier Tax or the Third Tier Tax.

#### **6.96.052 Partial exemption for multifamily development transfers.**

Effective January 1, 2025, for a multifamily development transfer in which the consideration or value of the interest or property conveyed is greater than or equal to eight million dollars:

(a) If prior to the time an obligation to collect all or part of the City imposed portion of the Third Tier Tax arises under Section 6.96.096 of this Chapter, a taxpayer with respect to the transfer, as defined in Section 6.96.030 of this Chapter, obtains from the Director of Finance a certification that the transfer is a multifamily development transfer, no taxpayer with respect to the multifamily development transfer shall be required to pay the City imposed portion of the Third Tier Tax subject to Section 6.96.096 of this Chapter, on the multifamily development transfer.

(b) If all or part of the City imposed portion of the Third Tier Tax is paid on a multifamily development transfer, any taxpayer with respect to the transfer, as defined in Section 6.96.030 of this Chapter, may apply to the Director of Finance for a refund of that portion of the City imposed portion of the Third Tier Tax paid by the taxpayer on the multifamily development transfer; any such application for a refund must be submitted within one hundred twenty days of the transfer subject to the Third Tier Tax.

This Section does not require the refund of any portion of the Third Tier Tax paid by a taxpayer prior to January 1, 2025.

#### **6.96.060 Plans of reorganization or adjustment.**

Any tax imposed pursuant to this Chapter shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

- (a) Confirmed under the Federal Bankruptcy Act, as amended;
- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in Section 101 of Title 11 of the United States Code, as amended;
- (c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in Section 101 of Title 11 of the United States Code, as amended; or
- (d) Whereby a mere change in identity, form or place of organization is effected.

Subsections (a) to (d), inclusive, of this Section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

#### **6.96.070 Securities and Exchange Commission orders.**

Any tax imposed pursuant to this Chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1986, but only if:

- (a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code relating to the Public Utility Holding Company Act of 1935;
- (b) Such order specifies the property which is ordered to be conveyed; and
- (c) Such conveyance is made in obedience to such order.

#### **6.96.080 Partnerships.**

(a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this Chapter by reason of any transfer of an interest in a partnership or otherwise, if:

- (1) Such partnership (of another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986; and
- (2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1986, for purposes of this Chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market

value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this Chapter by reason of a termination described in subsection (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

**6.96.090 Administration by County Recorder as to First Tier Tax, County collected portion of Second Tier Tax absent Second Tier Tax Agreement, and County collected portion of Third Tier Tax absent Third Tier Tax Agreement.**

(a) The County Recorder shall administer this Chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any County ordinance adopted pursuant thereto.

(b) Until the effective date of a Second Tier Tax Agreement, the County shall administer and collect: (1) the entirety of any First Tier Tax; and (2) the County collected portion of any Second Tier Tax. Following the effective date of a Second Tier Tax Agreement, the County will collect: (1) the entirety of any First Tier Tax; and (2) the entirety of any Second Tier Tax as provided in the Second Tier Tax Agreement.

(c) With respect to any Third Tier Tax:

(1) If no Second Tier Tax Agreement or Third Tier Tax Agreement is effective, then the County shall administer and collect three dollars for each one thousand dollars of property value, or fractional part thereof, of any Third Tier Tax.

(2) If a Second Tier Tax Agreement is effective but no Third Tier Tax Agreement is effective, then the County shall administer and collect six dollars for each one thousand dollars of property value, or fractional part thereof, of any Third Tier Tax, as provided in the Second Tier Tax Agreement.

(3) Following the effective date of a Third Tier Tax Agreement, the County will collect the entirety of any Third Tier Tax as provided in the Third Tier Tax Agreement.

The City Manager is authorized to negotiate, modify, and enter into a contract with the County or one of its officials for the administration of this Chapter and payment to the County for its costs of administration.

**6.96.095 Administration of City collected portion of Second Tier Tax by recording party or agent.**

Unless a Second Tier Tax Agreement has been executed and the City has provided at least ninety days' notice on its website of the effective date of said agreement in accordance with Section 6.96.036, the City collected portion of any Second Tier Tax shall be administered as follows:



(a) Any entity (including any escrow company, title company, or taxpayer as defined in Section 6.96.030, or agent thereof) that records any deed or written instrument subject to the Second Tier Tax Rate set forth by Section 6.96.020(b) shall be responsible for ensuring that the City collected portion of the Second Tier Tax is collected and paid prior to said recording.

(b) Escrow companies that are involved in a property sale or transfer to which the Second Tier Tax Rate applies shall ensure that either:

(1) The City collected portion of the Second Tier Tax has been paid to the City prior to recording any deed or written instrument subject to the Second Tier Tax Rate; or

(2) Funds sufficient to cover the City collected portion of the Second Tier Tax have been set aside to be distributed to City at the time of recording.

(c) The Director of Finance is authorized to promulgate any rules or regulations reasonably necessary to administer the City collected portion of the Second Tier Tax, as well as necessary forms and receipts.

Following the effective date of a Second Tier Tax Agreement, the obligations imposed by subsections (a) and (b) of this Section 6.96.095 will cease to exist.

**6.96.096 Administration of City collected portion of Third Tier Tax by recording party or agent.**

Unless a Third Tier Tax Agreement has been executed and the City has provided at least ninety days' notice on its website of the effective date of said agreement in accordance with Section 6.96.036, the portion of any Third Tier Tax to be paid to the City pursuant to Section 6.96.035(c) shall be administered as follows:

(a) Any entity (including any escrow company, title company, or taxpayer as defined in Section 6.96.030, or agent thereof) that records any deed or written instrument subject to the Third Tier Tax Rate set forth by Section 6.96.020(c) shall be responsible for ensuring that the City collected portion of the Third Tier Tax is collected and paid prior to said recording.

(b) Escrow companies that are involved in a property sale or transfer to which the Third Tier Tax Rate applies shall ensure that either:

(1) The City collected portion of the Third Tier Tax has been paid to the City prior to recording any deed or written instrument subject to the Third Tier Tax Rate; or

(2) Funds sufficient to cover the City collected portion of the Third Tier Tax have been set aside to be distributed to City at the time of recording.

(c) The Director of Finance is authorized to promulgate any rules or regulations reasonably necessary to administer the City collected portion of the Third Tier Tax, as well as necessary forms and receipts.

Following the effective date of a Third Tier Tax Agreement, the obligations imposed by subsections (a) and (b) of this Section 6.96.096 will cease to exist.

#### **6.96.100 Refunds.**

Claims for refund of taxes imposed pursuant to this Chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096), of Part 9 Division 1 of the Revenue and Taxation Code of the State of California. The Director of Finance may issue rules or regulations reasonably necessary to establish and administer a refund application process (including any necessary forms or declarations) to issue any refunds due pursuant to the partial exemptions in Section 6.96.051 and Section 6.96.052.

#### **6.96.110 Authority of Finance Director.**

(a) The Director of Finance is hereby designated as the officer of the City responsible for maintaining relations with the County for the purpose of administering the tax imposed under this Chapter and receiving and accounting for the funds collected thereunder.

(b) If the County or the entities identified in Sections 6.96.095 and 6.96.096 do not collect or administer the tax due under this Chapter, or if any tax owed is otherwise unpaid, then the Director of Finance shall have the power and duty to enforce all of the provisions of this Chapter. The Director of Finance, designee, or any third-party agent authorized by the Director of Finance may collect any unpaid tax through any lawful means.

(c) The Director of Finance is authorized to issue any rules and regulations reasonably necessary to implement and administer this Chapter.

#### **6.96.120 Due dates, delinquencies, penalties, interest, and administrative charges.**

The tax imposed under this Chapter is due and payable at the time the deed, instrument, or writing effecting a transfer subject to the tax is delivered to the County Recorder. Any such tax is delinquent if unpaid at the time of recordation. In cases where a transfer is effected but not recorded with the County Recorder within ninety days of acceptance, all statutes of limitation regarding liability for this tax will be tolled until the City has actual knowledge of the transfer or recording, at which time the tax, penalties, and interest on the unrecorded transfer will relate back to the actual transfer date of such unrecorded transfer. Any unpaid tax pursuant to this Chapter will be a joint and several liability of all taxpayers, as designated by Section 6.96.030 of this Chapter.

If any tax is not paid prior to becoming delinquent, the Director of Finance may impose a delinquency penalty of up to ten percent of the amount of the tax due. To the extent permitted by law, the Director of Finance may establish rules and regulations that establish an applicable interest rate. The Director of Finance shall have the power to

reduce or waive any penalty or interest applicable under this Chapter so long as such reduction or waiver is in writing and in compliance with any City-issued rules or regulations concerning this Chapter. Any request for reduction or waiver of any penalty or interest assessed pursuant to this Chapter shall be made in writing no later than thirty days following the assessment of such penalty or interest.

#### **6.96.130 Declaration or additional records may be required.**

The tax imposed by this Chapter shall be paid to the City by the taxpayers referred to in Section 6.96.030. The Director of Finance shall have the authority as part of any rules and regulations promulgated by him or her as provided for herein to require that the payment shall be accompanied by a declaration of the amount of tax due signed by the person paying the tax or by his or her agent. The declaration shall include a statement of the value of the consideration on which the tax due was computed. The declaration also shall identify the property address and deed, instrument or writing effecting the transfer for which the tax is being paid. The Director of Finance, or designee, may require delivery of a copy of such deed, instrument or writing whenever reasonably necessary to adequately identify such writing or to administer the provisions of this Chapter. The Director of Finance, or designee, may rely on the declaration as to the amount of the tax due; provided, he or she has no reason to believe that the full amount of the tax due is not shown on the declaration.

Whenever the Director of Finance, or designee, has reason to believe that the full amount of tax due is not shown on the declaration or has not been paid, he or she may, by notice served upon any person liable for the tax, require him or her to furnish a true copy of his or her records relevant to the value of the consideration or fair market value of the property transferred. Such notice may be served at any time within three years after recordation of the deed, instrument or writing which transfers such property.

#### **6.96.140 Determination of deficiency.**

If on the basis of such information as the Director of Finance receives pursuant to the last paragraph of Section 6.96.130 and/or on the basis of such other relevant information that comes into his or her possession, he or she determines that the amount of tax due as set forth in the declaration, or as paid, is insufficient, he or she may recompute the tax due on the basis of such information.

If the declaration required by Section 6.96.130 is not submitted, the Director of Finance may make an estimate of the value of the consideration for the property conveyed and determine the amount of tax to be paid on the basis of any information in his or her possession or that may come into his or her possession.

One or more deficiency determinations may be made of the amount due with respect to any transfer.

#### **6.96.150 Notice of determination.**

The Director of Finance, or designee, shall give written notice to a person liable for payment of the tax imposed under this Chapter of his or her determination made under Section 6.96.140. Such notice shall be given within three years after the recordation of the deed, instrument or writing effecting the transfer on which the tax deficiency determination was made.

#### **6.96.160 Manner of giving notice.**

Any notice required under this Chapter may be served personally or by mail; if by mail, service shall be made by depositing the notice in the United States mail, in a sealed envelope with postage paid, addressed to the person on whom it is to be served at his or her address as it appears in the records of City or as ascertained by the Director of Finance, or designee. The service is complete at the time of the deposit of the notice in the United States mail, without extension of time for any reason.

#### **6.96.170 Petition for redetermination.**

Any person against whom a determination is made under this Chapter or any person directly interested may petition the Director of Finance for a redetermination within sixty days after service upon the person of notice thereof. If a petition for redetermination is not filed in writing with the Director of Finance within the sixty-day period, the determination becomes final at the expiration of the period.

#### **6.96.180 Consideration of petition for redetermination-Hearing.**

If a petition for redetermination is filed within the sixty-day period, the Director of Finance, or designee, shall reconsider the determination and, if the person has so requested in his or her petition, shall grant the person an oral hearing, and shall give him or her ten days' notice of the time and place of hearing. The Director of Finance may designate one or more deputies for the purpose of conducting hearings and may continue a hearing from time to time as may be necessary.

#### **6.96.190 Determination of petition.**

The Director of Finance, or designee, may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the Director of Finance, or designee, at or before the hearing.

#### **6.96.200 Finality of determination.**

The order or decision of the Director of Finance, or designee, upon a petition for redetermination becomes final thirty days after service of notice thereof upon the petitioner or at the time of hearing of redetermination. There is no appeal of the Director of Finance's (or designee's) decision to the City Council; writs challenging the Director's decision conveyed by his or her deputies at an administrative hearing must be filed with the appropriate court within ninety days of the final date of such redetermination.

#### **6.96.210 Tax a debt.**

The amount of any tax, penalties, and interest imposed under the provisions of this Chapter shall be deemed a debt to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the City's name for the recovery of such amount.

#### **6.96.220 Tax a lien.**

The amount of tax, penalties and interest imposed under the provisions of this Chapter is assessed against the property upon the transfer of which the tax is imposed, and if not paid when due, such tax shall constitute an assessment against such property and shall be a lien on the property for the amount thereof, which lien shall continue until the amount thereof including all penalties and interest are paid, or until it is discharged of record. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

#### **6.96.230 Notice of hearing on lien.**

The Director of Finance shall file with the City Manager a written notice of those persons on whom the City will file liens. Upon the receipt of such notice the City Manager shall present same to the City Council, and the City Council shall forthwith, by resolution, fix a time and place for a public hearing to confirm such liens.

The Director of Finance shall cause a copy of such resolution and notice to be served upon the transferor or transferee of property not less than ten days prior to the time fixed for such hearing. Such service shall be by mailing a copy of such resolution and notice to the transferor or transferee of property at his or her last known address. Service shall be deemed complete at the time of deposit in the United States mail.

#### **6.96.240 Collection of delinquent taxes by special tax roll assessment.**

With the confirmation of the lien by the City Council pursuant to the hearing set forth in Section 6.96.220, the delinquent tax charges contained therein which remain unpaid by the transferor or transferee shall constitute a special assessment against said property, and shall be collected at such time as is established by the County Auditor-Controller for inclusion in the next property tax assessment.

The Director of Finance shall turn over to the County Auditor-Controller for inclusion in the next property tax assessment the total sum of unpaid delinquent charges consisting of the delinquent transfer taxes, penalties and interest at the rate of twelve percent per annum from the date of recordation to the date of lien.

Thereafter, said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure of sale as provided for delinquent, ordinary, municipal taxes. The assessment lien previously imposed upon the property are paramount to all other liens

except for those of State, County, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All taxes applicable to the levy, collection and enforcement of municipal taxes shall be applicable to said special assessments.

**6.96.250 Administrative penalties.**

Any person violating or failing to comply with any provision of this Chapter may be subject to any of the penalties set forth in Section 1.08.010 of the Santa Monica Municipal Code. Each such violation or failure shall constitute a separate offense. Neither the City's pursuit of any such penalties nor the imposition of any such penalties shall excuse any person from the payment, collection or remittance of any tax provided for in this Chapter.

**6.96.260 Authority of City Council to establish rules and amend Chapter.**

The City Council is authorized to establish by resolution any rules that are necessary and desirable for implementation of this Chapter. The City Council is authorized to amend Chapter 6.96 as long as the amendment does not result in an increase in the authorized tax rate or a decrease in either the authorized Third Tier Tax rate or collections of the Third Tier Tax.

**6.96.270 Severability.**

If any Section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part thereof is for any reason held to be invalid, unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter 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 Sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

**SECTION IV: EFFECT OF COMPETING OR ALTERNATIVE MEASURE ON THE SAME BALLOT**

This Initiative amends the City's real property transfer tax scheme for the purpose of exempting multifamily developments from the Third Tier Tax. By voting for this Initiative, the voters expressly declare their intent that any other City of Santa Monica measure that appears on the same ballot as this Initiative and addresses real property transfer taxes, or conflicts with any provision of this Initiative, shall be deemed to conflict with the scheme adopted by this Initiative. Because of this conflict, if this Initiative and any such other City of Santa Monica measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail and no provision of the other measure shall take effect.

If this Initiative is approved by the voters but superseded by law by another conflicting measure approved by the voters at the same election, and the conflicting ballot measure is later held to be invalid, this Initiative shall be self-executing and will be given full force and effect.

## **SECTION V: SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Initiative or any part thereof is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Initiative or any part thereof. The voters of the City of Santa Monica hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

If any portion of this Initiative is held by a court of competent jurisdiction to be invalid, we the People of the City of Santa Monica indicate our strong desire that: (1) the City Council use its best efforts to sustain and re-enact that portion, if possible; and (2) the City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with this Initiative.

Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this Initiative.

## **SECTION VI: LIBERAL CONSTRUCTION**

This Initiative shall be liberally construed to effectuate its purposes. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City in a manner that facilitates the purposes set forth in this Initiative. This Initiative shall be interpreted so as to be consistent with all applicable Federal, State, and County and City laws, rules, and regulations.

## **SECTION VII: AMENDMENT AND REPEAL**

Except as otherwise provided herein, this Initiative may be amended or repealed only by a vote of the people of the City of Santa Monica.

## **SECTION VIII: LEGAL DEFENSE**

The People of the City of Santa Monica desire that this Initiative, if approved by the voters and thereafter challenged in court, be defended by the City. The People, by approving this Initiative, hereby declare that the proponent(s) of this Initiative have a direct and personal stake in defending this Initiative from constitutional or statutory challenges to the Initiative's validity or implementation. In the event that the City fails to defend this Initiative, or the City fails to appeal an adverse judgment against the constitutionality, statutory permissibility, or implementation of this Initiative, in whole or in part, in any court of law, the Initiative's proponents shall be entitled

to assert their direct personal stake by defending the Initiative's validity and implementation in any court of law and shall be empowered by the People through this Initiative to act as agents of the People. The City shall indemnify the proponents for reasonable expenses and any losses incurred by the proponents, as agents, in defending the validity and/or implementation of the challenged Initiative. The rate of indemnification shall be no more than the amount it would cost the City to perform the defense itself.

#### **SECTION IX: MUNICIPAL AFFAIRS**

The People of the City of Santa Monica hereby declare that, separately and together, the purposes encompassed by this Initiative constitute municipal affairs. The People of the City of Santa Monica hereby further declare their desire for this Initiative to coexist with any similar tax measures adopted at the City, county, or state levels.

#### **SECTION X: EFFECTIVE DATE**

This Initiative shall become effective upon its approval by a simple majority of electors voting on this Initiative and shall become operative immediately upon the time the vote count is officially certified.