

Libraries and Parks Improvement Act

SECTION 1. Title.

This measure shall be known and may be cited as the “Libraries and Parks Improvement Act.”

SECTION 2. Libraries and Parks Improvement Act.

The City of San Diego Municipal Code is hereby amended by adding Chapter 6, Article 1, Division 28, consisting of Sections 61.2801 through 61.2809, to read as follows:

Division 28. Libraries and Parks Parcel Tax

Section 61.2801. Title.

This Division shall be known and may be cited as the “Libraries and Parks Improvement Act” (hereinafter the “Act”).

Section 61.2802. Necessity and Authority.

A. The People of the City of San Diego have determined that:

1. Well maintained and operated public libraries, parks and recreation centers are a core part of San Diego’s civic and cultural fabric, and are essential to providing vital resources for San Diegans of all ages. San Diego deserves a world-class public library and park system which provides opportunities for educational advancement and achievement, economic mobility, and high-quality public spaces which support healthy, safe and thriving communities.

2. Public libraries are essential to providing citizens with vital public resources, such as safe and enriching after-school programs for teens and young children, computer and internet access for low-income families, programs to enhance the active lives of seniors, as well as assistance to residents experiencing homelessness with access to social services, employment and housing opportunities.

3. The City has not provided sufficient funding to the Library Department to meet its mission of inspiring lifelong learning through connections to knowledge and communities, with the Library Department’s budget falling well below the California state average. Many libraries are in poor condition and in critical need of repair and modernization in order to help children, families and seniors in need of free educational programs, access to technology and library materials, and places to work, collaborate and gather. There are also historic inequities in how library assets are distributed among San

Diego's communities in terms of connections to library services, technology, community spaces and resources.

4. Public parks and recreation centers are crucial to the health and well-being of San Diego residents. They provide recreational outlets and open space for all residents, and are especially important for children, seniors, and low-income individuals. Parks not only improve quality of life and physical health, but provide venues to bring people together to build more resilient and socially connected communities.

5. The City has not provided sufficient funding to the Parks and Recreation Department to meet its mission of providing healthy, sustainable and enriching environments for all. Fundamental improvements are necessary to bring parks and recreation centers up to current health and safety standards – including repairing restrooms, playground equipment and sports fields, and ensuring access for people with disabilities. A recent parks condition assessment conducted by the Parks and Recreation Department found that there is a significant deficit in park maintenance and capital improvements.

6. The Library Department is developing a Library Master Plan, and has recently completed the Plan's first phase, called the "Library Master Plan Framework," to provide a long-range vision and strategy for investments into the facilities, technology, programs, and staffing of San Diego's public library system.

7. The Parks and Recreation Department is developing a Parks Master Plan, known as "Parks for All of Us," to address inequities, make certain that everyone has equal access to safe, clean and thriving park spaces, and create a fully staffed system for all residents and visitors that prioritizes the greatest needs and allows our community to plan for the future.

8. A guaranteed and protected source of revenue, collected through a parcel tax, is necessary to provide San Diegans with adequate public libraries, parks and recreation centers, and is the most equitable and appropriate way to raise the resources required to adequately fund the operations, staffing, maintenance and capital improvements of the City's libraries, parks and recreation centers.

B. This Act and the special tax authorized herein are adopted pursuant to Article XI, section 5 of the California Constitution and applicable provisions of the San Diego City Charter.

C. This Division is exempt from the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA"), because, in accordance with CEQA Guidelines section 15061(b)(3), it can be seen with certainty that there is no possibility that the activity authorized herein may have significant effect on the environment.

Section 61.2803. Imposition of Parcel Tax.

A. A special non-ad valorem parcel tax (hereinafter the “Parcel Tax”) is hereby established and shall be levied annually as provided herein on the owner of each parcel of taxable non-agricultural real property within the City, unless the owner is by law exempt from taxation, in which case, the Parcel Tax shall be assessed to the holder of the possessory interest in such parcel, unless such holder is also by law exempt from taxation. The Parcel Tax is an excise tax on the use of property within the City.

B. The Parcel Tax shall hereby be established and levied each year on each parcel of taxable non-agricultural real property, improved or unimproved, within the boundaries of the City, at the rate of two cents (\$0.02) per square foot per parcel.

C. For the purposes of this Act, a “parcel of taxable non-agricultural real property” shall be defined as any unit of real property within the boundaries of the City which receives a separate tax bill for ad valorem property taxes from the City, and which is zoned for any residential or non-residential use, except for agricultural, utilities, public agency or common area use. For the purposes of this Division, a “parcel of taxable non-agricultural real property” shall not include any unit of real property in the City which receives a separate tax bill for ad valorem property taxes from the City, and which is zoned for agricultural use, for utilities use, for use by public agencies, or for use as common area.

D. The Parcel Tax shall be assessed on no more than one acre of any parcel of taxable non-agricultural real property larger than one acre.

E. The collection of the Parcel Tax shall commence on July 1st following its effective date and expire on June 30th thirty (30) years later.

F. The Parcel Tax shall be adjusted for inflation each year by the San Diego Consumer Price Index for All Urban Consumers (CPI-U) as reported by the United States Department of Labor s Bureau of Labor Statistics.

G. The following shall be exempt from the Parcel Tax:

1. All property that the City has determined to be otherwise exempt from property taxes, or on which no ad valorem property taxes have been levied, in any year.

2. An owner of a residential unit who resides in such unit and whose combined family income from all sources for the previous year is at or below the income

level qualifying as eighty percent (80%) of area median income for a family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. sections 1437 et seq.), or successor legislation, for such year.

3. Rental housing for senior, disabled or low-income households which is exempt from ad valorem property tax pursuant to state law. This Parcel Tax exemption shall apply to the same proportion that is exempted from ad valorem property tax.

H. The City's determination of exemption or relief for any reason of any parcel from taxation shall be final on the taxpayer for purposes of this Act. Taxpayers desiring to challenge the City's determination, or seeking any refund of taxes paid pursuant to this Act, shall follow the procedures established by the City, applicable provisions of the California Revenue and Taxation Code, and other applicable laws.

Section 61.2804. Levy, Collection and Purposes.

A. The proceeds of the Parcel Tax shall be deposited into a special fund, maintained by the City, which proceeds, together with any interest and any penalties thereon, collected each fiscal year shall be used solely for the specific purposes set forth in this section.

B. The proceeds collected by the levy of the Parcel Tax shall be used for the specific purposes of adding funding to support the operations, staffing, maintenance and capital improvements of the City's libraries, parks and recreation centers.

C. The spending of this Parcel Tax shall be consistent with the goals and objectives in any Master Plans which may have been prepared and/or adopted by the Library Department, the Parks and Recreation Department, and/or the City Council.

D. The purposes set forth in this section shall constitute the specific purposes of the Act, which are specific and legally binding limitations on how the proceeds of the Parcel Tax can be spent. The proceeds of the Parcel Tax shall be used only for such specific purposes and shall not fund any service, program or facility other than those set forth herein.

E. The Parcel Tax shall be collected by the City at the same time and in the same manner and shall be subject to the same penalties as ad valorem property taxes collected by the City.

F. On an annual basis, the Library Director and the Parks and Recreation Director shall jointly submit a plan to the Joint Oversight Committee created herein for spending

the proceeds of the Parcel Tax on the operations, staffing, maintenance and capital improvements of libraries, parks and recreation centers. These spending plans shall be consistent with the goals and objectives of any Master Plans which may have been prepared and/or adopted by the Library Department, the Parks and Recreation Department, and/or the City Council. After obtaining input from the public, the Joint Oversight Committee shall submit recommendations for spending the proceeds of the Parcel Tax to the City Council for the City Council's consideration as part of the City's annual budget process.

G. Proceeds from the special fund shall be spent annually in each City Council District.

Section 61.2805. Parcel Tax Not to Replace General Fund Appropriations.

A. In adopting this Parcel Tax, the People of the City of San Diego choose to provide additional City resources to complement, and not supplant, current funding for City libraries, parks and recreation centers provided by City, state, federal and other funding sources.

B. The annual amounts currently allocated for the operations, staffing, maintenance and capital improvements of libraries, parks and recreation centers in the City's budget (not including the proceeds from this Parcel Tax) shall not be reduced for any year at a greater rate or increased at a lesser rate relative to the overall annual budget of the City's general fund as a result of monies available from this Parcel Tax.

Section 61.2806. Increase in Appropriations Limit.

To the extent that the revenue from the Parcel Tax is in excess of the spending limit for the City, as provided for in applicable provisions of the California Constitution and state law, the approval of the Act by the voters shall constitute approval to increase the City's spending limit in an amount equal to the revenue derived from the Parcel Tax for the maximum period of time as allowed by law.

Section 61.2807. Accountability and Joint Oversight Committee.

A. The Board of Library Commissioners and Parks and Recreation Board shall together serve as the Joint Oversight Committee for the Parcel Tax (hereinafter the "Joint Oversight Committee").

B. The Joint Oversight Committee shall meet at least quarterly to: (1) audit and review the implementation of this Act; (2) recommend priorities for expenditures and

capital improvements consistent with the goals and objectives of the Master Plans which may have been prepared and/or adopted by the Library Department, the Parks and Recreation Department and/or the City Council; and (3) verify that the funds are collected, segregated, retained and allocated according to the intent of this Act and spent as prioritized in this Act and consistent herewith. The Joint Oversight Committee shall cooperate with the City Auditor on these functions.

C. The City's Chief Financial Officer ("CFO") shall submit a report on at least an annual basis to the Mayor, City Council, Joint Oversight Committee, Library Director and Parks and Recreation Director which shows the amount of funds collected and expended, and the status of any project required or authorized to be funded, by the Parcel Tax. The CFO may use the City Auditor's annual report to fulfill this obligation.

D. The City Auditor, in cooperation with the Joint Oversight Committee, shall establish and oversee a mechanism to ensure public accountability by effectively reporting and communicating the extent and nature of revenues, expenses and improvements generated by this Parcel Tax and compliance with the requirements outlined in this Act. This shall include, at a minimum, an annual report to the Mayor, City Council, Joint Oversight Committee, Library Director and Parks and Recreation Director (which may be used by the CFO to fulfill its obligation under this Act). Each report shall, at a minimum, contain a complete accounting of all revenues received, the amount and nature of all expenditures, and a report as to whether the expenditures have been consistent with the priorities and provisions outlined in this Act.

Section 61.2808. Statement of Facts.

This true and impartial Statement of Facts explicitly and affirmatively identifies each tax in this Act and the specific limitation on how the revenue therefrom can be spent. This Act establishes a non-ad valorem parcel tax of two cents (\$0.02) per square foot per parcel, up to a maximum of one acre, on each parcel of taxable non-agricultural real property, improved or unimproved, within the boundaries of the City, unless the owner and holder of possessory interest is by law exempt from taxation. The revenue collected from the levy of the non-ad valorem parcel tax set established by this Act shall be specifically used for the operations, staffing, maintenance and capital improvements of the City of San Diego's libraries, parks and recreation centers, consistent with the goals and objectives in any Master Plans which have been prepared and/or adopted by the Library Department, the Parks and Recreation Department, and/or the City Council, and for spending oversight and accountability.

Section 61.2809. Severability.

If any provision of this Act, or any section, part, phrase or word thereof, including any exemption to the Parcel Tax or any defined term, or the applicability of any provision, section, part, phrase or word to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions, sections, parts, phrases and words shall not be affected, but shall remain in full force and effect, and to this end the provisions, sections, parts, phrases and words, of this Act are severable. The voters hereby declare that this Act, and each section, part, phrase and word, including any exemption to the Parcel Tax or any defined term, would have been adopted irrespective of whether any one or more provisions, sections, parts, phrases or words are found to be invalid or unconstitutional.

SECTION 3. Effective Date and Operative Date.

This measure shall become effective upon its approval by a simple majority of voters voting on the measure. This measure shall become operative on July 1st following the effective date.

SECTION 4. Severability.

If any provision of this measure, or any section, part, phrase or word thereof, including any exemption to the Parcel Tax or any defined term, or the applicability of any provision, section, part, phrase or word to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions, sections, parts, phrases and words shall not be affected, but shall remain in full force and effect, and to this end the provisions, sections, parts, phrases and words, of this measure are severable. The voters hereby declare that this measure, and each section, part, phrase and word, including any exemption to the Parcel Tax or any defined term, would have been adopted irrespective of whether any one or more provisions, sections, parts, phrases or words are found to be invalid or unconstitutional.

SECTION 5. Conflicting Measures.

This measure is intended to be comprehensive. It is the intent of the People of the City of San Diego that, in the event this measure and one or more measures relating to increased funding for the City's libraries, parks and/or recreation centers shall appear on the same ballot, the provisions of the other measure or measures shall be deemed in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any

other measure or measures, then this measure shall take effect to the extent not in conflict with said other measure or measures.

SECTION 6. Liberal Construction.

This measure is an exercise of the initiative power of the People of the City of San Diego to implement a special tax to fund the purposes set forth in the Act, and shall be liberally construed to effectuate these purposes.

SECTION 7. Amendment.

Except as expressly provided herein, the tax rates set forth herein shall not be increased other than with voter approval, but the City Council may enact other amendments to this measure which are consistent with and further its purposes.

SECTION 8. Municipal Affairs.

The People of the City of San Diego hereby declare that providing additional funding to the City's libraries, parks and recreation centers through a parcel tax for the purposes set forth in this measure constitutes a municipal affair. The People hereby further declare their desire for this measure to coexist with any similar tax measures adopted at the city, county or state levels.

SECTION 9. Home Rule.

The authority to pass this measure is derived from San Diego's home rule powers outlined in the Charter and Article XI, section 5 of the California Constitution. The People of the City of San Diego declare their intent that this citizen initiative be enacted, and the Parcel Tax be collected for the entire uninterrupted time period described herein, if this measure is approved by a simple majority of voters pursuant to the California Supreme Court case of California Cannabis Coalition v. City of Upland (2017) 3 Cal.5th 924 and City of Fresno v. Fresno Building Healthy Communities (2020) 59 Cal.App.5th 220. To the extent that the California Constitution or state law is amended on or after the date that this measure is passed by voters to change or create additional voting requirements in order to implement, or to continue to implement, this measure, the People of the City of San Diego declare their intent that such amendments should be applied prospectively only and not apply to, or in any way affect, the levy of this parcel tax or this measure for the entire uninterrupted time period described herein.

SECTION 10. Legal Defense.

The People of the City of San Diego desire that this measure, if approved by the voters and thereafter challenged in court, be defended by the City. The People, by approving this measure, hereby declare that the proponent(s) of this measure have a direct and personal stake in defending this measure from constitutional or statutory challenges to the measure's validity or implementation. In the event the City fails to defend this measure, or the City fails to appeal an adverse judgment against the constitutionality, statutory permissibility or implementation of this measure, in whole or in part, in any court of law, the measure's proponents shall be entitled to assert their direct personal stake by defending the measure's validity and implementation in any court of law and shall be empowered by the People through this measure 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 measure. The rate of indemnification shall be no more than the amount it would cost the City to perform the defense itself.