

**RESOLUTION NO. 20-40**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ADELANTO, CALIFORNIA, (1) GIVING NOTICE OF THE SUBMISSION TO ADELANTO VOTERS OF A BALLOT QUESTION FOR A BALLOT MEASURE TO ESTABLISH A SPECIAL TAX ON VACANT PROPERTIES TO FUND SOLUTIONS FOR PARKS AND RECREATION, ILLEGAL DUMPING REMEDIATION, PUBLIC SAFETY, CAPITAL IMPROVEMENT PROJECTS, AND SPECIFIED PROGRAMS; (2) REQUESTING THAT THE BALLOT QUESTION AND MEASURE BE INCLUDED AMONG THE ELECTION CONTESTS REFERENCED IN CITY COUNCIL RESOLUTION NO. 20-46 WHICH CALL FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, AND WHICH IS TO BE CONSOLIDATED WITH COUNTY-ADMINISTERED GENERAL ELECTION OF THE SAME DATE; AND, (3) SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS AND REBUTTALS REGARDING THE MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS**

**WHEREAS**, the City of Adelanto (“City”) has been suffering from a lack of economic development since its incorporation on December 22, 1970; and

**WHEREAS**, since May 28, 1985, the State of California Department of Transportation has enforced a Controlled Access Highway Agreement along State Highway Route 395 in the City, which has severely restricted economic development within the corridor; and

**WHEREAS**, roughly 74 percent of the City’s land area is vacant, undeveloped, and unoccupied by any legal use; and

**WHEREAS**, properties that are vacant or undeveloped deprive the community of the economic opportunity and housing that could be provided if those properties were put into use; and

**WHEREAS**, properties that are vacant also deprive the City of the revenue needed to provide public services by reducing the tax revenue that is generated when properties provide space for active uses or are developed for housing or businesses; and

**WHEREAS**, members of the community have placed a clear priority on the need for parks and recreation programs; blight and illegal dumping remediation; public safety services, including police, firefighters, and paramedics; and capital projects to improve City infrastructure, including the construction and maintenance of roads, construction and maintenance of sidewalks, and storm water runoff and drainage; and

**WHEREAS**, the lack of economic development within the City has led to an

insufficient revenue base that cannot fund the services that the members of the community have requested; and

**WHEREAS**, despite significant cost saving measures the City Council has employed in recent years to address the ongoing budget crisis, including the consolidation of job duties, significant reductions in staffing levels, and the sales of assets and deferment of equipment purchases, current revenue forecasts indicate that the City's General Fund will struggle to maintain basic service levels in future fiscal years; and

**WHEREAS**, in order to address these issues as soon as possible, the City Council desires to submit to the qualified electors of the City a proposed ordinance to adopt a special tax on vacant properties to support services important to members of the community; and

**WHEREAS**, such a special tax will also discourage property owners from keeping properties vacant; and

**WHEREAS**, the proposed tax will have a hardship exemption process so that people with financial difficulty or other valid reason the property had to be vacant can have the tax waived, and non-profits are exempt; and

**WHEREAS**, a citizen oversight committee will be established to provide transparency regarding the special tax by recommending the allocation of the proposed tax revenue to the City Council and monitoring the use of the proceeds of the proposed tax to ensure it is meeting the needs of the community; and

**WHEREAS**, a non-ad valorem tax on parcels of real property may be approved by the voters as a special tax under California Constitution, Article XIII A, Section 4 and California Constitution, Article XIID, Section 3(a)(2); and

**WHEREAS**, Government Code section 37100.5 provides in relevant part: "Except as provided in section 7282 of the Revenue and Taxation Code, the legislative body of any city may levy any tax which may be levied by any charter city, subject to the voters' approval pursuant to Article XIII A of the Constitution of California"; and

**WHEREAS**, Government Code section 50075 further provides: "It is the intent of the Legislature to provide all cities, counties, and districts with the authority to impose special taxes pursuant to the provisions of Article XIII A of the California Constitution"; and

**WHEREAS**, at its Special Meeting of June 16, 2020, the City Council approved Resolution No. 20-46, which (i) called for and gave notice of a General Municipal Election to be held on Tuesday, November 3, 2020, for conduct of election contests of two members for City Council; (ii) requested consolidation of such election with the County of San Bernardino; (iii) requested that San Bernardino County provide specific election administration services; and (iv) provided for the determination of tie votes by lot unless the City Council adopts the provisions of Elections Code section 15651(b) prior to the conduct of the election resulting in a tie vote; and

**WHEREAS**, the City Council now wishes to include as part of its call for a November 3, 2020 General Municipal Election, the submission of a ballot measure to the voters of the City of Adelanto to consider and approve a parcel tax on vacant properties to fund solutions for parks and recreation, illegal dumping remediation, public safety, capital improvement projects, and specified programs (the “Measure”); and

**WHEREAS**, the subject Measure is referred to as the “Adelanto Vacant Property Tax”; and

**WHEREAS**, the ballot measure question seeking approval of this Ordinance appeared as follows:

<p><b>Adelanto Vacant Property Tax</b>  <i>Shall the City of Adelanto’s measure, to fund parks/recreation programs, capital improvements/other infrastructure projects, public safety, and to fight illegal dumping and blight, enacting a vacant property tax on parcels used less than 50 days per year, at rates ranging from \$50.00/acre to \$600.00/acre annually, for 20 years, based on zoning, raising about \$6,200,000/year, with citizen oversight and hardship exemptions for seniors and low-income individuals, be adopted?</i></p>	<input type="checkbox"/> Yes
	<input type="checkbox"/> No

**WHEREAS**, the City Council wishes to include the above-referenced special tax measure as part of the City’s General Municipal Election ballot and included among the matters referenced under Resolution No. 20-46; and

**WHEREAS**, the calling of an election contest for Adelanto voters to consider the parcel tax measure was made in a manner consistent with Government Code sections 53971.5 and 53978 and Government Code section 50077, which provides in relevant part: “Except as provided in section 7282 of the Revenue and Taxation Code, the legislative body of any city ... may, following notice and public hearing, propose by ordinance or resolution the adoption of a special tax”; and

**WHEREAS**, the City Council approved this Ordinance for first reading at a public hearing conducted as part of its Regular Meeting of July 22, 2020, provided that the Ordinance may not take effect unless approved by Adelanto voters at the General Municipal Election of November 3, 2020; and

**WHEREAS**, this Ordinance, by its terms, may only take effect if the ballot measure requesting its approval is approved by a two-thirds (2/3) majority of Adelanto voters at the General Municipal Election of November 3, 2020; and

**WHEREAS**, it is desirable that the City’s November 3, 2020 General Municipal Election, inclusive of the above-subject ballot measure, be consolidated with any and all

elections to be administered by the County Election Department of the County of San Bernardino on the same date and that the City have the same precincts, polling stations, and election officers within the City for such election; and

**WHEREAS**, the City shall compensate the County of San Bernardino for all necessary expenses incurred by the County Election Department in performing election services for the City; and

**WHEREAS**, the City Council affirms its wish for the County Election Department for the County of San Bernardino to canvass the returns of the City's November 3, 2020 General Municipal election; and

**WHEREAS**, Elections Code sections 9280, et seq., sets forth the procedures and requirements for the preparation and submission of ballot arguments and corresponding rebuttal arguments in connection with City-initiated ballot measures.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ADELANTO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** The foregoing recitals are true and correct and incorporated into the body of this Resolution by this reference.

**SECTION 2.** Pursuant to the requirements of the laws of the State of California relating to charter cities and Elections Code sections 9222 and 12001, the City Council hereby affirms its order and call for a General Municipal Election to be held in the City of Adelanto, California on Tuesday, November 3, 2020, to be consolidated with the County-administered General Election to be held on the same day, for the added purpose of submitting to the qualified electors the above-defined Measure to approve the ordinance attached hereto as **Exhibit "A"** (the "Ordinance"). The proposed Measure will establish a parcel tax on real property within the City's territorial boundaries in the manner described in the Ordinance and said tax shall be structured as a special tax whose proceeds may only be used to pay for solutions for parks and recreation, illegal dumping remediation, public safety, capital improvement projects, and specified programs as defined in the Ordinance.

**SECTION 3.** This Resolution is one of two resolutions submitted to the Board of Supervisors and County Election Department by the City Council relating to the City's General Municipal Election of November 3, 2020. The first resolution, Resolution No. 20-46, referenced above, (i) called for and gave notice of a General Municipal Election to be held on Tuesday, November 3, 2020, for conduct of election contests of two members for City Council; (ii) requested consolidation of such election with the County of San Bernardino; (iii) requested that the County of San Bernardino provide specific election administration services; and (iv) provided for the determination of tie votes by lot unless the City Council adopts the provisions of Elections Code section 15651(b) prior to the conduct of the election resulting in a tie vote. The City Council requests that the Measure be added to the list of items referenced under Resolution No. 20-46 that are to be placed on the ballot for the General Municipal Election

to be consolidated with the County-administered General Election of the same date.

**SECTION 4.** Pursuant to the requirements of section 10403 of the Elections Code, and as part of the City Council’s request under Resolution No. 20-46, it is further requested that the Board of Supervisors consent and agree to the inclusion of the above-referenced Measure as part of the City of Adelanto’s November 3, 2020 General Municipal Election, which is to be consolidated with the County-administered General Election to be held on the same date.

**SECTION 5.** The ballot question for the Measure shall appear as follows:

<b>Adelanto Vacant Property Tax</b> <i>Shall the City of Adelanto’s measure, to fund parks/recreation programs, capital improvements/other infrastructure projects, public safety, and to fight illegal dumping and blight, enacting a vacant property tax on parcels used less than 50 days per year, at rates ranging from \$50.00/acre to \$600.00/acre annually, for 20 years, based on zoning, raising about \$6,200,000/year, with citizen oversight and hardship exemptions for seniors and low-income individuals, be adopted?</i>	<input type="checkbox"/> Yes
	<input type="checkbox"/> No

**SECTION 6.** It is respectfully requested that the Board of Supervisors for the County of San Bernardino authorize and direct the County Election Department to canvass the returns of the City’s consolidated General Municipal Election (for the items referenced under Resolution No. 20-46 and the Measure referenced in this Resolution) and that such election be held in all respects as if it were part and parcel of the County-administered General Election of the same date. It is also respectfully requested that the County Election Department give the above-subject Measure the letter designation “A” such that the measure may be identified as Measure “A” on the ballot. If the letter designation “A” is no longer available, it is respectfully requested that the County Election Department give the Measure the following letter designations in order of preference, from most preferred to least preferred: “B” and “C.”

**SECTION 7.** As the tax established under the Measure is a special tax within the meaning of Proposition 218 whose proceeds may be used to fund parks and recreation programs and infrastructure, illegal dumping remediation, public safety, capital improvement projects, and discourage vacant properties, as provided in the Ordinance, the vote requirement for passage of the proposed Measure is a two-thirds (2/3) supermajority of votes at the City’s General Municipal Election of November 3, 2020.

**SECTION 8.** It is respectfully requested that the Board of Supervisors authorize and direct the County Election Department to:

- (A) Print and supply ballots for the General Municipal Election; and

- (B) Mail the ballot question, ballot arguments, rebuttals, and the City Attorney’s impartial analysis to the registered voters in the City of Adelanto.

**SECTION 9.** It is also respectfully requested that the Board of Supervisors issue instructions to the County Election Department to take any and all additional steps necessary for the holding of the consolidated election requested above.

**SECTION 10.** The City of Adelanto shall reimburse the County Election Department for any additional costs attributable to the inclusion of the Measure on the ballot of the General Municipal Election to be consolidated with the County-administered General Election of November 3, 2020.

**SECTION 11.** The complete text of the proposed Ordinance submitted to the voters is attached as **Exhibit “A”** to this Resolution.

**SECTION 12.** The City Clerk is hereby authorized and directed to publish a Notice of Election and Measure to be Voted On at least one time not later than a week before the election in the VICTORVILLE DAILY PRESS, a newspaper of general circulation within the City of Adelanto, in accordance with the provisions of Elections Code section 12111. The City Clerk is hereby authorized to such other notices as required by law.

**SECTION 13.** The ballots to be used at the election shall be in form and content as required by law.

**SECTION 14. Direct Arguments in Support of and in Opposition to Measure.** As authorized under Elections Code section 9282(b), the City Council reserves the right to file a written argument in favor of this Measure or authorize any member or members of the City Council to do the same. Pursuant to Election Code section 9282 (b), written arguments for or against the Measure may also be submitted by any individual voter who is eligible to vote on the Measure; any bona fide association of citizens; any combination of voters and associations or such other persons or entities as may be authorized under Elections Code section 9282(b). The foregoing notwithstanding, if more than one set of arguments “in favor of” or “in opposition to” the Measure is timely submitted to the City Clerk, the City Clerk shall select only one argument for and one argument against in accordance with the selection priority set forth under Elections Code section 9287. That priority gives preference as follows: (a) the City Council or City Council-authorized members of the City Council; (b) the individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure; (c) a bona fide association of citizens; then, (d) individual voters who are eligible to vote on the measure. Pursuant to Elections Code section 9283, a ballot argument will not be accepted unless accompanied by the printed name and signature or printed names and signatures of the author or authors submitting the argument, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. Pursuant to Elections Code section 9283, no more than five (5) signatures shall appear with any argument submitted and if any argument is signed by more than five authors, the signatures of the first five shall

be printed but not the signatures in excess of the first five. Ballot arguments in support of or in opposition to the Measure may not exceed 300 words in length.

Consistent with elections Code section 9287(b), ballot arguments in favor of or in opposition to the Measure must be submitted to and received by the City Clerk by or before 12:00 p.m., on Monday, August 17, 2020. Arguments that are received by the City Clerk after this deadline will not be accepted. The City Clerk's Office is located at City of Adelanto City Hall, 11600 Air Expressway, Adelanto, California 92301.

**SECTION 15. Rebuttals to Direct Arguments.** Pursuant to Elections Code section 9285, when the City Clerk receives an argument to the Measure that will be printed in the ballot pamphlet, the elections official shall send a copy of the argument in favor of the Measure to the authors of any argument against the Measure and a copy of the argument against the Measure to the authors of the argument in favor of the Measure. To the extent permitted under Elections Code section 9285(a)(2), the author or a majority of the authors of an argument (either in favor of or in opposition to) may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit or sign the rebuttal argument. No rebuttal argument may exceed 250 words in length. Pursuant to Elections Code section 9285 (A)(5), a rebuttal argument relating to the Measure may not be signed by more than five persons and shall be printed in the same manner as a direct argument and shall immediately follow the direct argument which it seeks to rebut.

Consistent with Elections Code sections 9285 and 9287(b), rebuttal arguments must be submitted to and received by the City Clerk by or before 5:00 p.m. on Friday, August 21, 2020. Rebuttals that are received by the City Clerk after this deadline will not be accepted. Again the City Clerk's Office is located at City of Adelanto City Hall, 11600 Air Expressway, Adelanto, California 92301.

**SECTION 16. City Attorney's Impartial Analysis.** The City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on existing law and the operation of the Measure. The impartial analysis shall be filed with the City Clerk by or before 5:00 p.m., on Monday, August 17, 2020.

**SECTION 17.** This Resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

**SECTION 18.** The City Clerk shall forward, without delay, a certified copy of this Resolution to the Board of Supervisors of the County of San Bernardino and County Election Department, which shall be assisting the City of Adelanto with the conduct of its General Municipal Election, no later than August 7, 2020.

**PASSED, APPROVED and ADOPTED** by the City Council of the City of Adelanto at its regular meeting on this 22nd day of July, 2020.

\_\_\_\_\_  
Gabriel Reyes, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Lopez, CMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Lloyd Pilchen, City Attorney  
OMLO

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss.  
CITY OF ADELANTO )

**I HEREBY CERTIFY** that the foregoing Resolution No. 20-40 was duly adopted by the City Council of the City of Adelanto at a regular meeting thereof, held on the 22nd day of July, 2020, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Brenda Lopez, CMC, City Clerk

**Exhibit “A”**

**ORDINANCE NO. 617**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF ADELANTO AS APPROVED BY THE CITY’S QUALIFIED ELECTORS AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 3, 2020 TO ESTABLISH A SPECIAL PARCEL TAX ON VACANT PROPERTIES**

**WHEREAS**, the City of Adelanto (“City”) has been suffering from a lack of economic development since its incorporation on December 22, 1970; and

**WHEREAS**, since May 28, 1985, the State of California Department of Transportation has enforced a Controlled Access Highway Agreement along State Highway Route 395 in the City, which has severely restricted economic development within the corridor; and

**WHEREAS**, roughly 74 percent of the City’s land area is vacant, undeveloped, and unoccupied by any legal use; and

**WHEREAS**, properties that are vacant or undeveloped deprive the community of the economic opportunity and housing that could be provided if those properties were put into use; and

**WHEREAS**, properties that are vacant also deprive the City of the revenue needed to provide public services by reducing the tax revenue that is generated when properties provide space for active uses or are developed for housing or businesses; and

**WHEREAS**, members of the community have placed a clear priority on the need for parks and recreation programs; blight and illegal dumping remediation; public safety services, including police, firefighters, and paramedics; and capital projects to improve City infrastructure, including the construction and maintenance of roads, construction and maintenance of sidewalks, and storm water runoff and drainage; and

**WHEREAS**, the lack of economic development within the City has led to an insufficient revenue base that cannot fund the services that the members of the community have requested; and

**WHEREAS**, despite significant cost saving measures the City Council has employed in recent years to address the ongoing budget crisis, including the consolidation of job duties, significant reductions in staffing levels, and the sales of assets and deferment of equipment purchases, current revenue forecasts indicate that the City’s General Fund will struggle to maintain basic service levels in future fiscal years; and

**WHEREAS**, in order to address these issues as soon as possible, the City Council desires to submit to the qualified electors of the City a proposed ordinance to adopt a special

tax on vacant properties to support services important to members of the community; and

**WHEREAS**, such a special tax will also discourage property owners from keeping properties vacant; and

**WHEREAS**, the proposed tax will have a hardship exemption process so that people with financial difficulty or other valid reason the property had to be vacant can have the tax waived, and non-profits are exempt; and

**WHEREAS**, a citizen oversight committee will be established to provide transparency regarding the special tax by recommending the allocation of the proposed tax revenue to the City Council and monitoring the use of the proceeds of the proposed tax to ensure it is meeting the needs of the community; and

**WHEREAS**, a non-ad valorem tax on parcels of real property may be approved by the voters as a special tax under California Constitution, Article XIII A, Section 4 and California Constitution, Article XIID, Section 3(a)(2); and

**WHEREAS**, Government Code section 37100.5 provides in relevant part: “Except as provided in section 7282 of the Revenue and Taxation Code, the legislative body of any city may levy any tax which may be levied by any charter city, subject to the voters’ approval pursuant to Article XIII A of the Constitution of California”; and

**WHEREAS**, Government Code section 50075 further provides: “It is the intent of the Legislature to provide all cities, counties, and districts with the authority to impose special taxes pursuant to the provisions of Article XIII A of the California Constitution”; and

**WHEREAS**, at its Special Meeting of June 16, 2020, the City Council of the City of Adelanto (“City Council”) approved Resolution No. 20-46, which (i) called for and gave notice of a General Municipal Election to be held on Tuesday, November 3, 2020, for conduct of election contests of two members for City Council; (ii) requested consolidation of such election with the County of San Bernardino; (iii) requested that the County of San Bernardino provide specific election administration services; and (iv) provided for the determination of tie votes by lot unless the City Council adopts the provisions of Elections Code section 15651(b) prior to the conduct of the election resulting in a tie vote; and

**WHEREAS**, in addition to the election contests of two members for City Council under Resolution No. 20-46, the City Council also called for the placement of a parcel tax measure as set forth in this Ordinance onto the November 3, 2020 ballot by approval of Resolution No. 20-40 at the City Council’s Regular Meeting of July 22, 2020; and

**WHEREAS**, the ballot measure question seeking approval of this Ordinance appeared as follows:

<b>Adelanto Vacant Property Tax</b> <i>Shall the City of Adelanto’s measure, to fund parks/recreation programs, capital improvements/other infrastructure projects, public safety, and to fight illegal dumping and blight, enacting a vacant property tax on parcels used less than 50 days per year, at rates ranging from \$50.00/acre to \$600.00/acre annually, for 20 years, based on zoning, raising about \$6,200,000/year, with citizen oversight and hardship exemptions for seniors and low-income individuals, be adopted?</i>	[ ] Yes
	[ ] No

**WHEREAS**, the calling of an election contest for Adelanto voters to consider the parcel tax measure was made in a manner consistent with Government Code sections 53971.5 and 53978 and Government Code section 50077, which provides in relevant part: “Except as provided in section 7282 of the Revenue and Taxation Code, the legislative body of any city ... may, following notice and public hearing, propose by ordinance or resolution the adoption of a special tax”; and

**WHEREAS**, the City Council approved this Ordinance for first reading at a public hearing conducted as part of its Regular Meeting of July 22, 2020, provided that the Ordinance may not take effect unless approved by Adelanto voters at the General Municipal Election of November 3, 2020; and

**WHEREAS**, this Ordinance, by its terms, may only take effect if the ballot measure requesting its approval is approved by a two-thirds (2/3) majority of Adelanto voters at the General Municipal Election of November 3, 2020; and

**WHEREAS**, at the General Municipal Election of Tuesday, November 3, 2020, Adelanto voters approved the measure requesting approval of this Ordinance by a margin of \_\_\_\_% voting in favor (“Yes”) and \_\_\_\_% voting in opposition (“No”); and

**WHEREAS**, the election results were certified at the City Council’s meeting of \_\_\_\_\_, 2020, by way of Resolution No. \_\_\_\_.

**THE PEOPLE OF THE CITY OF ADELANTO, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.     Title.**

This Ordinance may be referred to as the “Adelanto Vacant Property Tax.”

**SECTION 2.     Purpose.**

The taxes imposed under this Ordinance are solely for the purpose of raising revenue necessary to support and fund services for parks and recreation, illegal dumping

remediation, public safety, capital improvement projects, and the related programs, described below. Because the proceeds of the parcel tax will be deposited into a special fund restricted for the services and programs specified in this Ordinance, the tax is a special tax.

**SECTION 3. Code Amendment.**

A new Chapter 3.70 of Title 3 (Revenue and Finance) is hereby added to the Adelanto Municipal Code to read as follows:

**Chapter 3.70 - ADELANTO VACANT PROPERTY TAX.**

Sections:

**3.70.010 - Definitions.**

“Active use” means the occupancy of a legal residential unit, the performance of a business function or operation, or the presence of a functional structure, agricultural site, or landscaping and parking which is being maintained or operated and serves an adjacent structure.

“City” means the City of Adelanto, California, a municipal corporation and charter city.

“City Council” means the Council of the City of Adelanto.

“Commission” means the Adelanto Vacant Property Tax Advisory Commission.

“Consumer Price Index” means the Consumer Price Index published by the U.S. Bureau of Labor Statistic for “All Urban Consumers” in the Riverside-San Bernardino-Ontario Area. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the City that is reasonably comparable to the Consumer Price Index for the Riverside-San Bernardino-Ontario Area.

“County” means the County of San Bernardino, California.

“Developed parcel” means all parcels, regardless of zoning or other land use designation, upon which permanent improvements have been constructed or placed.

“Finance Director” means the Director of Finance of the City of Adelanto.

“Owner” means the owner or owners of the real property located within the City of Adelanto.

“Parcel” means a legal parcel of real property in the City of Adelanto as shown on the most current official assessment roll of the San Bernardino County Assessor.

“Residential unit” means a building or structure, or portion thereof, designed for or occupied exclusively by one household, including unrelated persons who live together and maintain a common household.

“Tax” means the special tax authorized by this Ordinance.

“Undeveloped parcel” means all parcels, regardless of zoning or other land use designation, upon which no permanent improvements have been constructed or placed.

“Vacant” is as defined by section 3.70.020 of this chapter.

### **3.70.020 - Determination of Vacancy**

- A. For the purposes of this ordinance, a parcel of real property shall be deemed “vacant” and subject to the tax imposed by Section 3.70.030 below if the parcel is not otherwise wholly exempt from ad valorem tax by state law, and is any of the following:
1. A developed parcel of land that is in active use less than 50 days during a calendar year.
  2. An undeveloped parcel of land that is in Active use less than 50 days during a calendar year.
  3. A condominium, duplex, or townhouse residential unit under separate ownership that is in Active use less than 50 days during a calendar year.
    - a. Except as provided in subdivision 4 below, for parcels with multiple units, whether residential or non-residential, the parcel is not vacant if any unit on it is not vacant. A condominium, duplex, or townhouse unit under separate ownership is treated as a separate parcel for the purposes of this Chapter, and if it is vacant, is subject to the tax regardless of the status of any other unit on the same lot or that is part of the same development.
  4. A parcel of land where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit), or are a legal nonconforming use, and all of the ground floor space that could be lawfully occupied by commercial activities is in Active use less than fifty 50 days in a calendar year.
    - a. Parcels determined to be vacant under this section shall be subject to the tax regardless of whether any other portion of the structures on the parcel are occupied.

- B. The City Council shall establish, by ordinance, a method for determining and identifying the use and vacancy status of each parcel of real property in the City.

**3.70.030 - Imposition of Special Parcel Tax on Vacant Property**

- A. A special tax in the amounts set forth below is hereby imposed on every vacant parcel of real property within the City, other than those exempted in Section 3.70.030 K. of this chapter.
- B. The tax constitutes a debt owed by the Owner of each parcel to the City.
- C. Unless the City Council selects another method for collection of the tax, the County shall levy and collect the tax on each parcel of real property in the City for which the Owner receives a separate ad valorem property tax bill, at the same time and manner, and subject to the same penalties and procedures as ad valorem property taxes collected by the County except as otherwise set forth in this Ordinance.
- D. If the City Council selects collection of the tax by the County, the tax shall be imposed on the ad valorem property tax bill for the fiscal year that begins July 1 following the end of the calendar year in which the parcel was vacant. The special tax shall first be imposed and collected no sooner than the ad valorem property tax bill for fiscal year 2021-2022 for parcels that were vacant in the 2020 calendar year.
- E. Tax Rates.
  - 1. The maximum tax rates for each property type shall be as set forth in the table below. The City shall be responsible for assigning a tax rate for each parcel.

<b>Zoning District</b>	<b>Zoning Description</b>	<b>Annual Tax Rate</b>
ADD	Airport Development District	\$200 per acre per parcel
AP	Airport Park	\$200 per acre per parcel
BP	Business Park	\$600 per acre per parcel
C	Commercial	\$600 per acre per parcel
DL-2.5	Desert Living 2.5	\$50 per acre per parcel
DL-5	Desert Living 5	\$50 per acre per parcel
DL-9	Desert Living 9	\$50 per acre per parcel
LM	Light Manufacturing	\$600 per acre per parcel
MI	Manufacturing/Industrial	\$600 per acre per parcel
MU	Mixed Use	\$600 per acre per parcel
OS	Open Space	\$50 per acre per parcel
PU	Public Utilities	\$0 per acre per parcel
R1	Single Family Residential	\$300 per acre per parcel

<b>Zoning District</b>	<b>Zoning Description</b>	<b>Annual Tax Rate</b>
R3-30	High Density Residential	\$300 per acre per parcel
R3-8	Medium Density Residential	\$400 per acre per parcel
R-M12	Medium Density Residential	\$400 per acre per parcel
R-S1	Single Family Residential	\$300 per acre per parcel
R-S5	Single Family Residential	\$300 per acre per parcel
U	Uncategorized or unassigned	\$200 per acre per parcel

For purposes of calculating the maximum tax rates set forth herein, parcels that are a fraction of an acre shall be rounded up to the nearest whole acre.

- F. Real property otherwise wholly exempt from ad valorem tax by state law shall also be exempted from the tax imposed by this Ordinance.
- G. City Council Discretion to Temporarily Reduce Maximum Authorized Tax Rates and Authorize Additional Exemptions.
  - 1. The City Council, in its sole discretion, may, by resolution, temporarily decrease the annual tax rate imposed less than the maximum amount authorized in Section 3.70.030, subsection E. Following any such temporary decrease in the annual tax rate, the City Council may, by resolution, restore the annual tax rate back up to the maximum rate authorized in Section 3.70.030, subsection E, or to any other amount less than the maximum rate authorized in Section 3.70.030, subsection E, without obtaining voter approval.
  - 2. The City Council may, in its discretion, adopt and/or repeal additional categories of exemption, provided that such exemptions are approved or repealed by Ordinance. The foregoing notwithstanding, in no event may the City Council repeal exemptions expressly approved by the voters as part of this Ordinance.
- H. Automatic Cost of Living Adjustments to Tax Rates.

The maximum special tax rates specified in subsection E shall be automatically adjusted by an increment not to exceed the annual percentage change in the March Consumer Price Index (CPI). Regardless of whether the special tax rate has been reduced to an amount below the maximum special tax rate allowed in Section 3.70.030, subsection E, the maximum tax rate applicable for the following year shall be the maximum special tax rate that could have otherwise been levied, not to exceed CPI. Even if the City Council elects to impose a lesser special tax in any fiscal year, in any later fiscal year the City Council may still elect to impose up to the full authorized maximum special tax rate.

I. For properties wholly within San Bernardino County and divided by Tax Rate Area lines into multiple parcels, the property shall be taxed as a single parcel at the rates set forth above.

J. Imposition of Tax by Zones.

The City Council may, by ordinance, establish zones or areas within the City and may restrict the levy of the tax to properties within the zones or areas established.

K. Exemptions.

1. For purposes of the exemptions set forth in this section, the term “Owner” shall be defined as a natural person. “Owner” shall not include a business entity, such as a limited liability company, corporation, partnership, or other business entity, trust, or any other private organization which may be considered a “person” by operation of law.

2. The following may be exempt from the tax imposed by this Ordinance:

a. An Owner who qualifies as very low-income, as the term “very low income” is defined by the United States Department of Housing and Urban Development.

b. An Owner who can demonstrate that exceptional specific circumstances prevent the use or development of the property. By way of example only and without limiting the generality of the foregoing, exceptional specific circumstances that prevent the use or development of property include property damage by a recent natural disaster, an undeveloped parcel adjoining a developed residential parcel and used by the occupants as part of the yard, and property with physical conditions that prevent development.

c. An Owner of a property that is under active construction. To qualify for this exemption, an Owner must call for inspections of the construction with sufficient frequency to keep the building permit or permits active.

d. An Owner of property for which an active building permit application is being processed by the City.

e. An Owner of a parcel included in a substantially complete application for planning approvals that has not yet received approval. An Owner of a parcel for which a project with development entitlements have been approved but needing time for completion may apply for and receive an administrative two-year exemption.

- f. An Owner of property for which at least 60 percent of the accessible dry land is actively used for a community garden(s), or Agriculture as defined in Section 17.200.020 and developed in accordance with the applicable standards set forth in Title 17 of this Code.
  - g. An Owner (1) who is 65 years of age or older and (2) who qualifies as “low income,” as the term “low income” is defined by the United States Department of Housing and Urban Development.
  - h. An Owner who, regardless of age, (i) receives Supplemental Security Income for a disability or (ii) Social Security Disability Insurance benefits, regardless of age and whose yearly income does not exceed 250 percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.
  - i. An Owner that is a non-profit organization or entity owned or controlled by a non-profit organization.
3. The City Council, in its discretion, shall be authorized to establish procedures, criteria and guidelines for Owners to apply for and be granted relief under the exemptions referenced above, provided such procedures, criteria and/or guidelines are not expressly in conflict with the voter-approved provisions of this Ordinance. Such procedures, criteria and guidelines may be established by ordinance or resolution of the City Council. The City Council, in its discretion, also reserves the right to establish such other exemptions to the tax imposed by this Ordinance, and authorize the methods of collection of the said, as it determines to be appropriate.
  4. Subject to City Council oversight and direction, the City Manager’s designee, (which if not otherwise designated shall be the Finance Director), shall administer and enforce all such procedures, criteria and guidelines as may be established by the City Council. Owners who claim an exemption may, among other procedures, criteria and guidelines, be required to submit information annually to substantiate their continuing qualification for the exemption.

**3.70.040 - Vacant Property Tax Fund**

The “Vacant Property Tax Fund” (“Fund”) is hereby created as a special revenue fund. Proceeds from the Adelanto Vacant Property Tax, including penalties and interest earned on such proceeds, shall be deposited into the Fund and used only for the purposes listed in Section 3.70.050 of this chapter.

### **3.70.050 - Use of Vacant Property Tax Act Revenue**

- A. Monies deposited in the Vacant Property Tax Fund shall be used solely for those purposes identified in this Section.
- B. Tax funds may be used to fund programs and services for parks and recreation programs for the community, including but not limited to, Senior citizen programs, after school programs, capital improvements of City parks and public facilities, and park and facility maintenance; public safety services including law enforcement and fire protection; capital projects to improve City infrastructure, including the construction and maintenance of roads, construction and maintenance of sidewalks, and storm water runoff and drainage; code enforcement and cleanup of blighted vacant properties, other blight elimination, and remedying illegal dumping.
- C. In the first fiscal year 2021-2022, thirty percent of the revenue deposited into the Vacant Property Tax Fund shall be used to pay for parks and recreation infrastructure, maintenance, programs and services. In all future fiscal years, no less than 20 percent but no more than 30 percent of the revenue deposited into the Vacant Property Tax Fund shall be used for this purpose.
- D. In the first fiscal year 2021-2022, ten percent of the revenue deposited into the Vacant Property Tax Fund shall be used to pay for code enforcement and cleanup of blighted vacant properties, other blight elimination, and remedying illegal dumping, including legal action to address any of the foregoing as necessary. In all future fiscal years, no less than 10 percent but no more than 15 percent of the revenue deposited into the Vacant Property Tax Fund shall be used for this purpose.
- E. In the first fiscal year 2021-2022, thirty percent of the revenue deposited into the Vacant Property Tax Fund shall be used to pay for public safety services including law enforcement and fire protection. In all future fiscal years, no less than 25 percent but no more than 50 percent of the revenue deposited into the Vacant Property Tax Fund shall be used for this purpose.
- F. In the first fiscal year 2021-2022, thirty percent of the revenue deposited into the Vacant Property Tax Fund shall be used to pay for capital improvements and other infrastructure projects, including the construction and maintenance of roads, construction and maintenance of sidewalks, and storm water runoff and drainage. In all future fiscal years, no less than 20 percent but no more than 30 percent of the revenue deposited into the Vacant Property Tax Fund shall be used for this purpose.
- G. The City Council may by ordinance modify the percentages in subdivisions C, D, E, and F of this Section.

- H. Monies in the Vacant Property Tax Fund may be used to pay the costs of audits of the use of monies in the Fund.
- I. Monies in the Vacant Property Tax Fund may be used to pay for the City's costs of the election required to obtain voter approval of the tax authorized by this Ordinance, including City Attorney costs to prepare this Ordinance and related documents.
- J. Monies in the Vacant Property Tax Fund may be used to pay for the costs of administering the special tax, regardless of how or by what entity those administrative services are provided. No more than 15 percent of the revenue deposited into the Vacant Property Tax Fund in any single year may be used to pay for such administrative costs. Notwithstanding the foregoing, the City shall be reimbursed for its actual costs of establishing the program for collecting the tax, which costs shall be confirmed by the Finance Director. Administrative costs include, but are not limited to:
  - 1. The costs to the City of determining and identifying the use and vacancy status of every parcel in the City;
  - 2. The costs to the City associated with monitoring and enforcing compliance with this Ordinance. Authorized costs include, but are not limited to, any expenses, including attorneys' fees, associated with any proceedings needed to enforce the requirements of this Ordinance;
  - 3. The costs to the City associated with developing ordinances and regulations to implement this Ordinance;
  - 4. The costs to the City associated with the production of reports and recommendations as set forth in Section 3.70.060 of this Ordinance; and
  - 5. Reimbursement to the County for the costs it incurs in collecting the tax.
- K. If this Ordinance or the use of tax funds is legally challenged, tax funds may be used to reimburse the City for its costs of legal defense, including attorneys' fees and other expenses.

**3.70.060 - Vacant Property Tax Advisory Commission**

- A. The Adelanto Vacant Property Tax Advisory Commission is hereby established for citizen oversight of the Vacant Property Tax.
- B. The Commission shall meet at least four (4) times per fiscal year.

- C. The Commission, as established by this Section, shall advise the City Council regarding use of the revenue generated by the Tax as authorized in Section 3.70.050.
1. The Commission shall review relevant financial and operational reports related to the expenditure of the Vacant Property Tax Fund. The Commission shall publish an annual report regarding how and to what extent the City has implemented this Ordinance. Additionally, the Commission may publish reports regarding the following: (1) recommendations on how to allocate the tax funds in accordance with the requirements of this Ordinance; (2) information, if available, concerning the impact of this Ordinance on illegal dumping and related issues in the City; and (3) any additional information that the Commission deems appropriate. The City Council may assign other duties to the Commission as provided for by Ordinance.
  2. Within 30 days of receipt of a Commission report, the City Manager or designee shall cause the report to be published on the City's Internet website and to be transmitted to the City Council. The Report and Recommendations shall be included in the published packet and provided to the City Council as part of the Agenda at the meeting(s) at which the Council allocates the Vacant Property Tax funding. The foregoing notwithstanding, the failure of the Commission to submit its annual report in any given year shall not operate to prevent the City Council from undertaking the allocation of the Vacant Property Tax funding.
- D. The Commission shall consist of five (5) members who are all residents of the City. City Councilmembers shall make recommendations for members to the Mayor. Members of the Commission shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter Article XI Section 1103. Members of the Commission shall receive no salary for serving.
- E. Members shall serve three (3) year terms, as provided for in this subsection. No member shall serve more than two (2) consecutive three (3) year terms. Of the initial members of the Commission, two (2) appointments shall be for one-year terms, and three (3) appointments shall be for three- year terms. Thereafter, all terms shall be for three (3) years. All terms of members shall begin as of the date that three (3) members have been appointed, which is when the Commission may begin its work. All future terms shall begin and end on that date. A quorum of the Commission shall be a majority of appointed members, but shall never be fewer than three (3) members. The foregoing notwithstanding, all members of the Commission shall serve at the pleasure of the City Council and may be removed and replaced by the City Council at any time without cause upon the issuance of prior written notice to the Commissioner. Absence from three (3) consecutive regular meetings, or four (4) non-consecutive regular meetings during a single

fiscal year, may constitute cause for removal from the Commission, in accordance with City Charter Article XI Section 1103.

- F. The City Manager or designee shall provide clerical assistance and administrative support and technical assistance to the Commission.

### **3.70.070 - Accountability**

- A. In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the tax:
  - 1. A separate, special account, referred to as the Vacant Property Tax Fund, shall be created, into which the proceeds of the tax must be deposited.
  - 2. The specific purposes of the tax are for the funding of programs and services for parks and recreation programs for the community, including Senior citizen programs, after school programs, capital improvements of City parks and public facilities, and park and facility maintenance; public safety services including law enforcement and fire protection; capital projects to improve City infrastructure, including the construction and maintenance of roads, construction and maintenance of sidewalks, and storm water runoff and drainage; code enforcement and cleanup of blighted vacant properties, other blight elimination, and remedying illegal dumping; and for the other purposes set forth in Section 3.70.050 of this Ordinance. The proceeds of the tax shall be applied only to these specific purposes.
  - 3. The Finance Director shall perform regular audits to ensure accountability and proper disbursement of all revenue collected by the City from the tax imposed by this Ordinance, in accordance with the objectives stated herein and in compliance with provisions of California law, and shall provide the City Council with the annual report required by 50075.3 of the Government Code.
- B. During the term of the tax, the City of Adelanto shall not reduce the amount of unrestricted General Fund expenditures used for code enforcement and cleanup of blighted vacant properties, other blight elimination, and illegal dumping remediation below the amount expended in the 2020-2021 fiscal year. The Finance Director's reports on the uses of the Vacant Property Tax Fund shall include the percentage that was spent on blight elimination and illegal dumping remediation and shall also evaluate whether the City has satisfied the requirement to maintain the set level of unrestricted General Fund expenditures. If the Finance Director finds that in any fiscal year the amount of unrestricted General Fund expenditures on blight elimination and illegal dumping remediation is less than the total amount expended in fiscal year 2020-2021, the City of Adelanto shall

increase unrestricted General Fund expenditures for those uses within the following two fiscal years so that total unrestricted General Fund expenditures on those uses over three fiscal years is equal to three times the fiscal year 2020-2021 expenditures.

**3.70.080 – Increase Appropriations Limit.**

Pursuant to California Constitution Article XIII B, the appropriation limit for the City of Adelanto is hereby increased by \$6,200,000 for each of the four fiscal years from 2021-22 through 2024-25.

**SECTION 4. Severability.**

If any section, subsection, part, clause, sentence or phrase of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the validity of the remaining portions of this Ordinance, the application thereof and the tax imposed shall not be affected thereby, but shall remain in full force and effect, it being the intent of the People to adopt each and every section, subsection, part, clause, or phrase regardless of whether any other section, subsection, part, clause, or phrase or the application thereof is held to be invalid or unconstitutional.

**SECTION 5. California Environmental Quality Act Requirements.**

The City Council hereby determines that this Ordinance is not in-and-of-itself a “project” pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of the ordinance itself may have a significant effect on the environment. To the extent that vacant property tax revenues generated by the Ordinance may in the future be used to fund the construction of capital improvements, the Ordinance may assist in the financing of future “projects” that will be subject to environmental review pursuant to CEQA at the “earliest feasible time” prior to “approval” consistent with CEQA Guidelines Sections 15004 and 15352.

**SECTION 6. Approval; Effective Date.**

This Ordinance shall become effective immediately upon the following conditions: (i) approval of the ballot measure seeking approval of this Ordinance by 2/3 majority of the voters casting votes at the General Municipal Election of the City of Adelanto to be held November 3, 2020; (ii) certification of all votes cast by the City Council confirming that a 2/3 majority of voters have approved the ballot measure approving this Ordinance; and (iii) implementation of this Ordinance by City Council upon certification of the election results.

**SECTION 7. Council Amendments.**

This Ordinance may only be amended by a vote of the people if the amendment would result in the special tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the voters. The City Council of the City of Adelanto is hereby authorized to amend Chapter 3.70 of the Adelanto Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rates, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

**SECTION 8. Expiration of Tax.**

This Ordinance shall expire 20 years after it is first levied. By way of example only and without limiting the generality of the foregoing, if the tax were first levied in the 2021-22 tax year, the 2041-42 tax year would be the last year in which it may be levied. The voters of the City of Adelanto may amend the term of the tax at any time prior to its expiration.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Gabriel Reyes, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Lopez, CMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Lloyd Pilchen, City Attorney  
OMLO

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss.  
CITY OF ADELANTO )

**I HEREBY CERTIFY** that the foregoing Ordinance No. 617 was duly adopted by the City Council of the City of Adelanto at a regular meeting thereof, held on the \_\_\_ day of \_\_\_\_\_, 2020, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Brenda Lopez, CMC, City Clerk