AGENDA
SAN BRUNO CITY COUNCIL
SPECIAL MEETING
June 25, 2019
6:00 p.m.
Meeting Location: San Bruno Senior Center, 1555 Crystal Springs Road, San Bruno, CA

City Council meetings are conducted in accordance with Roberts Rules of Order Newly Revised and City Council Rules of Procedure. All regular Council meetings are recorded and televised on CATV Channel 1 and replayed the following Thursday, at 2:00 pm. Recordings of the City Council meetings are available for listening at the City Clerk's Office and video of the City Council meetings may be viewed at www.sanbruno.ca.gov. Audio CDs with recordings of City Council meetings may be purchased at the City Clerk's office, or may be listened to at the San Bruno Library. In compliance with the Americans with Disabilities Act, individuals requiring reasonable accommodations or appropriate alternative formats for notices, agendas and records for this meeting should notify us 48 hours prior to meeting. Please call the City Clerk's Office 650-616-7061, or email your request to Melissa Thurman, City Clerk at mthurman@sanbruno.ca.gov.

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT ON ITEMS NOT ON AGENDA
   Individuals allowed three minutes, groups in attendance, five minutes. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

4. CLOSED SESSION:
   a. Conference with Legal Counsel – Anticipated Litigation
      • Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2)
   b. Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8
      • Property: 618 San Mateo Avenue
      • Agency Negotiator: City Manager
      • Negotiating Parties: City of San Bruno and Artichoke Joe’s
      • Under Negotiation: Price and Terms of Payment

5. ADJOURNMENT:
   The next Regular City Council Meeting will be held on June 25, 2019 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.

Posted Pursuant to Law 06/19/19
AGENDA
SAN BRUNO CITY COUNCIL
June 25, 2019
7:00 p.m.

Meeting Location: San Bruno Senior Center, 1555 Crystal Springs Road, San Bruno, CA

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Thanks to the San Bruno Garden Club for providing the floral arrangement.

1. CALL TO ORDER

2. ROLL CALL/PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:
   Individuals allowed three minutes, groups in attendance, five minutes. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

4. ANNOUNCEMENTS/PRESENTATIONS:
   a. For future planning, the City has embarked on a fiscal sustainability effort to ensure we are continuing to address your priorities. Be part of the process and tell us what you think! A survey is available on the City’s website, www.sanbruno.ca.gov/EnhancingYourSanBruno
   b. Receive Presentation from the Fire and Police Chiefs Regarding the City’s Requirements for Use of Safe and Sane Fireworks in San Bruno and San Bruno’s Zero Tolerance Policy

5. CONSENT CALENDAR:
   All items are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion, unless requested.
   a. Accept Accounts Payable of June 10, 2019
   b. Accept Payroll of June 9, 2019
   c. Adopt Resolution Approving the San Bruno Community Foundation FY2019-20 Budget
6. PUBLIC HEARING:
   a. Hold Public Hearing and Adopt Resolutions:
      • Approving FY2019-20 Operating and FY2020-24 Capital Improvement Program Budget
      • Approving City Appropriations (Gann) Limit for FY2019-20
      • Approving the City’s Master Fee Schedule for FY2019-20

7. CONDUCT OF BUSINESS:
   a. Adopt Resolution:
      • Authorizing the Purchase of Six Vehicles in the Amount of $469,040;
      • Appropriating an Amount Not to Exceed $60,000 for Vehicle Equipment Installation and Customization; and
      • Appropriating Available Funds in the General Equipment Revolving Fund in the Amount of $20,040 for the Cost Increase in the Revised Vehicle Purchase Price
   b. Waive First Reading and Introduce an Ordinance Regarding Amendments to Remaining Portions of San Bruno Municipal Code Title 2 (Administration and Personnel) as Part of a Comprehensive Municipal Code Update and Adopt Three Resolutions: 1) Electing to Become Subject to the California Uniform Public Construction Cost Accounting Act; 2) Approving a Master Mutual Aid Agreement; and 3) Adopting the CalOES Rules and Regulations Relative to Worker’s Compensation Benefits for Disaster Service Volunteers
   c. Waive First Reading and Introduce an Ordinance Regarding Amendments to San Bruno Municipal Code Title 3 (Revenue and Finance) as part of a comprehensive Municipal Code Update
   d. Receive Report and Direct Staff to Cancel the August 13, 2019 Regular City Council Meeting

8. COMMENTS FROM COUNCIL MEMBERS:

9. ADJOURNMENT: To the Closed Session Meeting of March 28, 2019, after the Adjournment of the Regular Meeting

10. CLOSED SESSION:
    a. Public Employee Performance Evaluation Pursuant to Government Code section 54957
       • City Attorney
    b. Public Employee Performance Evaluation Pursuant to Government Code section 54957
       • City Clerk

The next Regular City Council Meeting will be held on July 9, 2019 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.
DATE: June 11, 2019

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Keith DeMartini, Finance Director
Kathleen O'Malley, Accounting & Customer Service Representative

SUBJECT: Accounts Payable Warrant Register

This is to certify that the claims listed on pages 1 to 2 inclusive, and/or claims numbered from 181768 through 181870 inclusive, totaling $614,175.91 have been checked in detail and approved by the proper officials, and in my opinion, represent fair and just charges against the City in accordance with their respective amounts. The table below summarizes the total paid by Fund.

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<th>Fund</th>
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Respectfully submitted,

[Signature]
Finance Director  
6/19/19

Date

Consent Item 5a
CITY OF SAN BRUNO  
WARRANT REGISTER  
TOTAL FUND RECAP  

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<td>WEST COAST CODE CONSULTANTS, INC.</td>
<td>181788</td>
<td>6/11/2019</td>
</tr>
<tr>
<td>WOODARD &amp; CURRAN</td>
<td>181869</td>
<td>6/11/2019</td>
</tr>
<tr>
<td>YEUGENIY &amp; MARIA VOLOSHKO</td>
<td>181864</td>
<td>6/11/2019</td>
</tr>
<tr>
<td>ZCORUM, INC.</td>
<td>181870</td>
<td>6/11/2019</td>
</tr>
</tbody>
</table>

Grand Total: 614,175.91
Total count: 103
DATE:       June 25, 2019
TO:         Honorable Mayor and Members of the City Council
FROM:       Jovan D. Grogan, City Manager
PREPARED BY: Benjie Lin, Payroll Specialist
SUBJECT:    Payroll Acceptance

City Council acceptance of the City payroll distributed June 14, 2019 is recommended. The Labor Summary report reflecting the total payroll amount of $1,597,355.35 for bi-weekly pay period ending June 9, 2019 by fund is shown below:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund: 001 - GENERAL FUND</td>
<td>$1,207,205.06</td>
</tr>
<tr>
<td>Fund: 121 - FEDERAL/STATE GRANTS</td>
<td>1,839.14</td>
</tr>
<tr>
<td>Fund: 122 - SOLID WAIST/RECYCL.</td>
<td>1,841.39</td>
</tr>
<tr>
<td>Fund: 133 - RESTRICTED REVENUES</td>
<td>20,311.24</td>
</tr>
<tr>
<td>Fund: 201 - PARKS AND FACILITIES CAPITAL</td>
<td>43.62</td>
</tr>
<tr>
<td>Fund: 203 - STREET IMPROVE. PROJECTS</td>
<td>9,501.45</td>
</tr>
<tr>
<td>Fund: 611 - WATER FUND</td>
<td>82,960.22</td>
</tr>
<tr>
<td>Fund: 621 - STORMWATER FUND</td>
<td>23,547.17</td>
</tr>
<tr>
<td>Fund: 631 - WASTEWATER FUND</td>
<td>81,391.10</td>
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<tr>
<td>Fund: 641 - CABLE TV FUND</td>
<td>99,340.72</td>
</tr>
<tr>
<td>Fund: 701 - CENTRAL GARAGE</td>
<td>11,396.25</td>
</tr>
<tr>
<td>Fund: 702 - FACILITY MAINT.FUND</td>
<td>33,788.17</td>
</tr>
<tr>
<td>Fund: 707 - TECHNOLOGY DEVELOPMENT</td>
<td>17,117.10</td>
</tr>
<tr>
<td>Fund: 711 - SELF INSURANCE</td>
<td>7,072.72</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$1,597,355.35</strong></td>
</tr>
</tbody>
</table>

Respectfully Submitted,

[Signature]

Keith Devittini, Finance Director

[Date] 6/17/19

Consent Item 5b
DATE: June 25, 2019
TO: Honorable Mayor and Members of the City Council
FROM: Marc Zafferano, City Attorney
SUBJECT: Adopt Resolution Approving the San Bruno Community Foundation FY2019-20 Budget

BACKGROUND:

The San Bruno Community Foundation (SBCF) is the organization created by the City Council to invest, manage and expend the restitution settlement of $70 million in cash and real property that the City received from PG&E after the gas line explosion in the Crestmoor neighborhood.

Consistent with its Program Strategy Framework, in 2016 the Foundation began implementing a series of programs utilizing the restitution funds for the benefit of the San Bruno community. Since then, these programs have included the Crestmoor Neighborhood Memorial Scholarship (awards totaling $120,000 each year), a Community Grants Fund (award totaling $200,000-$300,000 each year), and many other strategic grants to benefit the City and its residents, including a three-year City-wide music initiative in the public schools totaling $495,000, a First Responder Initiative totaling over $300,000, and $30,000 to sponsor the City’s Community Day in the Park. The Foundation has committed $50 million for the new Recreation and Aquatics Center, and has approved grants to the City totaling just under $7 million for conceptual design, architectural services, and project and construction management.

Under Article XVI of the Foundation’s Bylaws, adoption of the Foundation’s annual budget requires City Council approval.

At its regular meeting on June 5, 2019, the Board of Directors reviewed and unanimously approved a budget for the SBCF’s 2019-20 fiscal year. Copies of the staff report and budget are provided as Attachment 2.

DISCUSSION:

The attached SBCF staff report describes and explains all of the line items in the budget. In summary, the budget reflects the Foundation’s anticipated program disbursements and support costs for Foundation activities, which are based on actual expenses for the past year as well as reasonable and conservative projections for the following year. The funds available for operations are primarily transfers from the Foundation’s Quasi-Endowment and Strategic Pool. The Foundation’s independent auditors have issued an unconditional audit letter certifying that the Foundation is complying in all material respects with generally accepted accounting principles and all established internal controls.
Leslie Hatamiya, the Foundation’s Executive Director, will be providing the Foundation’s annual report to the City in the Presentations section of the agenda and will be available to answer any questions.

**FISCAL IMPACT:**

None.

**ALTERNATIVES:**

1. Provide direction to the SBCF regarding the budget line items.

**RECOMMENDATION:**

Adopt Resolution Approving the San Bruno Community Foundation FY2019-20 Budget

**ATTACHMENTS:**

1. Resolution
2. SBCF Staff Report and Budget dated June 5, 2019, approving FY2019-20 Budget

**DISTRIBUTION:**

SBCF Board of Directors

**DATE PREPARED:**

June 14, 2019
RESOLUTION NO. 2019- ___

RESOLUTION APPROVING THE SAN BRUNO COMMUNITY FOUNDATION
FISCAL YEAR 2019-20 BUDGET

WHEREAS, on March 12, 2012, the City entered into a Settlement Agreement with PG&E whereby PG&E would pay the City $70 million in cash and real property to resolve claims arising out of the September 9, 2011, gas pipeline explosion in the Glenview/Crestmoor neighborhood; and

WHEREAS, the Settlement Agreement calls for the creation of a not-for-profit to manage, invest, and expend the funds to benefit the City and its residents; and

WHEREAS, on March 12, 2013, the City Council adopted Resolution 2013-26 authorizing the filing of the Articles of Incorporation for the newly-created San Bruno Community Foundation (SBCF) to effectuate the purposes of the Settlement Agreement; and

WHEREAS, on August 27, 2013, the City Council adopted Resolution 2013-72 approving the Bylaws of the SBCF, which reserved to the City Council certain powers, including the power to approve the budget of the SBCF; and

WHEREAS, on April 26, 2016, the City Council approved amended and restated Bylaws, which retained the power of the City Council to approve the budget of the SBCF; and

WHEREAS, the SBCF Board of Directors, which was appointed by the City Council, has reviewed, discussed, and approved a budget for FY2019-20;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the San Bruno Community Foundation’s FY2019-20 budget as adopted by the San Bruno Community Foundation.

Dated: June 25, 2019

ATTEST:

Melissa Thurman, City Clerk

-00o-

I, Melissa Thurman, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 25th day of June 2019 by the following vote:

AYES: COUNCILMEMBERS: ________________________________

NOES: COUNCILMEMBERS: ________________________________

ABSENT: COUNCILMEMBERS: ________________________________
DATE: May 31, 2019

TO: Board of Directors, San Bruno Community Foundation

FROM: Leslie Hatamiya, Executive Director

SUBJECT: SBCF Budget and Transfers from the Quasi-Endowment and Strategic Pool Accounts to the Liquidity Pool Account for Fiscal Year 2019-2020

Under our Bylaws, the Foundation’s fiscal year runs from July 1 to June 30, and its annual budget must be approved by the San Bruno City Council. As we approach the end of the 2018-2019 fiscal year, I will present the 2019-2020 budget to the Board for approval at the June 5 Board meeting. If approved, the budget will be submitted to the City Council for consideration at its June 25 meeting.

In developing this budget, I am guided by the principles of transparency and economy. As prudent stewards of the restitution funds, we want to communicate our decisions and activities with the community and have accordingly provided ample budget to do so. At the same time, we will be cost-conscious in all categories of expenses.

It is important to note that this budget appears to be out of balance, with expenses at $1,541,185 and Funds Available for Operations at $5,118,053. This is because we record grant commitments as expenses at the time agreements are executed, but grant payments are often made in a later fiscal year. More than $4,000,000 of the Foundation’s cash needs arise from Recreation and Aquatics Center (RAC) grants that were recorded in previous fiscal years. Thus, they do not appear as expenses in FY 2019-2020, but the disbursements affect overall cash needs. Budgeted “income” almost exclusively comes from transfers from either the Quasi-Endowment or the Strategic Pool, and those transfers are based on projected cash needs during the fiscal year to cover operating expenses plus program obligations.

As I have mentioned before, most nonprofit budgets are income-driven because the nonprofit is able to spend only the funds it expects to bring in that year. In contrast, the Foundation’s budget is expense-driven. As a result, I will discuss the expense lines first.

1. Expenses

We have three categories of Expenses: Direct Program Expenses (Crestmoor Scholarships, Community Grants Fund, Strategic Grants, and Other Grants), Personnel Expenses, and Non-Personnel Support Costs. We are currently projecting expenses of $1,541,185.
a. Direct Program Expenses

- **Crestmoor Scholarships**: This line keeps the budget for the 2020 Crestmoor Neighborhood Memorial Scholarships at the same level as in 2017, 2018, and 2019 ($120,000). However, on June 5, the Board will consider my recommendation to convene an Ad Hoc Committee on Crestmoor Scholarship to review the program for potential changes. Depending on the Committee’s recommendation, the Board may consider adjusting the total amount to be awarded in the 2020 cycle later this year.

- **Community Grants Fund**: This line keeps the Foundation’s contribution to the Community Grants Fund at the same level as in the first two years of the program ($200,000). This line does not assume that Google.org will contribute funds to support this program again in 2019-2020 (it contributed $100,000 to this program in 2017-2018 and 2018-2019).

- **Strategic Grants**: This line accounts for four strategic grants that are currently anticipated for 2019-2020: (a) $375,000 for temporary RAC facilities, (b) $100,000 for the City to hire a consultant to help develop a detailed business and operational plan for the RAC facility, (c) $304,545 for acquisition of an emergency, first responder, mobile command vehicle, funded by donations from Google/YouTube and their employees, and (d) $30,000 to sponsor the City of San Bruno’s 2020 Community Day. This year the City has been actively participating in soliciting additional sponsorships for Community Day, raising $10,000. After receiving the 2019 Community Day grant report, the Board may consider adjusting the amount of its sponsorship in 2020. All four strategic grants require specific Board approval, and the budget allotment anticipates that all four will be approved.

b. Direct Personnel Expenses

- **Salaries & Wages**: This line reflects the Executive Director’s current salary. To the extent that additional staffing is needed, consultants will be utilized rather than employees and therefore this line has not been increased.

- **Payroll Taxes & Benefits**: This line reflects payroll taxes, workers compensation insurance premiums, and benefits for the Executive Director. Benefits include retirement plan contribution, life insurance, and vacation accruals.
c. Non-Personnel Support Costs

- **Occupancy:** This line reflects the total expected rent the Foundation will pay in 2019-2020 under the current office lease, which runs through March 2020. We will pay a monthly rate of $1,254.22 from July through December 2019, and $1,265.83 for January through March 2020. In March 2020, a lease extension with the landlord will be required. For April through June 2020, a 15% rent increase has been budgeted. Due to cosmetic upgrades the landlord has made to the building in the past year, a more than nominal rent increase is expected.

- **Insurance:** This line is based on the Foundation's current commercial general liability, property, auto, cyber, and directors and officers liability insurance policies ($15,534), which have an annual renewal date of March 21. It also includes the Foundation's crime insurance policy ($2,551), which has a renewal date of May 27.

- **Telecommunications:** This line includes continuation of the Executive Director’s cell phone expenses ($792), broadband Internet access for the office, and the office landline ($1,056 for Internet and landline through San Bruno Cable combined).

- **Postage & Shipping:** This line includes office postage ($500) as well as the projected postage required for the fall Annual Report mailing (nonprofit rate) to all San Bruno addresses ($1,500).

- **Marketing & Communications:** This line covers the projected printing costs associated with the Annual Report ($10,000). It also includes funds for graphic design services ($1,500), flyer/poster printing for the Community Grants Fund ($700), flyer/poster printing for the Crestmoor Scholarships ($800), other printing (such as holiday cards, business cards, and banners - $200), website and e-newsletter costs ($280), and costs associated with online grant and scholarship applications ($1,158). Typically, actual expenses end up being lower than the budgeted amount (this year we expect to come in about $2,680 under budget), as I allow a generous amount for Annual Report and program flyer/poster printing costs.

- **Office Supplies and Equipment:** This line includes $200 monthly for office supplies, $425 for computer backup and QuickBooks accounting software fees, and $500 for miscellaneous office equipment expenses (such as repairing or replacing the printer). It also includes $2,000 for a new laptop and related software. The current laptop is now over four years old, and while it is working properly now, by the end of the next fiscal year it may be time to invest in a new laptop if the current laptop begins to falter. The projected useful life for business computer equipment is typically three years. (Note that the FY 2018-2019 budget included a new laptop,
but such a purchase was not necessary, resulting in this line coming in $3,500 under budget.)

- **Legal Fees**: Based on 2018-2019 expenses for outside nonprofit counsel, $1,000 per month has been budgeted. This line also includes reimbursement for 5% of the 2019-2020 City Attorney's cost, which is projected at $18,471 for the year. An additional $8,000 has also been added for specialized legal advice as may be needed in the development of the next two RAC grant agreements.

- **Accounting & Payroll Fees**: Payroll fees ($1,300) are based on the current arrangement with our payroll vendor (Intuit). For audit and tax preparation services, $9,100 is budgeted, per the Foundation's contract with Novogradac & Company. And $23,760 is included for the accounting consultant/full charge bookkeeper, per the terms of our professional services agreement with him.

- **Other Consultants**: This line includes $36,960 ($3,080 per month) for the program consultant, $12,870 for the IT consultant, $1,000 for administrative assistance, and $250 for translation services. The program consultant budget is slightly decreased from this past year, based on the addition of an allocation for a contractor to help with the administrative tasks related to processing the grant and scholarship applications. I have increased the budget for the IT consultant due to the first increase in the firm's hourly rate since we began working with it in 2016.

- **Travel, Meetings & Conferences**: This line includes: $3,030 for regular Board meeting room rental and audio recording expenses (budgeted for six meetings); $300 for miscellaneous meeting room rentals; $500 for meeting related refreshments; and $500 for miscellaneous conference, training, and meeting expenses.

- **Miscellaneous**: $2,300 is budgeted for various expenses that may arise and do not fit in any of the other cost categories. This line typically covers professional organization membership fees (such as the San Bruno Chamber of Commerce, Thrive: Alliance of Nonprofits, and CalNonprofits), bank fees, and government/agency taxes and fees.

This budget presents a realistic view of the Foundation's projected expenses for 2019-2020. For purposes of comparison, the revised budget and year-end projected actuals for the 2018-2019 fiscal year are provided. Support Costs increase 6% from the 2018-2019 year-end projection to the 2019-2020 budgeted amount. Direct Personnel Expenses will decrease slightly from the projected level for 2018-2019 (due to a one-time retirement plan benefit in February 2019). Non-Personnel Support Costs will increase $28,550, which primarily results from increases for: IT consultant, office rent, a new laptop computer; and cushions for
marketing costs, meetings, and legal fees. Many of the expense lines are conservative estimates, and actual costs are usually lower than the budget projections. In 2018-2019, projected Non-Personnel Costs are $21,424 less than the budgeted amount.

2. Funds Available for Operations

As mentioned above, this is not a balanced budget, where income equals expenses. Instead, the Funds Available for Operations are determined by analyzing the Foundation’s cash needs for the fiscal year. Our assumption is that all Personnel Expenses and Non-Personnel Support Costs will be paid out during the fiscal year ($402,640). Projected cash needs for Program Disbursements (total of $5,015,070) are as follows:

<table>
<thead>
<tr>
<th>Crestmoor Scholarship</th>
<th>$20,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017 Scholars</td>
<td></td>
</tr>
<tr>
<td>2018 Scholars</td>
<td>$20,000</td>
</tr>
<tr>
<td>2019 Scholars</td>
<td>$40,000</td>
</tr>
<tr>
<td>2020 Scholars</td>
<td>$40,000</td>
</tr>
<tr>
<td><strong>Total Crestmoor Scholarship</strong></td>
<td><strong>$120,000</strong></td>
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<table>
<thead>
<tr>
<th>Community Grants Fund</th>
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</thead>
<tbody>
<tr>
<td>Yet-to-be-paid grants awarded in 2016-17 and 2017-18</td>
<td>$45,000</td>
</tr>
<tr>
<td>Grants to be awarded in December 2019</td>
<td>$200,000</td>
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<tr>
<td><strong>Total Community Grants Fund</strong></td>
<td><strong>$245,000</strong></td>
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<table>
<thead>
<tr>
<th>Strategic Grants</th>
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<tbody>
<tr>
<td>Community Day 2019</td>
<td>$47,500</td>
</tr>
<tr>
<td>First Responder Strategic Initiative – Police Mindfulness Training and Critical Facilities Site Assessments</td>
<td>$124,351</td>
</tr>
<tr>
<td>First Responder Strategic Initiative – Mobile Command Vehicle</td>
<td>$303,545</td>
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<tr>
<td>Recreation &amp; Aquatics Center – Architectural Services</td>
<td>$3,914,674</td>
</tr>
<tr>
<td>Recreation &amp; Aquatics Center – Project/Construction Mgmt</td>
<td>$110,000</td>
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<tr>
<td>Recreation &amp; Aquatics Center – Temporary Facilities</td>
<td>$40,000</td>
</tr>
<tr>
<td>Recreation &amp; Aquatics Center – Business/Operational Plan</td>
<td>$100,000</td>
</tr>
<tr>
<td><strong>Total Strategic Grants</strong></td>
<td><strong>$4,640,070</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Grants</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Out-of-Cycle Responsive Grants</td>
<td>$10,000</td>
</tr>
<tr>
<td><strong>Total Other Grants</strong></td>
<td><strong>$10,000</strong></td>
</tr>
</tbody>
</table>

Total cash needs for 2019-2020 are estimated at $5,417,710. This figure, after adjustment for residual 2018-2019 cash balance, drives the Foundation’s Funds Available for Operations in 2019-2020.
SAN BRUNO
Community Foundation

Memorandum

We have two categories of Funds Available for Operations: Operating Income and Transfers from Net Assets.

a. Operating Income

At this time, projected Operating Income is negligible ($19,329):

- **Interest Income**: This line includes estimated investment income from the Operations portion of the Fidelity Liquidity Pool account and interest earned on the Wells Fargo bank accounts.

- **Restricted Donations**: There are no firm commitments for donations earmarked to specific projects (such as Community Day), but we may receive such restricted donations during the year.

b. Transfers from Net Assets

The Foundation’s available funds come almost entirely from transfers from the Quasi-Endowment and the Strategic Pool. (These investment accounts hold most of the organization’s Net Assets.) The question in developing this budget is what portion of the needed funds comes from each pool. In answering this question, it is important to think back to the original purpose of each pool of funds. In responding to the results of the Community Listening Campaign, the Board decided to designate about $54 million of the restitution funds to establish the Strategic Pool to be spent outright on strategic initiatives. The idea was that a pool that size was necessary to enable the funding of at least one major community facility project and other one-time strategic projects. The Board has indicated its support for building a $50 million community recreation and aquatics center for San Bruno and has already made three grants totaling $6,915,497 for the project.

The Board also created the Quasi-Endowment with $15 million of the restitution funds. The idea behind the Quasi-Endowment has been to follow a long-term endowment investment strategy, so that only a portion of the investment income would be used for operations, and that once the Strategic Pool had been depleted, a scaled-back version of the Foundation could continue to operate—possibly in perpetuity—funding the Crestmoor Scholarships, the Community Grants Fund, and potentially some smaller strategic projects on an ongoing basis.

In creating the Investment Operating Plan in 2016, the Board decided not to take any Quasi-Endowment payout in the first year of possessing the restitution funds (2016-2017) to enable the Quasi-Endowment to grow. For FY 2017-2018, the Board approved a 2.25% Quasi-Endowment payout rate to cover cash needs for the Crestmoor Scholarships and the Community Grants Fund. Last year, the payout rate was 1.95%. This payout was consistent with the vision behind the Quasi-Endowment and allowed the Quasi-Endowment to continue to
grow (as of April 30, 2019, it is at $18,007,013) while the Foundation still has funds in the Strategic Pool to cover expenses.

Cash on hand as of June 30, 2019, is projected to be $399,657. Of that amount, $47,500 is Quasi-Endowment payout intended for two grants that were expected to be paid out in fiscal year 2017-2018 but will now be paid out in fiscal year 2019-2020 and one Crestmoor Scholarship payment that was declined. As a result, of the projected June 30 cash on hand, $47,500 will be designated for Community Grants and Crestmoor Scholarship cash needs, and the balance ($352,157) will be designated for Strategic Grants and operating expenses.

- **Quasi-Endowment Payout:** The cash flow needs of the Crestmoor Scholarships and Community Grants Fund are expected to be $365,000 for fiscal year 2019-2020. As mentioned above, $47,500 of the cash on hand at the end of the 2018-2019 fiscal year will go toward meeting these cash needs, leaving a balance of $317,500 to be funded by new Quasi-Endowment payout. At the June 5 meeting, the Board will consider a proposal from the Investment Committee to set the fiscal year 2019-2020 payout rate for the Quasi-Endowment at 1.90%, which would cover the balance of the cash flow needs of the Crestmoor Scholarships and Community Grants Fund. The 1.90% payout rate equals $317,510.

- **Strategic Pool:** The transfer from the Strategic Pool is budgeted at $4,718,214. This amount will cover total cash needs minus the Quasi-Endowment payout and minus the $352,157 in residual cash carried forward at the end of the 2018-2019 fiscal year. The Investment Committee recommends that the Executive Director have the discretion to divide the transfer into smaller increments and set the timing of the incremental transfers based on the Foundation’s cash flow needs. This includes the explicit discretion to transfer less than the approved payout amount as circumstances may warrant.

The attached resolution, which I recommend the Board adopt, authorizes three actions. It: (a) approves the fiscal year 2019-2020 budget; (b) sets the Quasi-Endowment payout rate for fiscal year 2019-2020; and (c) approves total transfers from the Strategic Pool to the Liquidity Pool to support the 2019-2020 operating budget.

Attachments:
1. Resolution Approving Fiscal Year 2019-2020 Budget, Setting the Quasi-Endowment Payout Rate for Fiscal Year 2019-2020, and Approving Transfer from the Strategic Pool Investment Account to the Liquidity Pool Account for Fiscal Year 2019-2020
2. Exhibit A: 2019-2020 Proposed Budget
RESOLUTION NO. 2019–___

RESOLUTION OF THE SAN BRUNO COMMUNITY FOUNDATION
APPROVING FISCAL YEAR 2019-2020 BUDGET, SETTING THE QUASI-ENDOWMENT PAYOUT
RATE FOR FISCAL YEAR 2018-2019, AND APPROVING TRANSFER FROM THE STRATEGIC POOL
INVESTMENT ACCOUNT TO THE LIQUIDITY POOL ACCOUNT FOR FISCAL YEAR 2019-2020

WHEREAS, the San Bruno Community Foundation’s next fiscal year will begin on July 1,
2019, and prudent financial management of the Foundation’s finances requires the creation of
an annual budget prior to the start of the fiscal year;

WHEREAS, Article XVI(c) of the Foundation’s Bylaws require that the Foundation’s
annual budget be approved by the San Bruno City Council;

WHEREAS, the proposed fiscal year 2019-2020 budget as attached in Exhibit A reflects
decisions about program initiatives and investment strategy that the Foundation’s Board of
Directors has made;

WHEREAS, the Board of Directors, upon receipt from the City of San Bruno in May 2016
of the restitution funds resulting from the City’s settlement with Pacific Gas & Electric Company
following the 2010 gas pipeline explosion in San Bruno’s Crestmoor neighborhood, established
three Fidelity brokerage accounts to hold the Foundation’s funds: Quasi-Endowment Pool
account, Strategic Pool account, and Liquidity Pool account.

WHEREAS, Section VII.1 of the Foundation’s Investment Policy Statement states:

The SBCF Board will determine the spending policy for the Quasi-Endowment with input
from the Investment Committee. The SBCF Board will use the following guidelines in
approving a fixed payout amount each year. The SBCF Board will review this policy
annually.

The payout amount will be determined once annually, prior to the conclusion of the
Foundation’s fiscal year for the subsequent fiscal year. The payout rate will range up to
7%, as determined by the Board, multiplied by the average of the latest available twelve
(12) prior quarter-ending Quasi-Endowment values.

WHEREAS, Section VI.1.d.i of the Foundation’s Investment Operating Plan with
investment adviser Sand Hill Global Advisors (SHGA), which provides pool-specific operating
guidelines for payout or other withdrawals, states:

Payout amount [for the Quasi-Endowment Pool] will be determined once annually, prior
to the conclusion of the Foundation’s fiscal year for the subsequent fiscal year. The
payout rate will range up to 7%, as determined by the Board, multiplied by the average
of the latest available twelve prior quarter-ending Quasi-Endowment values. From the
initial funding of the Quasi-Endowment Pool through the end of fiscal year 2016-2017,
the payout rate will be 0%. During fiscal year 2017-2018, the default payout rate will be 2.25%, multiplied by the simple average of all quarter-ending Quasi-Endowment values available at the time of the annual payout decision. Cash proceeds will be deposited in the SBCF Liquidity Pool on an as-needed basis.

WHEREAS, a Quasi-Endowment payout rate of 1.90% for fiscal year 2019-2020 would provide the funds to cover cash flow needs for the Crestmoor Neighborhood Memorial Scholarship and the Community Grants Fund, consistent with the original long-term vision for the Quasi-Endowment, and allow the Quasi-Endowment the opportunity to continue to grow;

WHEREAS, the Investment Committee, on May 20, 2019, passed a resolution recommending that the Board of Directors set the Quasi-Endowment payout rate for fiscal year 2019-2020 at 1.90%, resulting in a payout of $317,510;

WHEREAS, the Section VII.2 of the Foundation’s Investment Policy Statement states:

The Strategic Pool has been earmarked by the Board to fund strategic projects, including but not limited to capital improvement projects of community facilities, that benefit the San Bruno community. As such, withdrawals will be determined by the timing of project expenditures, as well as guidance from the SBCF Board. The Investment Committee and SBCF staff will provide direction to the Investment Manager regarding liquidation of investments to fund the withdrawals. Cash proceeds will be deposited in the SBCF Liquidity Pool on an as-needed basis.

WHEREAS, Section VI.1.d.ii of the Foundation’s Investment Operating Plan states:

Withdrawals [from the Strategic Pool] will be determined by the timing of project expenditures, per guidance from the SBCF Board. SBCF will provide a schedule of likely withdrawals to SHGA at the time of the annual budget planning process. Cash proceeds will be deposited in the SBCF Liquidity Pool on an as-needed basis.

WHEREAS, a transfer of $4,781,214 from the Strategic Pool is needed to cover the Foundation’s operating expenses and strategic grant obligations for the 2019-2020 fiscal year; and

WHEREAS, the Investment Committee and Board have expressed a desire to give the Executive Director and Treasurer discretion in the timing of moving the approved transfers from the Quasi-Endowment and Strategic Pool accounts to the Liquidity Pool account, including the discretion to transfer less than the approved payout amount as circumstances may warrant, depending on the timing of cash-flow needs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors approves the fiscal year 2018-2019 Foundation budget attached as Exhibit A.

FURTHER BE IT RESOLVED that the Board of Directors sets the Quasi-Endowment payout rate for fiscal year 2019-2020 at 1.90%, resulting in a transfer from the Quasi-
## 2019-2020 Proposed Budget

### INCOME

<table>
<thead>
<tr>
<th>Category</th>
<th>2018-19 Budget</th>
<th>Actual</th>
<th>May-Jun 19</th>
<th>Projected</th>
<th>Proposed</th>
<th>Change vs. 2018-19 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Internet Income</td>
<td>$6,000</td>
<td>$16,956</td>
<td>$2,373</td>
<td>$19,329</td>
<td>$19,329</td>
<td>($2,492)</td>
</tr>
<tr>
<td>2 Restricted Donations</td>
<td>-</td>
<td>21,492</td>
<td>-</td>
<td>21,492</td>
<td>-</td>
<td>($2,492)</td>
</tr>
<tr>
<td>3 Miscellaneous Income</td>
<td>-</td>
<td>174,585</td>
<td>-</td>
<td>174,585</td>
<td>-</td>
<td>($174,585)</td>
</tr>
<tr>
<td>4 Subtotal Operating Income</td>
<td>8,000</td>
<td>213,506</td>
<td>2,373</td>
<td>215,679</td>
<td>19,529</td>
<td>($2,492)</td>
</tr>
<tr>
<td>5 Transfers from Quail Endowment</td>
<td>319,960</td>
<td>200,000</td>
<td>119,980</td>
<td>319,980</td>
<td>317,510</td>
<td>($2,470)</td>
</tr>
<tr>
<td>6 Transfers from Strategic Pool</td>
<td>4,045,704</td>
<td>1,043,704</td>
<td>-</td>
<td>1,043,704</td>
<td>4,781,214</td>
<td>$3,737,510</td>
</tr>
<tr>
<td>7 Subtotal Transfers from Net Assets</td>
<td>4,363,604</td>
<td>1,243,704</td>
<td>119,980</td>
<td>1,363,684</td>
<td>5,098,724</td>
<td>$3,737,510</td>
</tr>
<tr>
<td>8 FUNDS AVAILABLE FOR OPERATIONS</td>
<td>4,371,604</td>
<td>1,457,010</td>
<td>122,453</td>
<td>1,379,363</td>
<td>5,118,053</td>
<td>$3,737,510</td>
</tr>
</tbody>
</table>

### EXPENSES

<table>
<thead>
<tr>
<th>Category</th>
<th>2018-19 Budget</th>
<th>Actual</th>
<th>May-Jun 19</th>
<th>Projected</th>
<th>Proposed</th>
<th>Change vs. 2018-19 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 Coots Moor Scholarships</td>
<td>120,000</td>
<td>-</td>
<td>120,000</td>
<td>120,000</td>
<td>120,000</td>
<td>-</td>
</tr>
<tr>
<td>10 Community Grants Fund</td>
<td>200,000</td>
<td>300,000</td>
<td>-</td>
<td>300,000</td>
<td>200,000</td>
<td>($100,000)</td>
</tr>
<tr>
<td>11 Strategic Grants</td>
<td>4,575,000</td>
<td>5,700,388</td>
<td>1,096,500</td>
<td>6,796,888</td>
<td>898,545</td>
<td>($5,591,343)</td>
</tr>
<tr>
<td>12 Other Grants</td>
<td>-</td>
<td>5,000</td>
<td>-</td>
<td>5,000</td>
<td>10,000</td>
<td>5,000</td>
</tr>
<tr>
<td>13 Subtotal Direct Program Expenses</td>
<td>4,695,000</td>
<td>6,005,388</td>
<td>1,216,500</td>
<td>7,221,888</td>
<td>1,336,545</td>
<td>($6,885,343)</td>
</tr>
<tr>
<td>14 Salaries &amp; Wages</td>
<td>186,559</td>
<td>156,865</td>
<td>32,026</td>
<td>188,891</td>
<td>192,156</td>
<td>3,265</td>
</tr>
<tr>
<td>15 Payroll Taxes &amp; Benefits</td>
<td>22,284</td>
<td>26,208</td>
<td>5,136</td>
<td>21,344</td>
<td>22,485</td>
<td>($8,999)</td>
</tr>
<tr>
<td>16 Subtotal Direct Personnel Expenses</td>
<td>208,843</td>
<td>183,073</td>
<td>37,162</td>
<td>220,235</td>
<td>214,641</td>
<td>($5,594)</td>
</tr>
<tr>
<td>17 Occupancy</td>
<td>14,697</td>
<td>12,419</td>
<td>2,508</td>
<td>14,697</td>
<td>15,690</td>
<td>1,093</td>
</tr>
<tr>
<td>18 Insurance</td>
<td>17,493</td>
<td>14,661</td>
<td>3,043</td>
<td>16,624</td>
<td>18,685</td>
<td>381</td>
</tr>
<tr>
<td>19 Telecommunications</td>
<td>1,920</td>
<td>1,465</td>
<td>374</td>
<td>1,539</td>
<td>1,920</td>
<td>381</td>
</tr>
<tr>
<td>20 Postage &amp; Shipping</td>
<td>2,000</td>
<td>1,887</td>
<td>71</td>
<td>1,958</td>
<td>2,000</td>
<td>42</td>
</tr>
<tr>
<td>21 Marketing &amp; Communications</td>
<td>15,618</td>
<td>11,168</td>
<td>750</td>
<td>11,958</td>
<td>14,638</td>
<td>2,680</td>
</tr>
<tr>
<td>22 Office Supplies &amp; Equipment</td>
<td>5,219</td>
<td>1,635</td>
<td>150</td>
<td>1,783</td>
<td>5,325</td>
<td>3,542</td>
</tr>
<tr>
<td>23 Legal Fees</td>
<td>36,786</td>
<td>19,171</td>
<td>8,197</td>
<td>27,368</td>
<td>38,471</td>
<td>11,095</td>
</tr>
<tr>
<td>24 Accounting &amp; Payroll Fees</td>
<td>31,000</td>
<td>25,468</td>
<td>3,406</td>
<td>38,874</td>
<td>34,160</td>
<td>2,266</td>
</tr>
<tr>
<td>25 Other Consultants</td>
<td>50,090</td>
<td>40,497</td>
<td>8,870</td>
<td>49,367</td>
<td>51,080</td>
<td>1,713</td>
</tr>
<tr>
<td>26 Travel, Meetings &amp; Conferences</td>
<td>4,130</td>
<td>1,906</td>
<td>705</td>
<td>2,611</td>
<td>4,320</td>
<td>1,719</td>
</tr>
<tr>
<td>27 Miscellaneous</td>
<td>2,000</td>
<td>1,180</td>
<td>150</td>
<td>1,330</td>
<td>2,203</td>
<td>970</td>
</tr>
<tr>
<td>28 Subtotal Non-Personnel Support Costs</td>
<td>180,883</td>
<td>151,185</td>
<td>28,264</td>
<td>139,449</td>
<td>197,999</td>
<td>18,559</td>
</tr>
<tr>
<td>29 TOTAL EXPENSES</td>
<td>5,284,716</td>
<td>6,319,646</td>
<td>1,281,296</td>
<td>7,601,572</td>
<td>1,543,185</td>
<td>($6,060,387)</td>
</tr>
<tr>
<td>30 NET SURPLUS</td>
<td>($913,032)</td>
<td>($4,462,636)</td>
<td>($1,189,573)</td>
<td>($6,022,209)</td>
<td>$3,576,868</td>
<td>$9,773,936</td>
</tr>
</tbody>
</table>
Endowment account to the Liquidity Pool account of $317,510, to be used to meet the cash needs of the Crestmoor Neighborhood Memorial Scholarship and the Community Grants Fund in the 2019-2020 fiscal year, and grants the Executive Director the discretion to divide the transfer into smaller increments, set the timing of the transfer of those increments, and to transfer less than the approved amount, based on the Foundation’s cash flow needs.

FURTHER BE IT RESOLVED that the Board of Directors approves a transfer from the Strategic Pool account to the Liquidity Pool account of $4,781,214 to cover remaining operating expenses and strategic grant obligations for the 2019-2020 fiscal year, and grants the Executive Director the discretion to divide the transfer into smaller increments, set the timing of the transfer of those increments, and to transfer less than the approved amount, based on the Foundation’s cash flow needs.

FURTHER BE IT RESOLVED that the Board of Directors directs the Executive Director to submit the fiscal year 2019-2020 budget to the San Bruno City Council for consideration and approval.

Dated: June 5, 2019

ATTEST:

_____________________________
John McGlothlin, Secretary

I, John McGlothlin, Secretary, do hereby certify that the foregoing Resolution No. 2019--___ was duly and regularly passed and adopted by the Board of Directors of the San Bruno Community Foundation on this 5th day of June, 2019, by the following vote:

AYES: Board members:

NOES: Board members:

ABSENT: Board members:
DATE: June 25, 2019

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Darcy Smith, Community and Economic Development Director


BACKGROUND:


The purpose of this consent item is to serve as a second reading and action for adoption of the Ordinance. No changes have been made to this Ordinance since introduction.

For background on the Ordinance subject, on September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Third Report and Order geared toward speeding up the deployment of small wireless facilities in the public right-of-way and public utility easements (hereafter, the “FCC ruling”). The FCC ruling, which went into effect January 14, 2019, sets forth limitations on state and local government regulation of small wireless facilities that are placed on existing or new utility poles and street light standards located in the public right-of-way and public utility easements. The FCC ruling clarifies and more specifically restricts the authority of state and local governments to regulate small wireless facilities in the public right-of-way and public utility easements. This ruling is significant in that there are several nuances in small “cell” wireless facilities technology and application, which set them apart from other wireless communication facilities. On December 10, 2018, the FCC denied local governments’ motion for a stay on the regulations but ruled that to the extent agencies chose to impose aesthetic requirements, they would not go into effect until April 15, 2019, allowing agencies an additional 90 days to establish and publish aesthetic standards. The City published draft Guidelines on its website for use in the interim period before the proposed Resolution is adopted.

A new network of telecommunications infrastructure known as a Small Wireless Facility has emerged as a result of growing capacity demands for wireless data. Small Wireless Facility networks have much smaller coverage areas than typical macro wireless facilities, with an antenna range of approximately 150 to 500 feet. These small wireless facilities help to
complement or stretch macro cellular facility coverage and add capacity in high demand areas. Small Wireless Facility networks provide increased capacity and data transfer rates to existing coverage areas as well as improved service to areas with weak or limited coverage.

Small wireless facilities are installed on poles within the public right-of-way and utility easements in public and private properties. They differ from the types of wireless facilities the City has previously encountered in the number of antennas and the power supplied to the antennas. The small wireless facilities are typically located on existing poles such as utility poles, streetlights or traffic signals that are 25- to 50-feet in height. Small wireless facility equipment will usually consist of a 2 to 4-foot tall antenna at the top of the pole, an electric meter, compact transmitters, receivers and other components that are also attached to the pole. Some facilities also include a ground mounted battery back-up cabinet.

In accordance with state Public Utilities Code section 7901, telephone companies, which include wireless telecommunications service providers, have a statutory right to place equipment (i.e. small wireless facility) in the public right-of-way and utility easements. However, in accordance with Public Utilities Code section 7901.1, cities have the statutory right to regulate the design, location, and placement of the equipment. This authority is limited in that local regulations cannot: 1) effectively prohibit the provision of wireless telecommunications service or 2) unreasonably discriminate among providers of wireless telecommunications service.

The FCC, at the urging of the cellular network industry, passed a declaratory ruling (FCC-CIRC1809-02) known as the “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” on September 24, 2018. The FCC Order defines small wireless facility, provides for the expedited processing (“shot clock”) of small wireless facility applications, limits the fees that can be assessed by municipalities on the review of these applications, and places limitations on discretionary aesthetic considerations. The new application review “shot clock” for small wireless facilities is 60 days for placement on an existing structure and 90 days for installation of a new structure.

In response, a coalition of municipalities requested a stay of the FCC order which was denied. This means municipalities must respond to applications that are submitted after January 15, 2019 pursuant to the new “shot clocks”. However, the coalition is continuing to litigate the case on behalf of the member cities, including San Bruno.

Currently, San Bruno regulates wireless facilities pursuant to Section 12.220 of the municipal code, which requires a Conditional Use Permit to establish a new wireless facility within a residential district among other requirements. These regulations were originally developed to regulate the placement of large macro wireless facilities on private and public properties, which are not subject to the FCC-CIRC1809-02. This approval process historically takes a minimum of 90 days to process from application submittal to final action by the Planning Commission. Included within this review period is a detailed peer review of the radio frequency emissions compliance report by an outside consultant on behalf of the City. Because the City’s current regulations were not developed with the purpose and intent to regulate small wireless facilities, it is not feasible for the City to continue to process a discretionary Conditional Use Permit application to establish new small wireless facilities within the new FCC mandated review periods. In order to ensure full compliance with the FCC Order, the City is adopting the Ordinance.
DISCUSSION:

The City Council first reviewed the draft Ordinance and Resolution on May 14, 2019. The City presented the draft Ordinance and Resolution for review and comment by the City Council. Feedback was provided to staff on the proposed draft Ordinance and Resolution. Modifications were made to the Ordinance and Resolution, which were then provided at the June 11, 2019 meeting for final review and consideration by the City Council.

The City’s Community and Economic Development Department, Public Works Department, City Attorney, and outside legal counsel have been working collaboratively since October 2018 to address the current regulatory and policy issue by preparing the Ordinance and Resolution. The Ordinance sets forth a streamlined procedure for wireless carriers seeking permits for small wireless facilities within the public right-of-way and utility easements in public and private properties, while retaining as much regulatory authority as is allowed under federal and state law.

The ordinance would serve the following primary policy objectives:

- Establish a Wireless Facility Permit process with processing and review by the Public Works Department.
- Ensure that the City regulations comply with applicable state and federal regulations of wireless facilities in the Public Right-of-Way and Within Utility Easements in Public and Private Properties.

The key features of the ordinance include:

- Review by the Public Works Department of applications for ministerial Wireless Facility Permits. An encroachment permit or building permit will be required depending on the location of the pole, whether within public right-of-way or utility easement on private property.
- Peer and Independent Consultant Review of applications at applicant expense. The City does this currently for Radio Frequency analysis and under the Ordinance can also do this for a variety of other items including structural calculation review, and evaluation as whether and to what extent a proposed project will address a gap in the applicant’s wireless services and whether and to what extent any technically feasible and/or potentially available alternative sites or concealment techniques may exist.
- Requirements to comply with all aesthetic design guidelines and engineering standards, unless an exception is approved.
- The Director of Public Works has the discretion to grant an exception to the otherwise applicable standards.
- Application of standard conditions of approval.
- A public notice will be mailed to all owners of real property and occupants (if different) within three hundred (300) feet of the proposed wireless facility location. The purpose of the notice is to advise the public of the application submittal. The notice is required to contain, at minimum: (1) a general description of the proposed project, including the project location, plans, photo simulations, or renderings that depict the wireless facility installation in context of the natural and built environment; (2) the applicant’s name and contact information as provided on the application form; and (3) contact information for the Department and (4) how to request a copy of the Decision Notice referenced in
8.36.070(C). In addition to the mailed public notice, a notice shall be placed on the utility pole, the traffic signal control pole, the streetlight, or other proposed facility location, as feasible. This notice shall be posted for a minimum of ten (10) calendar days.

- Before the applicable FCC shot clock expires, the City will send a written notice of decision to the applicant and all parties who requested a copy of the Decision Notice on the application.
- Decision by the Public Works Department to approve, conditionally approve or deny the small wireless facility permit. The Decision can be appealed to the City Manager.
- Right of final appeal to the City Manager. This appeal body will ensure that all appeals can be reviewed and a decision rendered in compliance with the stringent FCC shot clocks.

Because utilities and structures within the City’s public rights-of-way are regulated by Title 8 (Streets, Sidewalks, and Rights-of-Way), small wireless facilities will be administered by the City’s Public Works Department through a newly developed Wireless Facility Permit process and will no longer be regulated by Title 12 (Land Use) which is applicable to uses to wireless facilities not located in the right-of-way and public utility easements on private properties. Encroachment permits for these facilities will be issued as they are now by the Public Works Department when there is an encroachment onto the public right-of-way. Building permits will be administered by the Building Division when placement or construction activities associated with the wireless facilities are limited to a public utility easement, which may be less common.

The Ordinance states: “This is the only San Bruno Municipal Code Chapter that applies to wireless facilities in the public-right-of-way and public utility easements on private properties, and any provisions of Chapter 12.220 that apply to wireless facilities in the right-of-way and public utility easements on private properties do not apply.” With this language, the City does not need to amend Zoning Code Chapter 12.220 Wireless Telecommunications Facilities, which will remain in effect and apply to installations on private properties and other locations outside of the right-of-way.

**FISCAL IMPACT:**

If the ordinance is adopted, the City will collect application fees from new small wireless permit applications and the associated encroachment permits or building permits. These fees are anticipated to provide cost recovery for the city staff and/or consultant staff time spent processing the applications. The City Master Fee Schedule will be updated to add a deposit for this application type; until that time, staff will charge the hourly rate for the Public Works Department staff time published in the fee schedule.

**ENVIRONMENTAL CLEARANCE:**

The ordinance qualifies for an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) and 15378 (b) (5), because the ordinance is not a Project that has the potential for causing a significant effect on the environment.

**ALTERNATIVES:**

1. Direct staff to make modifications to the Ordinance; substantive modifications will require re-introduction at a subsequent meeting.
RECOMMENDATION:


DISTRIBUTION:

None

ATTACHMENT:

1. Ordinance for Adoption

DATE PREPARED:

June 19, 2019
ORDINANCE NO. 2019-______
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO ADDING
CHAPTER 8.36 TO THE CITY OF SAN BRUNO MUNICIPAL CODE ESTABLISHING
REGULATIONS FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND
WITHIN UTILITY EASEMENTS IN PUBLIC AND PRIVATE PROPERTIES

The City Council of the City of San Bruno ORDAINS as follows:

SECTION 1. FINDINGS.

WHEREAS, the Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, it is in the public interest for the City to establish reasonable, uniform and comprehensive regulations of Small Wireless Facilities in the Public Right-of-Way and utility easements in public and Private Properties in response to Federal and California State law and FCC Order 18-133 which permits small wireless facility infrastructure deployment through relaxation of barriers, affecting the local permit process; and

WHEREAS, the regulations would not increase impediments for the installation of small wireless facilities under Federal Telecommunications Act of 1996 but illustrate the desired level of design quality and configuration of any proposed small wireless facility; and

WHEREAS, Title 8 of the City’s Municipal Code governs the permitting, installation, and regulation of obstructions within the City’s public rights-of-way (ROW) and within utility easements in public and private properties; and

WHEREAS, the City’s public rights-of-way and utility easements are a uniquely valuable public resource, closely linked with the City’s character, making the regulation of small wireless facilities in the public rights-of-way and within utility easements in public and private properties necessary to protect and preserve the aesthetics of the community; and

WHEREAS, on June 11, 2019, at 7:00 p.m. at the San Bruno Senior Center located at 1555 Crystal Springs Road, San Bruno, California, the San Bruno City Council at a regular meeting by a vote of 4-0 waived the first reading and introduced the Ordinance adding Chapter 8.36 (Small Wireless Facilities in the Public Right-of-Way and Utility Easements in Public and Private Properties) to Title 8 of the San Bruno Municipal Code (Streets, Sidewalks, and Rights-of-Way).

SECTION 2. REGULATION.

Chapter 8.36 (Small Wireless Facilities in the Public Right-of-Way and utility easements in public and Private Properties) is hereby added to Title 8 (Streets, Sidewalks, and Rights-of-Way) of the San Bruno Municipal Code. This regulation shall prevail over any conflicting provisions of the San Bruno Municipal Code or the other ordinances, resolutions, policies, and regulations of the City of San Bruno.
CHAPTER 8.36

SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND WITHIN UTILITY EASEMENTS IN PUBLIC AND PRIVATE PROPERTIES

Sections:

8.36.010 Purpose and Intent
8.36.020 General Definitions
8.36.030 Administration
8.36.040 Applicability
8.36.050 Required Approvals
8.36.060 Application Requirements
8.36.070 Public Notice Requirements
8.36.080 Decisions-Exceptions
8.36.090 Standard Conditions of Approval
8.36.100 Appeals
8.36.110 Design Standards
8.36.120 Temporary Wireless Facilities
8.36.130 Breach; Termination of Permit
8.36.140 Special Provisions for Section 6409 Approval

8.36.010 Purpose and Intent

A. The City of San Bruno intends this Chapter 8.36 to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City’s territorial boundaries in the public right-of-way, consistent with and to the extent permitted under Federal and California State law.

The standards and procedures contained in this chapter are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the City’s local values, which include, without limitation, the aesthetic character of the City, its neighborhoods and community. This chapter is also intended to reflect and promote the community interest by: (1) protecting the City’s visual character from potential adverse impacts or visual blight created or exacerbated by wireless communications infrastructure; (2) protecting and preserving the City’s environmental resources; and (3) promoting access to high-quality, advanced wireless services for the City’s residents, businesses and visitors.

B. This is the only San Bruno Municipal Code Chapter that applies to wireless facilities in the public-right-of-way and public utility easements on private properties, and any provisions of Chapter 12.220 that apply to wireless facilities in the right-of-way and public utility easements on public and private properties do not apply.

C. Appeals of wireless facility permits and any associated permits shall be heard under the provisions of this chapter, and no other San Bruno Municipal Code provisions related to appeals shall apply.
8.36.020 General Definitions

The abbreviations, phrases, terms and words used in this chapter will have the meanings assigned to them in this section unless context indicates otherwise. In the event that any definition assigned to any phrase, term or word in this section conflicts with any Federal- or State-mandated definition, the Federal- or State-mandated definition will control.

A. “Accessory equipment” means any equipment other than the antenna(s) associated with a wireless facility, which includes, but is not limited to, cabling, generators, fans, air conditioning units, electrical panels, equipment cabinets, pedestals, meters, vaults, splice boxes and surface location markers.
B. “Approval authority” means the commission, board or official responsible for review of permit applications and vested with the authority to approve or deny such applications. The approval authority for a wireless permit is the Public Works Director or designee, on appeal, the City Manager. The approval authority for a Section 6409 approval or a temporary wireless permit is the Public Works Director.
C. “Base station” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (1), as may be amended.
D. “City Manager” means the City Manager of the City of San Bruno, or the City Manager’s designee.
E. “Collocation” means the same as defined by the FCC in 47 C.F.R. § 1.6002(g) (1) and (2), as may be amended.
F. “CAPON” means a certificate of public convenience and necessity granted by the CPUC or its duly appointed successor agency pursuant to California Public Utilities Code § 1001 et seq., as may be amended.
G. “CPUC” means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.
H. “Department” means the Department of Public Works of the City of San Bruno or its duly appointed successor agency.
I. “Director” means the Director of Public Works of the City of San Bruno, or the Director’s designee.
J. “Eligible Facilities Request” means the same as defined in shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b) (3), or any successor provision.
K. “FCC” means the Federal Communications Commission or its duly appointed successor agency.
L. “FCC shot clock” means the time frame within which the City generally must act on a given wireless application, as defined by 47 C.F.R. 1.6003(c) (1) and 1.6100(c) (2) and as may be amended from time to time.
M. “Independent Consultant” means a consultant hired by the City of San Mateo to process or review wireless facility applications.
N. “Personal wireless services” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
O. “Personal wireless service facilities” means the same as defined in 47 U.S.C. § 332(c) (7) (C) (i), as may be amended, which defines the term as facilities that provide personal wireless services.
P. “Public right-of-way” has the same meaning as “street” in San Bruno Municipal Code Section 8.04.110.C.
Q. “RF” means radio frequency or electromagnetic waves.
R. “Section 6409” means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended.

S. “Section 6409 Collocation” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (2), as may be amended.

T. “Support Structure” means any structure capable of supporting a base station.

U. “Temporary wireless facilities” means portable wireless facilities intended or used to provide wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a confined location or when a disaster disables permanent wireless facilities. Temporary wireless facilities include, without limitation, cells-on-wheels (“COWs”), sites-on-wheels (“SOWs”), cells-on-light-trucks (“COLTs”) or other similarly portable wireless facilities not permanently affixed to the site on which they are located. Specific time limits for the placement of temporary wireless facilities are addressed in San Bruno Municipal Code Section 8.36.120.

V. “Tower” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (9), as may be amended.

W. “Transmission equipment” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended

X. “Utility Pole” means a support structure in the public right-of-way designed to support electric, telephone, and similar utility lines. A tower is not a utility pole

Y. “Wireless” means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

Z. “Wireless Facility” means the antennas and associated equipment used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s). For the purpose of this Ordinance, this includes Small Wireless Facilities as defined by the FCC in 47 C.F.R. 1.6002 (l), as may be amended.

8.36.030 Administration.

A. Director of Public Works. The Director or their designee is responsible for administering this Chapter and establishing rules and regulations for this purpose. All such rules and regulations must be in written form and posted on the City’s website or otherwise made publicly available to prospective applicants. As part of the administration of this Chapter, the Director may:

1. Interpret the provisions of this Chapter;
2. Establish reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process;
3. Develop and implement standards and procedures governing the placement and modification of wireless facilities consistent with the requirements of this Chapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless facilities;
4. Develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this Chapter;
5. Determine the amount of and collect, as a condition of the completeness of any application, any fee established by this Chapter;
6. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations;
7. Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
8. Require, as part of, and as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure;
9. Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
10. Take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

8.36.040 Applicability

A. Applicable Wireless Facilities. The provisions in this chapter shall be applied to all existing wireless facilities within the City’s public rights-of-way and all applications to construct, install, operate, collocate, modify, reconstruct, relocate or otherwise deploy wireless facilities within the City’s public rights-of-way, except as may be expressly provided otherwise in this chapter.

B. Exempt Wireless Facilities. Notwithstanding subsection (A), the provisions in this chapter will not be applicable to: (1) wireless facilities not proposed or currently located in the public right-of-way; (2) wireless facilities owned and operated by the City for public purposes; (3) amateur radio facilities; and (4) wireless facilities or equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-D.

C. Pre-existing Facilities in the Public Right-of-Way. Any wireless facility already existing in the Public Right-of-Way as of the date of this Chapter’s adoption shall remain subject to the provisions of the City Code in effect prior to this Chapter, unless and until a renewal of such facility’s then-existing permit is granted, at which time the provisions of this Chapter shall apply in full force going forward as to such facility. The review of any request for a renewal of a permit for such pre-existing facilities shall be conducted pursuant to this Chapter, rather than the portion(s) of the City Code under which it was previously reviewed.

D. Special Provisions for Section 6409 Approvals. Notwithstanding subsection (a), all requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station located in the public right-of-way and submitted pursuant to Section 6409 will be reviewed under the application procedures in Section 8.36.060 and the standards in Section 8.36.140. If the applicant’s request does not qualify for approval under Section 6409, the applicant may submit the same or a substantially similar application for a wireless facility permit under the general provisions in this chapter.
8.36.050 Required Approvals

A. Wireless Facility Permit. A wireless facility permit, subject to the Director’s review and approval in accordance with the procedures and design regulations in this chapter, is required for:

1. Any new wireless facility proposed on an existing, new, or replacement support structure with accessory equipment in the public right-of-way;
2. Any collocations, modifications or other changes to an existing wireless facility not subject to Section 6409 in the public right-of-way; and
3. Any wireless facility installed on City-owned support structures or other personal property in the public rights-of-way pursuant to a valid master license agreement with the City.

B. Temporary Wireless Facility Permit. A temporary wireless facility permit, subject to the Director’s prior review and approval in accordance with the procedures and standards in Section 8.36.130 is required for any temporary wireless facility, unless deployed in connection with an emergency pursuant to Section 8.36.120(B).

C. Section 6409 Approval. A Section 6409 approval (addressed in Municipal Code Section 8.36.140) is required for applications submitted pursuant to Section 6409.

D. Other Permits and Regulatory Approvals. In addition to any wireless facility permit, Section 6409 approval, temporary wireless facility permit or other permit or approval required under this chapter, the applicant must obtain all other permits and regulatory approvals as may be required by any other Federal, State or local government agencies, which includes, without limitation, any other permits and/or approvals issued by other City departments or divisions. Furthermore, any permit or approval granted under this chapter or deemed granted or deemed approved by law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals.

8.36.060 Application Requirements

A. Application Required. The approval authority shall not approve any request for a wireless facility permit, Section 6409 approval or temporary wireless facility permit except upon a complete and duly filed application consistent with this section and any other written rules the City or the Director may establish from time to time in any publicly-stated format.

B. Application Content. All applications for a wireless facility permit, Section 6409 approval or temporary wireless facility permit or other permit or approval required under this chapter, the applicant must obtain all other permits and regulatory approvals as may be required by any other Federal, State or local government agencies, which includes, without limitation, any other permits and/or approvals issued by other City departments or divisions. Furthermore, any permit or approval granted under this chapter or deemed granted or deemed approved by law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals.

C. Procedures for a Duly Filed Application. Any application for a wireless facility permit or Section 6409 approval will not be considered duly filed unless submitted in accordance with the procedures in this section. Any application for a temporary wireless facility permit must be filed in accordance with the procedures in Section 8.36.120.

1. Voluntary Pre-Submittal Conference. Before application submittal, the applicant is strongly encouraged to schedule and attend a pre-submittal conference with the Director or his/her designee for all proposed projects. The voluntary pre-submittal conference is intended to streamline the review
process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless facility, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Department shall use reasonable efforts to provide the applicant with an appointment within ten working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-submittal conference.

2. Submittal Appointment. All applications must be submitted to the City at a pre-scheduled appointment with the Director. Applicants may generally submit one application per appointment but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Director shall provide the applicant with an appointment within a reasonable time after the Director receives a written request. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Director at a pre-submittal conference.

D. Denials Without Prejudice. To promote efficient review and timely decisions, if the applicant fails to tender a substantive response to the Department within 90 calendar days after the Director deems the application incomplete in a written notice to the applicant, the Director may, in the Director’s discretion, either deny the application without prejudice or grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant’s reasonable control will be considered good cause to grant the extension.

E. Peer and Independent Consultant Review.

1. Authorization. The City Council authorizes the Director to, in the Director’s discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Director in connection with any permit application.

2. Scope. The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which include, without limitation: (a) permit application completeness and/or accuracy; (b) pre-construction planned compliance with applicable regulations for human exposure to RF emissions; (c) post-construction actual compliance with applicable regulations for human exposure to RF emissions; (d) whether and to what extent any technically feasible and/or potentially available alternative sites or concealment techniques may exist; (e) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any
issue with the City’s discretion to review; and (f) any other issue identified by the Director that requires expert or specialized knowledge. The Director may request that the independent consultant complete any required work, including written reports and attendance at meetings with City staff and/or the applicant.

3. Consultant Fees—Deposit. In the event that the Director elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided, which may include, without limitation, any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may perform any services, the applicant shall tender to the City a deposit in an amount equal to the estimated cost for the services to be provided, as determined by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant’s services. In the event that the deposit exceeds the total costs for consultant’s services, the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the appropriate City official or designee. In the event that the reasonable costs for the independent consultant’s services exceed the deposit, the Director shall invoice the applicant for the balance. The City shall not issue any construction or encroachment permit to any applicant with any unpaid deposit requests or invoices.

8.36.070 Public Notice Requirements

A. Notice Requirements for Wireless Facility Permit Applications. Once an application for a Wireless Facility Permit is submitted, a public notice shall be mailed by the Approval Authority to all owners of real property and the site address (if different) if any part of which is located within three hundred (300) feet of the proposed wireless facility location. The notices will be distributed through the United States mail using the recipient list prepared by the City. The notice must contain, at minimum: (1) a general description of the proposed project, including the project location, plans, photo simulations, or renderings that depict the wireless facility installation in context of the natural and built environment; (2) the applicant’s name and contact information as provided on the application form; and (3) contact information for the Department and (4) how to request a copy of the Decision Notice referenced in 8.36.070(C). In addition to the mailed public notice, a notice shall be placed on the utility pole, the traffic signal control pole, the streetlight, or other proposed facility location, as feasible. This notice shall be posted for a minimum of ten (10) calendar days.

B. Notice Regarding FCC shot clock. Not less than 15 calendar days and no more than 30 calendar days prior to the date when the applicant believes that the applicable FCC shot clock expires, and in addition to any public notice required prior to a decision, an applicant for a wireless facility permit must provide written notice to the Approval Authority that contains: (1) a statement indicating the date the applicant believes the applicable FCC shot clock expires; (2) a general description for the proposed project and any assigned application number; and (3) the applicant’s name and contact information.

C. Decision Notices. Before the applicable FCC shot clock expires, the approval authority or its designee shall send a written notice of decision (“Decision Notice”) to the
applicant and all parties who requested a copy of the Decision Notice on the application. In the event that the approval authority denies the application (with or without prejudice), the written notice must contain: (1) the reasons for the decision and (2) instructions for how and when to file an appeal.

8.36.080 Decisions-Exceptions

A. Required Findings for Approval. The approval authority may approve or conditionally approve an application for a wireless facility permit submitted under this chapter when the approval authority finds all of the following:
   1. The proposed wireless facility complies with all applicable design and siting guidelines; and
   2. The applicant has demonstrated that its proposed wireless facility will be in compliance with all applicable FCC rules and regulations for human exposure to RF emissions; and
   3. The applicant has proposed to place the wireless facility in the most-preferred location or, if the wireless facility is not proposed in the most-preferred location, the applicant has demonstrated a good-faith effort that the more-preferred alternative won’t serve the service objectives and/or is technically infeasible; and

B. Conditional Approvals; Denials without Prejudice. Subject to any applicable Federal or California laws, nothing in this chapter is intended to limit the approval authority’s ability to conditionally approve or deny without prejudice any application governed under this chapter as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the General Plan and any specific plan, the San Bruno Municipal Code and/or this section.

C. Exceptions. Decisions on applications for placement of wireless facilities in the public right-of-way shall, at a minimum, ensure that the requirements of 8.36.060 are satisfied, unless it is determined that applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Chapter may be waived on a one-time basis, but only to the minimum extent required to avoid the prohibition or violation.

8.36.090 Standard Conditions of Approval

A. Conditions of Approval Adopted by City Council Resolution. The City Council may, either on its own motion or upon a recommendation from the Director, adopt by resolution standard conditions of approval for wireless facilities subject to this chapter. All wireless facilities, whether approved by the approval authority or deemed approved or deemed granted by law shall be automatically subject to all such standard conditions of approval as may be adopted in a resolution by the City Council.

B. Modifications to Standard Conditions. The approval authority (or the appellate authority) shall have discretion to modify or amend any standard conditions of approval on a case-by-case basis as may be necessary or appropriate to protect and promote the public health, safety and welfare, allow for the proper operation of the approved wireless facility, maintain compliance with applicable laws and/or to advance the goals or policies in the General Plan and any specific plan, the San Bruno Municipal Code and/or this chapter.
### 8.36.100 Appeals.

A. Appeals. Any person adversely affected by the decision of the Director pursuant to this Chapter may appeal the decision to the City Manager, who may decide de novo, and whose written decision will be the final decision of the City.

B. Decisions Granting Exceptions. Where the Director grants an application based on an exception, the decision shall be automatically appealed to the City Manager.

C. Timing. Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law. All appeals must be filed within five (5) business days of the written decision of the Director, unless the Director extends the time therefor. An extension may not be granted when the extension would result in approval of the application by operation of law.

### 8.36.110 Design Standards.

A. Generally Applicable Design Standards. All new wireless facilities and collocations, modifications or other changes to existing wireless facilities not covered under Section 6409 must conform to the generally applicable design and siting guidelines adopted by resolution of the City Council.

B. Administrative Design and Engineering Standards and Application Requirements. The Director may develop, and from time to time amend, design and engineering standards and application requirements consistent with the generally applicable design regulations to clarify the aesthetic and public safety goals and standards in this chapter for City staff, applicants and the public. In the event that a conflict arises between the design and siting guidelines adopted by City Council by resolution and the administrative design and engineering standards adopted by the Director, the design and siting guidelines adopted by City Council by resolution shall control.

### 8.36.120 Temporary Wireless Facilities.

A. General Requirements for Temporary Wireless Facilities. Except as provided in this section, the requirements, procedures and standards in this section shall be applicable to all applications for a temporary wireless permit for a temporary wireless facility.

1. Applications for Temporary Wireless Facilities. The Director shall not approve any temporary wireless facility subject to a temporary wireless permit except upon a duly filed application consistent with this section and any other written application requirements or procedures the Director may publish in any publicly-stated format. Applicants for a temporary wireless permit must submit, at a minimum: (a) a temporary wireless permit application on the most current form prepared by the Department; (b) the applicable fee for the application; (c) a site plan that shows the proposed temporary wireless facility and its equipment, physical dimensions and placement on the proposed site relative to property lines and existing structures; (d) an RF compliance report in accordance with the City’s requirements; and (e) an insurance certificate for general commercial liability that names the City as an additional insured, includes coverage for the time period in which the temporary wireless facility will be placed and carries at least $1,000,000.00 in coverage per occurrence. Applications must be submitted in person to the Director unless the Director grants written consent to receive an application by mail or electronic means.
No pre-submittal conference or appointment is required for a temporary wireless permit application.

2. Administrative Review for Temporary Wireless Facilities. After the Director receives a duly filed application for a temporary wireless permit, the Director shall review the application for completeness. After the Director deems the application complete, the Director shall review the application for conformance with the required findings in this section and render a written decision to the applicant. Any denials must include the reasons for the denial. The review shall be administrative in nature and shall not require notice or a public hearing.

3. Required Findings for Temporary Wireless Facilities. The Director may approve or conditionally approve a temporary wireless permit for a temporary wireless facility only when the Director finds all of the following:
   a. The proposed temporary wireless facility will not exceed 50 feet in overall height above ground level; and
   b. The proposed temporary wireless facility will be placed as far away from adjacent property lines as possible, or otherwise in a location that will be least likely to cause adverse impacts on adjacent properties; and
   c. Any excavation or ground disturbance associated with the temporary facility will not exceed two feet below grade; and
   d. The proposed temporary wireless facility will be compliant with all generally applicable public health and safety laws and regulations, which includes, without limitation, compliance with maximum permissible exposure limits for human exposure to RF emissions established by the FCC; and
   e. The proposed temporary wireless facility will not create any nuisance or violate any noise limits applicable to the proposed location; and
   f. The proposed temporary wireless facility will be identified with a sign that clearly identifies the: (i) site operator, (ii) the operator’s site identification name or number, and (iii) a working telephone number answered 24 hours per day, seven days per week by a live person who can exert power-down control over the antennas; and
   g. The proposed temporary wireless facility will be removed within 30 days after the Director grants the temporary wireless permit, or such longer time as the Director finds reasonably related to the applicant’s need or purpose for the temporary wireless facility; and
   h. The applicant has not been denied a wireless permit for any permanent wireless facility in the same or substantially the same location within the previous 365 days.

B. Temporary Wireless Facilities for Emergencies. Temporary wireless facilities may be placed and operated within the City without a temporary wireless permit only when a duly authorized Federal, State, County or City official declares an emergency within a region that includes the City in whole or in part. Any temporary wireless facilities placed pursuant to this section must be removed within 15 days after the date the emergency is lifted, as determined by the City Council. Any person or entity that places temporary wireless facilities pursuant to this section must send a written notice that identifies the site location and person responsible for its operation to the Director as soon as reasonably practicable and prior to any actual placement of the facilities. The Director, or a designee, may modify or disallow the placement of the
temporary wireless facilities as is needed to ensure public health and safety and when it is in the best interest of the City.

8.36.130 Breach; Termination of Permit.

A. For breach. A wireless permit may be revoked by the Director for failure to comply with the conditions of the permit or applicable law. Upon revocation, the wireless facility must be removed within the time frame designated by the City; provided that removal of a support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City. All costs incurred by the City in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless facility.

B. For installation without a permit. A wireless facility installed without a wireless permit (except for those exempted by this Chapter) must be removed; provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right of way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City. All costs incurred by the City in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless facility.

C. Municipal Infraction. Any violation of this Chapter will be subject to the same penalties as a violation of the San Bruno Municipal Code Title 5 Nuisances – Chapter 5.08 Enforcement, Nuisance Abatement and Cost Recovery.

8.36.140 Special Provisions for Section 6409 Approvals.

A. Applicability. This section applies to all eligible facilities requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station located in the public right-of-way submitted pursuant to Section 6409.

B. Additional Section 6409 Definitions. In addition to the definitions in Section 8.36.020, the abbreviations, phrases, terms and words used in this section will have the following meanings assigned to them unless context indicates otherwise. In the event that any definition assigned to any phrase, term or word in this section conflicts with any Federal or State-mandated definition, the Federal or State-mandated definition will control.

1. “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (3), as may be amended.

2. “Eligible support structure” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (4), as may be amended.

3. “Existing” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (5), as may be amended.

4. “Site” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (6), as may be amended.

5. “Substantial change” means the same as defined by the FCC in 47 C.F.R. § 1.6100(b) (7), as may be amended.

C. Required Approval. Eligible facilities requests shall require an administrative approval in such form determined by the Director consistent with all valid and enforceable terms and conditions of the underlying permit or other prior regulatory authorization for the tower or base station. Each application for approval of an eligible facilities request shall be subject to the
Director’s review and approval, conditional approval or denial pursuant to the standards and procedures in this section.

D. Decisions.

1. Administrative Review. The Director shall administratively review applications for approval of an eligible facilities request, and may act on such application without prior notice or a public hearing.

2. Decision Notices. The Director shall send a written notice of decision to the applicant before the Section 6409 FCC shot clock expires. In the event that the Director denies the application, the written notice to the applicant must contain: (a) the reasons for the decision; and (b) a statement identifying the applicable FCC shot clock.

3. Required Findings for Approval. The Director may approve or conditionally approve any application for approval of an eligible facilities request when the Director finds that the proposed project:
   a. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station;
   b. Does not substantially change the physical dimensions of the existing wireless tower or base station; and
   c. Remains in compliance with all applicable FCC RF standards.

4. Criteria for Denial. Notwithstanding any other provision in this chapter, and consistent with all applicable Federal laws and regulations, the Director may deny any application for approval of an eligible facilities request when the Director finds that the proposed project:
   a. Does not meet the findings required in subsection (d)(3);
   b. Involves the replacement of the entire support structure; or
   c. Violates any legally enforceable law, regulation, rule, standard or permit condition reasonably related to public health or safety.

5. Conditional Approvals. Subject to any applicable limitations in Federal or State law, nothing in this section is intended to limit the Director’s authority to conditionally approve an eligible facilities request to protect and promote the public health and safety.

SECTION 3. NO MANDATORY DUTY OF CARE. This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or parties within the city or outside of the city, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid or ineffective by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 5. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) and 15378 (b) (5), that this Ordinance is
exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project that has the potential for causing a significant effect on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the San Mateo County Clerk.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days from and after the date of its adoption.

SECTION 7. PUBLICATION. The City Clerk is directed to cause publication of this Ordinance as required by law.

Rico E. Medina, Mayor

ATTEST:

Melissa Thurman, City Clerk

APPROVED AS TO FORM:

Marc Zafferano, City Attorney

I hereby certify that the foregoing Ordinance No. 2019-_______ was introduced on June 11, 2019, and adopted at a regular meeting of the San Bruno City Council on ____________, by the following vote:

AYES: COUNCILMEMBERS:________________________________
NOES: COUNCILMEMBERS:________________________________
ABSENT: COUNCILMEMBERS:________________________________

Melissa Thurman, City Clerk
DATE: June 25, 2019
TO: Honorable Mayor and Members of the City Council
FROM: Jovan D. Grogan, City Manager
PREPARED BY: Keith DeMartini, Finance Director
SUBJECT: Hold Public Hearing and Adopt Resolutions
   • Approving FY2019-20 Operating and FY2020-24 Capital Improvement Program Budget
   • Approving City Appropriations (Gann) Limit for FY2019-20
   • Approving the City’s Master Fee Schedule for FY2019-20

BACKGROUND:

The proposed FY2019-20 Operating and Capital Improvement Budget has been presented for City Council review and consideration. The proposed budget continues prior years’ proactive efforts containing expenditures and using conservative revenue projections consistent with the City Council’s budget preparation guidance.

The City’s budget development approach across all operations and funds adheres to the City Council’s ongoing policy for delivering a financial plan that is balanced with expenditures contained at levels that can reasonably be supported by on-going revenues, and that supports a work program targeted to meet the specific needs and interests of the City Council and San Bruno community. The City Council conducted two study sessions to review the proposed FY2019-20 Operating and the FY2020-24 Capital Improvement Program Budget on May 29 and June 11, 2019. At the study sessions, staff highlighted financial challenges facing the City in the budget year, a financial plan during a 5-year period beyond the current fiscal year, department achievements, strategic initiatives, budget changes and service level challenges, presented recommended service enhancements, an overview of the capital improvement program projects and planned vehicle and equipment purchases.

DISCUSSION:

The proposed budget incorporates estimated revenues and planned expenditures for all Funds. For the coming year, the continued modest economic growth allows the City Council the opportunity to consider some limited new initiatives to help position the City for the future.

Consistent with prior years’ practice and the City Council’s on-going budget policy, the proposed budget reflects efforts across all departments and operating programs to control and contain costs at the lowest responsible levels to allow uninterrupted service delivery. Using a zero-based budgeting practice, departments are directed to evaluate each expenditure to determine if it is necessary and to evaluate any available alternatives. Although revenues have generally
demonstrated strong growth in recent years and have exceeded the rate of growth in regular expenditures, there has not generally been enough capacity to allow consideration to expand services to a level that allows the City to adequately address new priorities and expand community needs.

**General Fund Operating Budget**

The General Fund is the primary source of funding to support most of the services citizens commonly associate with local government. These include public safety, recreation, general administration and maintenance of parks and infrastructure. The General Fund is primarily comprised of tax-generated revenues including property taxes, hotel/motel tax, business license tax, and sales tax. The following table summarizes FY2019-20 financial information compared to the prior year in the City Manager’s proposed budget:

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</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>$ 43,762,154</td>
<td>$ 46,110,332</td>
<td>$ 46,205,055</td>
<td>$ 47,102,037</td>
<td>$ 50,111,247</td>
<td>$ 3,906,192</td>
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<tr>
<td>Expenditure</td>
<td>$ 44,344,953</td>
<td>$ 47,041,436</td>
<td>$ 48,290,832</td>
<td>$ 46,828,366</td>
<td>$ 50,487,625</td>
<td>$ 2,196,793</td>
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<tr>
<td>Difference</td>
<td>$ (582,799)</td>
<td>$ (931,103)</td>
<td>$ (2,085,776)</td>
<td>$ 273,672</td>
<td>$ (376,377)</td>
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Total projected General Fund revenue for FY2019-20 is $50,111,200, an increase of $3,906,200 or 8% over the FY2018-19 Amended Budget. A majority of the projected FY2019-20 General Fund revenue comes from taxes in six different categories. Sales tax, property tax, transient occupancy tax (TOT or hotel/motel tax), motor vehicle license fees, card room regulatory fees, and business taxes make up nearly 66% of the total revenue. Sales tax at $7,892,000, 16% of total revenues and property tax at $11,926,300, at 24%, represent the largest categories of revenues supporting General Fund operations.

The proposed budget projects $50,487,625 in General Fund expenditures supporting operations and service delivery across all City departments. This total is an increase of $2.2 million, or 5% compared to the FY2018-19 Amended Budget. This is a result of the City’s continuing effort to contain all costs at the lowest possible levels necessary to support continued delivery of services. The increase is almost entirely attributable to the increased cost of salary step adjustments, pension and other benefit costs for City staff which are required through settled bargaining unit contracts.

Detailed descriptions for all proposed enhancements can be found in the proposed FY2019-20 Operating and Capital Budget Program Budget document in the Service Enhancement Section. The total cost of the proposed enhancements, net of associated new revenue, in the General Fund is $571,200.

The City Manager’s proposed FY2019-20 budget projects a General Fund revenue/expenditure gap, or deficit, of ($376,400) and proposes a strategy to cover this amount in addition to limited supplemental expenditures presented as service level enhancements to improve City operations. The City Council provided direction to staff to recommend adjustments to balance the budget.
The proposed budget includes several one-time expenditures that are proposed to be funded from available fund balance in the General Fund in FY2019-20. These include the following items:

- The Streets Division includes one-time budget of $150,000 to replace 2,700 traffic signs that are currently out-of-compliance with existing regulations.
- The proposed budget included $58,613 of one-time service level enhancements for the development of an ADA transition plan and compliance work and the implementation of a digitized plan check review system.
- At City Council’s request, the adopted budget will include an additional $75,000 enhancement request for wildfire mitigation in the Parks Department’s budget which was not originally identified in the City Manager’s proposed budget.

Additionally, staff are recommending the following service level reductions to reduce General Fund operating expenditures:

- Delay the hiring of the Building Assistant Planner, Community Development Technician, Parks and Facilities Services Manager and Central Garage Mechanic enhancement positions to occur in the second half of the fiscal year to achieve salary and fringe benefit savings of approximately $57,000.
- Through staff turnover and attrition that will occur during the year, staff will hold these positions vacant from 1 up to 3 months to achieve approximately $110,760 of savings.

Based on feedback provided by the City Council at the budget study sessions, the table below summarizes the changes to the budget from when the City Manager’s proposed FY2019-20 budget was submitted to the City Council on May 24, 2019.

<table>
<thead>
<tr>
<th>Budget Deficit Item</th>
<th>FY2019-20 Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Deficit – City Manager’s Proposed Budget</td>
<td>($376,377)</td>
</tr>
<tr>
<td>Additional Enhancement Request for Fire Mitigation</td>
<td>75,000</td>
</tr>
<tr>
<td><strong>Revised Operating Deficit</strong></td>
<td>($451,377)</td>
</tr>
<tr>
<td>One-Time Expenditures Funded using Available Fund Balance</td>
<td>283,613</td>
</tr>
<tr>
<td><strong>Adjusted Operating Deficit</strong></td>
<td>($167,764)</td>
</tr>
<tr>
<td>Service Level Reductions</td>
<td>$167,764</td>
</tr>
<tr>
<td><strong>Revised Operating Deficit</strong></td>
<td>$0</td>
</tr>
</tbody>
</table>

**General Fund Reserves**

The FY2019-20 budget also proposed funding the reserves outlined in the City’s reserve policy at or slightly above their policy targets. The table below summarizes the specific reserves in the General Fund with their policy targets.

<table>
<thead>
<tr>
<th>Reserve Type</th>
<th>Reserve Policy Target</th>
<th>FY2018-19 Estimated Ending Balance</th>
<th>FY2019-20 Budget Ending Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$1,500,000</td>
<td>$2,445,773</td>
<td>$2,069,396</td>
</tr>
<tr>
<td>General Fund Reserve</td>
<td>25% of annual, budget expenditures</td>
<td>$12,525,666</td>
<td>$12,768,488</td>
</tr>
</tbody>
</table>
Honorable Mayor and Members of the City Council
June 25, 2019
Page 4 of 9

General Fund Capital Reserve

| Goal of $5,000,000 | $5,809,444 | $5,368,377 |

Emergency Disaster Fund

| Target of $3,000,000 | $3,198,517 | $3,283,517 |

Total

| $23,979,400 | $23,489,777 |

Enterprise Funds

The City’s four Enterprise operations provide business-type services that are budgeted to be entirely rate and fee supported, receiving no funding from the City’s General Fund. To recognize administrative and other services provided through the General Fund operating departments including the City Manager, City Attorney, Finance and Human Resources, each Enterprise Fund budget shows an administrative allocation to the General Fund covering these costs.

The following table provides a comparison of the FY2018-19 operating revenues and expenditures for the City’s Enterprise Funds to the amounts proposed for FY2019-20.

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY2018-19 Amended Budget</th>
<th>FY2018-19 Estimated Actual</th>
<th>FY2019-20 Proposed Budget</th>
<th>Change from FY2018-19 Amended</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>$15,742,594</td>
<td>$15,914,914</td>
<td>$15,583,260</td>
<td>$840,666</td>
</tr>
<tr>
<td>Revenue</td>
<td>$9,485,874</td>
<td>$8,268,194</td>
<td>$10,027,198</td>
<td>$541,324</td>
</tr>
<tr>
<td>Expenditure</td>
<td>$17,663,327</td>
<td>$18,158,355</td>
<td>$18,621,632</td>
<td>$958,305</td>
</tr>
<tr>
<td>Wastewater</td>
<td>$8,786,493</td>
<td>$7,893,478</td>
<td>$9,116,241</td>
<td>$329,748</td>
</tr>
<tr>
<td>Stormwater</td>
<td>$688,000</td>
<td>$677,308</td>
<td>$679,000</td>
<td>$(9,000)</td>
</tr>
<tr>
<td>Expenditure</td>
<td>$1,597,751</td>
<td>$1,336,300</td>
<td>$1,222,784</td>
<td>$(374,967)</td>
</tr>
<tr>
<td>Cable</td>
<td>$10,926,411</td>
<td>$9,845,415</td>
<td>$9,907,120</td>
<td>$(1,019,291)</td>
</tr>
<tr>
<td>Expenditure</td>
<td>$11,048,417</td>
<td>$10,248,505</td>
<td>$9,437,608</td>
<td>$(1,610,809)</td>
</tr>
</tbody>
</table>

The City completed a comprehensive review of the operating and capital needs in the Water and Wastewater Enterprises and established a new multi-year utility rate schedule in April 2017. The rate analysis included careful evaluation of all operational costs and the planned schedule and costs for delivery of capital improvement projects necessary to replace and rehabilitate the City’s aging water and wastewater system infrastructure. The Water & Sewer Rate Study resulted in an adopted 5% annual increase to the water and wastewater utility rates through FY2021-22. The 5-year rate program was approved by the City Council in May of 2017. The revenue generated from utility rate payers under the new rates are projected to be adequate to cover annual operating and planned capital improvements in the coming budget year.

The Stormwater Division of the Department of Public Works is responsible for maintaining the stormwater conveyance system, as well as adhering to the requirements outlined in the National
Pollutant Discharge Elimination System (NPDES) permit. Stormwater fees are collected through the County property tax, and a minimum of $46.16 per assessor parcel number (APN) is assessed for most properties in San Bruno. The annual assessment has proven to be inadequate to fund ongoing operations and necessary equipment and capital investments to meet federal requirements. The fund balance has been declining in recent years and is forecasted to be negative in FY2020-21. The City will need to consider other funding sources, including the General Fund, to fund required stormwater operations as well as a potential, dedicated funding source in the future.

The Cable Enterprise provides a broad range of broadband video, data and voice services to residential and business customers over a cable network consisting of over one hundred miles of fiber optic and coaxial cable throughout the entire San Bruno community. In addition, the Cable Enterprise operates San Bruno Cable Channel 1 which covers all local City meetings, events, local programming, and public service announcements.

Over the years, the City has continually invested in the Cable system infrastructure, developing a financial deficit as subscriber revenues, its only source of funding, have been insufficient to cover capital costs. To address the deficit, the City Council approved approaches for reducing costs over a multi-year period by gradually eliminating the amounts annually paid to the General Fund since the initial operations of the system over 40 years ago. The FY2019-20 Cable operating budget eliminates the equity earnings transfer to the General Fund.

With the great strides made in FY2018-19 to control expenses and focus on higher margin business, annual operating revenues are expected to yield a slight budget surplus over operating and equipment expenditures. Planned capital expenditures and annual repayment of the debt to the General Fund for the recently completed router replacement project result in a slight budget deficit. In the long-range financial forecast, the negative fund balance is not expected to change significantly from the approximate $16 Million in FY2019-20 over the next 4 years.

**Internal Service Funds**

Internal Service Fund operations provide direct services to support all City departments and City Enterprise Fund operations. The City maintains four internal service funds including the Central Garage operated through the Public Works Department, the Buildings and Facilities Division of the Community Services Department, Technology, and Self-Insurance. These Internal Service operations are funded through an expenditure allocation that is charged to each user department and enterprise. In total, internal service allocations amount to $5,403,554 across all operations for FY2019-20. The largest single category of internal service costs is for Self-Insurance at $2,246,554. The Internal Service departments are budgeted to meet the 25% fund balance target as identified in the City’s reserve policy in FY2019-20.

**Capital Improvement Program**

The Capital Improvement Program (CIP) is designed to identify, plan and develop projects using a long-term vision for the community’s facilities and infrastructure needs. While the comprehensive CIP is not limited to projects for which funding has been identified, the CIP generally includes a more limited presentation on proposed projects for which funding is not available. Many of the unfunded projects address community needs for rehabilitation and/or replacement of critical facilities such as the Library and Fire Stations. These projects remain
shown in the CIP so that they are included in the City’s long-term strategic planning and remain on the “radar screen” as priorities for future funding initiatives.

The FY2019-20 Capital Improvement Program identifies 60 funded projects/programs organized in 8 categories. A total of $223,326,992 in necessary capital investment is programmed through the CIP to assure rehabilitation, replacement, and improvement of City facilities and infrastructure. A total of $134,753,743 is the expected cost of scheduled improvements to the City’s water and wastewater systems.

After the City Council received the City Manager’s proposed FY2019-20 budget on May 24, 2019, the follow CIP projects changes have been made:

- The City Council directed staff to include a $30,000 request in FY2019-20 for an Agenda Management System for the City Clerk. Staff reviewed the scope and funding already in the Agenda Preparation and Document Management Solution CIP project and confirmed that remaining funds are adequate to implement the Agenda Management System. A new CIP project is not required.
- $25,000 in FY2019-20 for roof and grandstand improvements at Tom Lara field from the General Fund Capital Reserve. The total project cost is approximately $175,000 with the remaining $150,000 not currently identified. The interior improvement to the concession stand are anticipated to be funded by the San Bruno Lions Club and San Bruno Community Foundation in the amount of $60,000.
- $2,240,000 in FY2023-24 for the construction cost associated with the water main improvement and replacement program for Avenues No. 4-2.
- Delayed the initiation of the sewer main improvement and replacement program for Avenues No. 4-2 by one year to begin design in FY2022-23 and construction in FY2023-24.

The following chart summarizes the total proposed FY2019-20 appropriations by category.

<table>
<thead>
<tr>
<th>Program Area</th>
<th>FY2019-20 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>$ 57,589,600</td>
</tr>
<tr>
<td>Wastewater</td>
<td>$ 77,164,100</td>
</tr>
<tr>
<td>Stormwater</td>
<td>$ 5,249,400</td>
</tr>
<tr>
<td>Cable Television</td>
<td>$ 1,209,900</td>
</tr>
<tr>
<td>Parks and Facilities</td>
<td>$ 67,225,500</td>
</tr>
<tr>
<td>Police</td>
<td>$ 523,300</td>
</tr>
<tr>
<td>Streets</td>
<td>$ 11,023,400</td>
</tr>
<tr>
<td>Technology</td>
<td>$ 3,341,700</td>
</tr>
<tr>
<td>Total</td>
<td>$ 223,326,992</td>
</tr>
</tbody>
</table>

Many projects appearing in the CIP are scheduled for completion over a multi-year period. In each year, some number of projects are completed, closed out and removed from the program. A total of 6 projects in the adopted Capital Improvement Program were completed during the
FY2018-19 fiscal year. These projects have all contributed to extending the useful life of critical infrastructure and facilities and several of them provide visible improvement to safety and aesthetics in the community. The following projects have been completed and removed from the CIP:

- San Mateo Avenue Water Replacement Project
- Spyglass Pump Station
- Fiber to the Home for Multiple Dwelling Units
- Civic Center Improvements
- Wood Carving Restoration
- Caltrain – Grade Separation

New projects for FY2019-20 in the proposed Capital Improvement Program include:

- Crestmoor Canyon Slope Stability Project
- Regional Stormwater Capture Project
- City Facilities Door Access & Management System
- Dispatch & Records Ergonomic Updates
- Strategic Software Needs Assessment & Upgrade
- Data Security Business Continuity, Disaster Recovery Improvement

As required by California Government Code Section 65401 and consistent with prior fiscal year budgets, the City’s Planning Commission is required to make a determination that the list of proposed capital improvement projects recommended for planning, initiation or constructing during the ensuing fiscal year is in conformance with the City’s General Plan, prior to the adoption by the City Council. The Planning Commission held a public meeting on May 21, 2019 where a resolution was adopted making this determination.

Vehicles & Equipment

The FY2019-20 budget includes the planned purchase of necessary equipment and vehicles to continue to provide services to the community. Equipment purchases are budgeted at $24,250, and vehicle purchases are budgeted at $660,000.

The equipment budget increased from $6,700 to $24,250 from when the City Council received the City Manager’s proposed budget due to the addition of a request for $17,550 for the Parks Department to replace ballasts and light bulbs on the field lights at Diamonds 1 and 2 in City Park. These fields are used nightly by different sport user groups and lights play a significant role in the safety of play. The lights will be budgeted using the General Fund Equipment Reserve.

Master Fee Schedule

The City’s Master Fee Schedule (MFS) contains all fees that the City charges and is posted on the City’s website. Each year during the budget, the City Council receives the proposed MFS for the upcoming fiscal year with any proposed changes. The proposed FY2019-20 MFS does not include any fee changes from the current FY2018-19 fee schedule. As discussed at the budget study session held on May 29, 2019, the City is currently working on a comprehensive cost allocation plan and user fee study to determine the fully-burdened cost of services and cost recovery of fees in the City’s master fee schedule. Staff expect to provide the City Council with
the results and recommendations from the fee study during FY2019-20 which may result in changes to the MFS.

GANN LIMIT

Voters approved Proposition 4 and 111, known as the Gann Initiatives, which place a limit on the amount of tax-generated revenue (proceeds of taxes) that a local agency can receive and appropriate each year. The limit is based on actual appropriations during 1978-79 and is adjusted each year by cost-of-living and population growth adjustments. Only revenues defined as proceeds of taxes, which for San Bruno are property tax, sales tax, transient occupancy tax, and business tax, are restricted by the limit.

As shown in Attachment A to the resolution, the carry forward FY2018-19 Appropriation Limit is adjusted by the cost-of-living factor (3.85%) and the population factor (.28%) provided by the Department of Finance; establishing the FY2019-20 Appropriation Limit at $44,529,041. Reducing the revenues generated from tax proceeds by exempted expenditures, such as debt service, capital outlay, and federal mandates, total revenue subjected to the Appropriation Limit is $33,404,441. The City’s Appropriations Subject to limit are $12,487,704 below the FY2019-20 Appropriations Limit.

FISCAL IMPACT:

The City Council reviewed proposed reserves, fund balances, revenues, expenditures, and department budget information for the Operating and Capital Budget at public budget study sessions on May 29 and June 11, 2019. General Fund revenues are budgeted to be $50,111,247, and expenditures are budgeted to be $50,487,625 in FY2019-20 resulting in an operating deficit of $376,377. Staff have identified $283,613 of one-time expenditures that are proposed to be funded through the use of fund balance. In order to balance the budget further, services level reductions totaling $167,764 are proposed.

The City’s four Enterprise operations provide business-type services that are budgeted to be entirely rate and fee supported, receiving no funding from the City’s General Fund. The adoption of the FY2019-20 budget will appropriate revenues and expenditures for the Enterprises to carry out operational and capital improvement initiatives in the coming year.

The City’s four Internal Service departments provide direct services to support all City departments and City Enterprise Fund operations. The adoption of the FY2019-20 budget will appropriate revenues and expenditures for these departments to carry out operational support initiatives in the coming year.

The FY2019-20 Capital Improvement Program work program identifies $223,326,992 of prior year budget carryforward and new requests for FY2019-20 in necessary capital investment to assure rehabilitation, replacement, and improvement of City facilities and infrastructure.

Equipment purchases are budgeted at $24,250, and vehicle purchases are budgeted at $660,000.
ALTERNATIVES:

1. Amend the appropriation amounts contained in the proposed budget at the time of the approval.
2. Do not approve proposed budget appropriations effective July 1, 2019. In this case, the City Council can adopt an alternate resolution assuring continued municipal operations. An alternate resolution for this purpose is attached to this report.

RECOMMENDATION:

Hold public hearing and adopt resolutions approving FY2019-20 Operating and FY2020-24 Capital Improvement Program Budget, approving City Appropriations (Gann) Limit for FY2019-20 and approving the City’s Master Fee Schedule for FY2019-20.

ATTACHMENTS:

1. Resolution Approving FY2019-20 Operating and the FY2020-24 Capital Improvement Program Budget
2. Resolution Authorizing Preliminary Expenditure Appropriation to Support City Operations Pending Approval of the Proposed FY2019-20 Operating and Capital Budget
3. Resolution Approving the City’s Appropriation Limit (Gann Limit) of $44,529,041 for FY2019-20.
4. Gann Appropriation Limit Report
5. Resolution Amending the Master Fee Schedule for Municipal Services for FY2019-20
6. Resolution of the San Bruno Planning Commission Finding that the Proposed Capital Improvement Program Budget for FY2019-20 is in Conformance with the City of San Bruno General Plan

DATE PREPARED:

June 17, 2019
RESOLUTION NO. 2019 - _____

RESOLUTION APPROVING FY2019-20 OPERATING AND FY2020-24 CAPITAL IMPROVEMENT PROGRAM BUDGET

WHEREAS, the City Manager transmitted the FY2019-20 Proposed Operating and Capital Budget to the City Council in accordance with the Municipal Code Section 2.12.060; and

WHEREAS, the City Council also serves as the Board of Directors of the Successor Agency to the San Bruno Redevelopment Agency; and

WHEREAS, the City prepares and adopts the Operating and Capital Budget with the intent of providing a planned policy program for City services and a financial system to carry out the planned program of services; and

WHEREAS, the City’s budget development approach across all operations and funds adheres to the City Council’s ongoing policy for the delivery of a financial plan that is balanced with expenditures contained at the levels that can reasonably be supported by on-going revenues; and

WHEREAS, the City Council held duly noticed public study sessions on May 29, and June 11, 2019; and

WHEREAS, the City Council considered Supplemental Enhancement, ongoing and one-time costs, and

WHEREAS, the City prepares and adopts the Capital Improvement Program with the intent of providing a planned program for water and wastewater facilities, traffic and transportation circulation, building improvements, and the purchase of new technology and the financial plan to carry out the program; and

WHEREAS, the San Bruno Planning Commission reviewed the capital improvement projects contained in the above budget on May 21, 2019 for compliance with the General Plan of the City and adopted a resolution confirming project compliance; and

WHEREAS, the Proposed Capital Improvement Program identifies a total of forty-seven funded projects in the FY2019-20 work-plan;

WHEREAS, the City Council, being fully advised and informed and having fully reviewed the Proposed FY2019-20 Operating and Capital Budget, finds and determines that the Proposed Budget should be adopted and prepared in final form.
NOW THEREFORE BE IT RESOLVED, the City Council of the City of San Bruno adopts the total Operating Revenue appropriation of $111,183,900, Transfers In appropriations of $10,042,300, Operating Budget appropriations of $88,959,700 and Transfers Out appropriations of $9,774,700 for FY2019-20; and

NOW THEREFORE BE IT FURTHER RESOLVED, that the City Council of the City of San Bruno approves the recommended Supplemental Enhancements, in the total amounts identified below:

<table>
<thead>
<tr>
<th>Department</th>
<th>Supplemental Enhancement Requests</th>
<th>Ongoing Costs</th>
<th>One-Time Costs</th>
<th>New Rev / Exp</th>
<th>Net Impact to Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance</td>
<td>Investment Professional Consulting Services</td>
<td>8,000</td>
<td></td>
<td></td>
<td>8,000</td>
</tr>
<tr>
<td>Finance</td>
<td>Municipal Financial Advisor Consulting Services</td>
<td>6,000</td>
<td></td>
<td></td>
<td>6,000</td>
</tr>
<tr>
<td>Building</td>
<td>In-House Contract Plans Examiner</td>
<td>47,320</td>
<td></td>
<td></td>
<td>47,320</td>
</tr>
<tr>
<td>Building</td>
<td>Building Division Assistant Planner</td>
<td>63,494</td>
<td></td>
<td></td>
<td>63,494</td>
</tr>
<tr>
<td>Building</td>
<td>Community Development Technician</td>
<td>51,917</td>
<td></td>
<td></td>
<td>51,917</td>
</tr>
<tr>
<td>Recreation</td>
<td>Annual Community Day in the Park – Community Engagement</td>
<td>56,785</td>
<td>35,000</td>
<td>21,785</td>
<td></td>
</tr>
<tr>
<td>Parks</td>
<td>Parks &amp; Facilities Services Manager (.50)</td>
<td>41,813</td>
<td></td>
<td></td>
<td>41,813</td>
</tr>
<tr>
<td>Parks</td>
<td>Wildfire Mitigation</td>
<td></td>
<td>75,000</td>
<td></td>
<td>75,000</td>
</tr>
<tr>
<td>Library</td>
<td>Enhance Public Service on Saturdays - materials delivery</td>
<td>4,671</td>
<td></td>
<td></td>
<td>4,671</td>
</tr>
<tr>
<td>Central Garage</td>
<td>Mechanic II, Step 3</td>
<td>57,688</td>
<td>25,000</td>
<td>32,683</td>
<td></td>
</tr>
<tr>
<td>Building &amp; Facilities</td>
<td>Parks &amp; Facilities Services Manager (.50)</td>
<td>41,313</td>
<td></td>
<td></td>
<td>41,313</td>
</tr>
<tr>
<td>Building &amp; Facilities</td>
<td>Develop an ADA transition plan</td>
<td></td>
<td>36,250</td>
<td></td>
<td>36,250</td>
</tr>
<tr>
<td>Building &amp; Facilities</td>
<td>Perform regular testing and inspection of critical community facilities</td>
<td>46,000</td>
<td></td>
<td></td>
<td>46,000</td>
</tr>
<tr>
<td>Information Technology</td>
<td>Replace Citrix Desktop with Microsoft Office 365</td>
<td>44,220</td>
<td></td>
<td></td>
<td>44,220</td>
</tr>
<tr>
<td>Information Technology</td>
<td>Digitized Plan Check Review Systems</td>
<td></td>
<td>30,000</td>
<td></td>
<td>30,000</td>
</tr>
<tr>
<td>Information Technology</td>
<td>Satellite phones for San Bruno Emergency Operations Center</td>
<td>6,000</td>
<td></td>
<td></td>
<td>6,000</td>
</tr>
<tr>
<td>Water</td>
<td>Update Water Master Plan</td>
<td>200,000</td>
<td></td>
<td></td>
<td>200,000</td>
</tr>
<tr>
<td>Water</td>
<td>Tank Inspection, cleaning &amp; sediment removal</td>
<td>100,000</td>
<td></td>
<td></td>
<td>100,000</td>
</tr>
<tr>
<td>Water</td>
<td>Update State-mandated drinking water Emergency Response Plan</td>
<td></td>
<td>80,000</td>
<td></td>
<td>80,000</td>
</tr>
<tr>
<td>Water</td>
<td>Water Main Citywide leak detection assessment</td>
<td>50,000</td>
<td></td>
<td></td>
<td>50,000</td>
</tr>
</tbody>
</table>
### Water
| Contract repair of water mains, wells, tanks, pumps, motors & related services | 200,000 | 200,000 |

### Wastewater
| State-mandated air quality assessment of pump station diesel generators | 15,000 | 15,000 |

### Cable
| Community Promotion Increase | 7,000 | 7,000 |

#### Total Supplemental Requests

---

| Total Supplemental Requests | $590,221 | $778,250 | $60,000 | $1,308,471 |
| Total General Fund Costs | $438,650 | $133,613 | $50,500 | $521,763 |

### General Fund ongoing costs net of ongoing revenue

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| General Fund ongoing costs net of ongoing revenue | $403,650 |

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**NOW THEREFORE BE IT FURTHER RESOLVED**, by the City Council of the City of San Bruno as follows:

**SECTION 1**: that specific revenue and expenditure line items and transfers enumerated in the Proposed FY2019-20 Operating and the FY2020-24 Capital Improvement Program Budget are hereby appropriated.

**SECTION 2**: That the Proposed Capital Improvement Program is hereby adopted and budget appropriations totaling $6,997,200 and in the following amounts are hereby approved:

<table>
<thead>
<tr>
<th>Capital Improvement Program Budget</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>$57,589,600</td>
</tr>
<tr>
<td>Wastewater</td>
<td>$77,164,100</td>
</tr>
<tr>
<td>Stormwater</td>
<td>$5,249,400</td>
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<tr>
<td>Cable Television</td>
<td>$1,209,900</td>
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<tr>
<td>Parks and Facilities</td>
<td>$67,225,500</td>
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<td>Police</td>
<td>$523,300</td>
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<tr>
<td>Streets</td>
<td>$11,023,400</td>
</tr>
<tr>
<td>Technology</td>
<td>$3,341,700</td>
</tr>
</tbody>
</table>
SECTION 3: The FY2019-20 capital improvement work plan is authorized to include carry-over appropriations for projects moving toward completion or on the schedule to commence. Total carry-over appropriations from FY2018-19 are estimated to be $85,262,700.

SECTION 4: The FY2019-20 equipment purchases budgeted at $24,250 and vehicle purchases budgeted at $660,000.

—oOo—

I hereby certify the foregoing Resolution No. 2019- was introduced and adopted by the San Bruno City Council at a regular meeting on June 25, 2019 by the following vote:

AYES:

NOES:

ABSENT:

____________________________  Mellissa Thurman, City Clerk
RESOLUTION NO. 2019 - ___

RESOLUTION AUTHORIZING PRELIMINARY EXPENDITURE APPROPRIATION TO SUPPORT CITY OPERATIONS PENDING APPROVAL OF THE PROPOSED FY2019-20 OPERATING AND CAPITAL BUDGET

WHEREAS, the City Manager transmitted the Proposed Year FY2019-20 Operating and Capital Budget to the City Council in accordance with the Municipal Code section 2.12.060; and

WHEREAS, the City Council held duly noticed public budget study sessions on May 29, and June 11, 2019 regarding the Proposed FY2019-20 Operating and Capital Budget; and

WHEREAS, the City Council will continue review of the budget at a future Regular meeting.

NOW, THEREFORE, BE IT RESOLVED that the San Bruno City Council hereby authorizes preliminary expenditure appropriations supporting City municipal operations pending approval of the FY2019-20 Operating and Capital Budget. This continuation shall be in place for a period no longer than through August 31, 2019 or the adoption of the FY2019-20 Operating and Capital Budget.

BE IT FURTHER RESOLVED that the preliminary appropriations shall amount to one-sixth of the recommended FY2019-20 expenditures and that all revenues, expenditures and transfers will be adopted with approval of the FY2019-20 Operating and Capital Budget.

Dated: June 25, 2019

ATTEST:

Melissa Thurman, City Clerk

I, Melissa Thurman, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 25th day of June 2019 by the following vote:

AYES:
NOES:
ABSENT:
RESOLUTION NO. 2019-____

RESOLUTION APPROVING CITY’S APPROPRIATIONS LIMIT
(GANN LIMIT) OF $44,529,041 FOR FY2019-20

WHEREAS, Article XIII of the California Constitution and Section 7900 et seq. of the California Government Code require cities to adopt limits on appropriations for each fiscal year, and

WHEREAS, the Appropriation Limit has been calculated for FY2019-20 and is set forth in that certain document Appropriations Limit Calculation for FY2019-20, Attachment A, attached hereto and made a part hereof, and

WHEREAS, the staff report and the documentation used in determining the Appropriations Limit and the appropriations subject to limit have been made available to the public as required by law, and

NOW, THEREFORE, BE IT RESOLVED by the San Bruno City Council that:

1. The adjustment factors selected for calculating this Appropriations Limit are based on California Per Capita Income change of 3.85% and the San Mateo County population change of 0.28%;

2. The Appropriation Limit for FY2019-20 is established at $44,529,041; and

3. The City Council reserves the right to recalculate this Appropriations Limit utilizing Non-Residential Assessed Valuation.

Dated: June 25, 2019

ATTEST:

Melissa Thurman, City Clerk

I, Melissa Thurman, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 25th day of June 2019 by the following vote:

AYES:
NOES:
ABSENT:
City of San Bruno
FY2019-20 Gann Appropriation Limit
Date Prepared: 6/11/2019

FY2018-19 Appropriation Limit $ 42,758,505

Calculation of FY2019-20 Adjustment Factor
Annual Change Factors
Cost of Living Adjustment Factors for FY2019-20
California Per Capita Personal Income (CPCPI) 3.85%
Population Adjustment Factors for FY2019-20
San Mateo County Population Change 0.28%

Adjustment Factor for FY2019-20
\[(1 +0.0385) \times (1 + 0.0028)\] 1.04140780

FY2019-20 Appropriation Limit 44,529,041

FY2019-20 Estimated Tax Proceeds Subject to Appropriations Limit
Property Taxes
Current Secured & Unsecured 8,052,281
Pass-Thru from RDA 526,827
Redevelopment Property Tax Trust Fund (RPTTF) Property Tax 2,012,252
Excess ERAF 1,025,000
In-Lieu of Vehicle License Fees 5,180,000
Supplemental Taxes 280,000
Property Transfer Tax 200,000
Homeowner’s Property Tax Exemption 37,000
Subtotal - Property Taxes 17,313,360

General Sales Tax 7,768,000
Hotel/Motel Tax 3,540,275
Business Taxes 4,537,167
Vehicle License Fee & Off-Highway License 22,000

Interest Earned from Proceeds of Taxes 223,639

Total Estimated Taxes Subject to Appropriations Limit 33,404,441

FY2019-20 Proposed Appropriations Excluded from Limit
2017 Fire Apparatus 182,754
2013 POB 1,180,350
Total Proposed Appropriations Excluded from Limit (1,363,104)

FY2019-20 Appropriations Subject to Limit 32,041,337

Over (Under) Appropriations Limit $ (12,487,704)

Percent Over (Under) -28%
## City of San Bruno
### FY2019-20 Gann Appropriation Limit
**Date Prepared: 6/11/2019**

<table>
<thead>
<tr>
<th>Fiscal Year Ending June 30,</th>
<th>Adjustment Factor</th>
<th>Gann Limit</th>
<th>Appropriation Subject to Limit</th>
<th>Over/(Under) Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>6.30%</td>
<td>34,397,677</td>
<td>22,060,645</td>
<td>(12,337,032)</td>
</tr>
<tr>
<td>2015</td>
<td>0.94%</td>
<td>34,720,090</td>
<td>24,383,652</td>
<td>(10,336,438)</td>
</tr>
<tr>
<td>2016</td>
<td>6.61%</td>
<td>37,016,046</td>
<td>26,497,883</td>
<td>(10,518,163)</td>
</tr>
<tr>
<td>2017</td>
<td>6.33%</td>
<td>39,358,742</td>
<td>27,089,610</td>
<td>(12,269,132)</td>
</tr>
<tr>
<td>2018</td>
<td>4.27%</td>
<td>41,039,622</td>
<td>28,405,924</td>
<td>(12,633,698)</td>
</tr>
<tr>
<td>2019</td>
<td>4.19%</td>
<td>42,758,505</td>
<td>29,451,210</td>
<td>(13,307,295)</td>
</tr>
<tr>
<td>2020</td>
<td>4.14%</td>
<td>44,529,041</td>
<td>32,041,337</td>
<td>(12,487,704)</td>
</tr>
</tbody>
</table>
RESOLUTION NO. 2019-____

RESOLUTION AMENDING THE MASTER FEE SCHEDULE FOR MUNICIPAL SERVICES FOR FY2019-20

WHEREAS, the City Council has established various fees for municipal services; and

WHEREAS, such fees have been set forth in a Master Fee Schedule which was originally adopted by the City Council pursuant to Resolution No. 1984-20, adopted on April 9, 1984 and thereafter amended from time-to-time, year-to-year, with the last amendment adopted on June 12, 2018 by Resolution No. 2018-56; and

WHEREAS, the City Council has directed that fees for certain City services should be set at an amount to recover the cost of delivering the service; and

WHEREAS, pursuant to Article XIII C, Section 1(e)(2) of the State Constitution, each of the increased fees is not a tax and the fee does not exceed the reasonable cost to the City of providing the service for which it is charged and these services are not provided to those not charged; and

WHEREAS, pursuant to Article XIII C, Section 1(e)(4) of the State Constitution, a fee imposed for entrance to or use of City property, or the purchase, rental, or lease of City property is not a tax.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of San Bruno that the City of San Bruno Master Fee Schedule is hereby amended as set forth in Attachment 1, attached hereto and incorporated by reference herein. Any fee not changed from its existing rate (or not indicated on the Attachment) is deemed to continue unaffected by this Resolution.

---o0o---

I hereby certify that foregoing Resolution No. 2019-____ was introduced and adopted by the San Bruno City Council at a regular meeting on June 25, 2019 by the following vote:

AYES: ______________________________________________________

NOES: ______________________________________________________

ABSENT: ____________________________________________________

City Clerk
RESOLUTION NO. 2019-04

A RESOLUTION OF THE SAN BRUNO PLANNING COMMISSION FINDING THAT THE PROPOSED CAPITAL IMPROVEMENT PROGRAM BUDGET FOR 2019-20 IS IN CONFORMANCE WITH THE CITY OF SAN BRUNO GENERAL PLAN

WHEREAS, the City of San Bruno has prepared a proposed Capital Improvement Program (CIP) budget for fiscal year 2019-20 and included within said proposed budget is a coordinated program of proposed public works projects recommended for planning, initiation or construction throughout the ensuing fiscal year. The Capital Improvement Program (CIP) is designed to identify, plan and develop projects using a long-term vision for the community’s facilities and infrastructure needs. The CIP Budget outlines work programs, project descriptions, and funding needed for each project to be undertaken in the next five years. The CIP Budget covers a one year period and includes proposed funding allocations to each project on which work is expected to occur during the budget year;

WHEREAS, California Government Code Section 65401 requires that the City’s Planning Commission make a determination that the list of the proposed public works (e.g. capital improvement) projects recommended for planning, initiation or construction during the ensuing fiscal year (“the proposed annual CIP”) is in conformance with the City’s General Plan, prior to City Council adoption;

WHEREAS, The San Bruno General Plan was adopted on March 4, 2009 as the comprehensive, long-term plan for the physical development of the City and provides goals and policies that establish the basis for evaluating whether specific proposed public works (e.g. capital improvement) projects are in conformity with General Plan vision;

WHEREAS, the proposed annual CIP includes two (2) new public works projects and two (2) existing projects in the current adopted CIP that have been changed in the proposed CIP budget for fiscal year 2019-20;

WHEREAS, the Planning Commission has previously reviewed proposed annual CIP Budgets and found those public works (e.g. capital improvement) projects to be in conformance with the General Plan;

WHEREAS, the Planning Commission’s action to determine whether a proposed new or modified CIP project is in conformance with the General Plan, is not subject to the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15378 in that General Plan conformance findings required by State law is not a project as defined under CEQA;

WHEREAS, each project included in the CIP must undergo any required environmental review pursuant to CEQA separately;
WHEREAS, on May 21, 2019, the Planning Commission held a duly noticed public hearing to review the two (2) new public works projects and two (2) existing projects in the current adopted CIP that have been changed in the proposed CIP budget for fiscal year 2019-20 and 2020-2024 CIP Five-Year Summary for conformity with the General Plan:

NOW, THEREFORE, BE IT RESOLVED that the San Bruno Planning Commission hereby finds, determines and resolves as follows:

Section 1. The Planning Commission determines that the General Plan Conformity Finding is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 since it is not a project as defined under CEQA.

Section 2. The Planning Commission finds that the proposed 2019-2024 Five-Year Capital Improvement Program is consistent with the General Plan goals and policies because it will enhance the achievement of the General Plan by ensuring protection from natural and manmade hazards and improving infrastructure for all modes of transportation for all San Bruno’s existing and expected residents and businesses.

Section 3. The Planning Commission hereby adopts Resolution No. 2019-04 finding that the proposed 2019-2024 Capital Improvement Program and the FY 2019-20 Capital Improvement Program budget is in conformity with the General Plan.

Dated: May 21, 2019

Linda Mason
Planning Commission Chair

ATTEST:

Darcy Smith
Planning Commission Secretary

APPROVED AS TO FORM:

City Attorney

I, Darcy Smith, Planning Commission Secretary, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of San Bruno on this 21st day of May 2019, by the following vote:

AYES: Mason, Biasotti, Hamilton, Johnson, Lethin

NOES: None

ABSENT: Lagacè
DATE:       June 25, 2019

TO:         Honorable Mayor and Members of the City Council

FROM:       Jovan D. Grogan, City Manager

PREPARED BY: Jimmy Tan, Public Works Director
             Dennis Bosch, Deputy Public Works Director

SUBJECT:    Adopt Resolution:
             • Authorizing the Purchase of Six Vehicles in the Amount of $469,040;
             • Appropriating an Amount Not to Exceed $60,000 for Vehicle Equipment Installation and Customization; and
             • Appropriating Available Funds in the General Equipment Revolving Fund in the Amount of $20,040 for the Cost Increase in the Revised Vehicle Purchase Price

BACKGROUND:

The City maintains approximately 145 vehicles and large pieces of equipment. Each year Central Garage staff reviews the entire fleet along with specific Department requests to identify vehicles that have exceeded their useful life, have developed other maintenance or operational problems and should be considered for replacement. Criteria used to evaluate a vehicle are: vehicle age, physical condition, maintenance history, state emission requirements, and opportunities to improve fleet efficiency and effectiveness. Improved fuel economy is considered for all new vehicles, including electric-gasoline hybrid, alternative fuel, and comparative technologies. Where possible, Central Garage staff review opportunities to fully utilize vehicles, to share vehicles between departments, and transfer a vehicle to the general pool fleet to make it more broadly available to City staff.

San Bruno is a city of approximately 5.5 square miles. As City vehicles do not frequently travel outside San Bruno or on the highway, they generally do not reach high mileage over their useful life. While not typically reaching high mileage, most vehicles are used daily, under demanding and less than optimum conditions. Many maintenance vehicles run idle most of the day while staff use them to perform maintenance activities. These idle hours of use contribute to a total negative wear and tear effect on a vehicle’s life span, which is not represented by the overall mileage of a vehicle.
DISCUSSION:

Ten vehicles were included in the FY 2018-19 Vehicle Replacement budget. Based on revised funding priorities, replacement of three Cable Department service vehicles and one Police Department parking enforcement vehicle will be rescheduled to a future year. Below are the six remaining vehicles to be replaced in FY 2018-19:

- Three Police Department marked patrol units have exceeded their five-year expected life span, and have excessive wear and tear. The Police Department typically replaces two or three patrol cars a year due to years of service, mileage, and condition.

- One Public Works large street sweeper has exceeded its 10-year life span, and has excessive wear and tear.

- One Public Works water quality testing van has exceeded its seven-year life span, and has excessive wear and tear.

- One City Hall pool vehicle has exceeded its 10-year life span, and has excessive wear and tear.

Procurement Method

To procure these six vehicles, staff used a competitive bid process for five of the vehicles and a government purchasing cooperative agreement for one street sweeper. Both procurement methods are in compliance with the State Contract Code and the City’s local purchasing regulations. For the five vehicles, staff issued a Notice to Bidders and received a single bid on June 6, 2019, from Serramonte Ford, of Colma, California. To provide the street sweeper, staff worked with the government purchasing cooperative Houston-Galveston Area Council (HGAC), a political subdivision of the State of Texas, and recommends using GCS Environmental Equipment Services, Inc., of Woodland, California. Both vendor dealerships were selected based on availability, price, and ability to provide all specifications, having satisfactorily provided similar vehicles to municipalities across the country and in California.

FISCAL IMPACT:

The cost to replace the proposed six vehicles is $529,040, which includes all the costs of equipment outfitting, sales tax, license, registration, and delivery. The FY 2018-19 budget for these six vehicles is $509,000. Staff is requesting to appropriate available funds in the General Equipment Revolving Fund in the amount of $20,040 for the cost difference in the revised vehicle purchase price from the original budget amount. As of the date of this staff report, the General Equipment Revolving Fund has a fund balance of $4,909,300. There are adequate funds available to be used to cover the cost difference.

ALTERNATIVES:

1. Do not purchase these vehicles, and direct staff to schedule any necessary repairs and continue on-going maintenance.
2. Delay the acquisition of one or more of these vehicles to a future year.

RECOMMENDATION:

Adopt Resolution:
- Authorizing the Purchase of Six Vehicles in the Amount of $469,040;
- Appropriating an Amount Not to Exceed $60,000 for Vehicle Equipment Installation and Customization; and
- Appropriating Available Funds in the General Equipment Revolving Fund in the Amount of $20,040 for the Cost Increase in the Revised Vehicle Purchase Price

DISTRIBUTION:

None

ATTACHMENTS:

1. Resolution
2. Summary chart with information about each vehicle proposed for replacement

DATE PREPARED:

June 10, 2019
RESOLUTION NO. 2019- ___

ADOPT RESOLUTION:

- AUTHORIZING THE PURCHASE OF SIX VEHICLES IN THE AMOUNT OF $469,040;
- APPROPRIATING AN AMOUNT NOT TO EXCEED $60,000 FOR VEHICLE EQUIPMENT INSTALLATION AND CUSTOMIZATION; AND
- APPROPRIATING AVAILABLE FUNDS IN THE GENERAL EQUIPMENT REVOLVING FUND IN THE AMOUNT OF $20,040 FOR THE COST INCREASE IN THE REVISED VEHICLE PURCHASE PRICE

WHEREAS, the replacement of City owned vehicles is necessary due to constant usage causing the vehicles to reach the end of their useful life; and

WHEREAS, six vehicles from the FY 2018-19 Equipment Purchase schedule are presented to the City Council for authorization to purchase; and

WHEREAS, to procure these vehicles, staff is using a combination of a government purchasing cooperative agreement and a competitive bid; and

WHEREAS, for one vehicle, and in compliance with the State Contract Code and the City’s purchasing regulations, staff recommends using GCS Environmental Equipment Services, Inc., of Woodland, California, identified from the national government purchasing cooperative Houston-Galveston Area Council (HGAC), a political subdivision of the State of Texas, to purchase the Stormwater Division street sweeper; and

WHEREAS, for the remaining five vehicles, staff issued a Notice to Bidders in compliance with the State Contract Code and the City’s local purchasing regulations, and received one bid from Serramonte Ford of Colma, California; and the dealership is able to provide the required specifications and have delivered similar vehicles to agencies throughout the area, including previously for San Bruno; and

WHEREAS, the FY 2018-19 budget for these six vehicles is $509,000; and

WHEREAS, the total cost to replace the six vehicles is $529,040, which includes all costs for equipment outfitting, sales tax, license, registration, and delivery; and

WHEREAS, an appropriation of available funds in the General Equipment Revolving Fund in the amount of $20,040 to fund the difference in the vehicle purchase and outfitting costs to the original budget amount.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the purchase of six vehicles in an amount not to exceed $529,040; appropriate an amount not to exceed $60,000 for vehicle equipment installation and customization; and appropriate available funds in the General Equipment Revolving Fund in the amount of $20,040 for the cost difference in the revised vehicle purchase price.

Dated: June 25, 2019
ATTEST:

Melissa Thurman, City Clerk

-o0o-

I, Melissa Thurman, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 25th day of June 2019 by the following vote:

AYES: Councilmembers: ________________________________

NOES: Councilmembers: ________________________________

ABSENT: Councilmembers: ________________________________
## Summary Chart – Vehicle Replacement Schedule (FY 2018-19)

<table>
<thead>
<tr>
<th>Division</th>
<th>Current Vehicle</th>
<th>Mileage</th>
<th>Age (Years)</th>
<th>Use / Function</th>
<th>Reason for Replacement</th>
<th>Replacement Vehicle</th>
<th>2018-19 Budget</th>
<th>Unit Price</th>
<th>Outfitting Estimate</th>
<th>Updated Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Cable</td>
<td>1999 Chevrolet Venture</td>
<td>53,000</td>
<td>20</td>
<td>Inspections, staff travel</td>
<td>Vehicle has reached end of useful life due to age, daily use, condition, and wear damage</td>
<td>Ford Escape</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Cable</td>
<td>2000 Chevrolet Astro Van</td>
<td>72,000</td>
<td>19</td>
<td>Service installation, repairs</td>
<td>Van has reached end of useful life due to age, daily/repetitive use, condition, and wear damage</td>
<td>Ford Transit Van</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Cable</td>
<td>2000 Chevrolet Astro Van</td>
<td>59,000</td>
<td>19</td>
<td>Service installation, repairs</td>
<td>Van has reached end of useful life due to age, daily/repetitive use, condition, and wear damage</td>
<td>Ford Transit Van</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Pool Vehicle</td>
<td>1999 Chevrolet Blazer</td>
<td>36,000</td>
<td>20</td>
<td>Project inspections, staff travel</td>
<td>Vehicle has reached end of useful life due to age, maintenance history, and parts availability</td>
<td>Ford Escape</td>
<td>$28,000</td>
<td>$27109</td>
<td>$ -</td>
<td>$27,109</td>
</tr>
<tr>
<td>5 Water</td>
<td>2005 Ford Van</td>
<td>53,000</td>
<td>14</td>
<td>Mobile water quality testing lab</td>
<td>Vehicle has reached end of useful life due to age, maintenance history, and condition</td>
<td>Ford Transit Van</td>
<td>37,000</td>
<td>27,572</td>
<td>15,000</td>
<td>42,572</td>
</tr>
<tr>
<td>6 Stormwater</td>
<td>2007 International Street Sweeper</td>
<td>51,000</td>
<td>12</td>
<td>Street sweeper</td>
<td>Sweeper has reached the end of useful life due to results of heavy daily usage</td>
<td>Tymco Street Sweeper</td>
<td>295,000</td>
<td>294,561</td>
<td>-</td>
<td>294,561</td>
</tr>
<tr>
<td>2 Police (marked)</td>
<td>2010 GO-4 parking enforcement</td>
<td>54,000</td>
<td>8</td>
<td>Parking enforcement</td>
<td>Scheduled for replacement due to maintenance history, age, and lack of safety features</td>
<td>GO-4 parking enforcement</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 Police (marked)</td>
<td>2009 Ford Crown Victoria (K-9)</td>
<td>82,000</td>
<td>10</td>
<td>Patrol vehicle</td>
<td>The Department typically replaces 2-3 patrol cars a year based on mileage and condition</td>
<td>Ford Police Interceptor (K-9)</td>
<td>55,000</td>
<td>40,352</td>
<td>15,000</td>
<td>55,352</td>
</tr>
<tr>
<td>9 Police (marked)</td>
<td>2011 Ford Crown Victoria</td>
<td>77,000</td>
<td>8</td>
<td>Patrol vehicle</td>
<td>The Department typically replaces 2-3 patrol cars a year based on mileage and condition</td>
<td>Ford Police Interceptor</td>
<td>47,000</td>
<td>39,723</td>
<td>15,000</td>
<td>54,723</td>
</tr>
<tr>
<td>10 Police (marked)</td>
<td>2011 Ford Crown Victoria</td>
<td>68,000</td>
<td>8</td>
<td>Patrol vehicle</td>
<td>The Department typically replaces 2-3 patrol cars a year based on mileage and condition</td>
<td>Ford Police Interceptor</td>
<td>47,000</td>
<td>39,723</td>
<td>15,000</td>
<td>54,723</td>
</tr>
</tbody>
</table>

FY2018-19 Subtotal $509,000 $469,040 $60,000 $529,040
DATE: June 25, 2019

TO: Honorable Mayor and Members of the City Council

FROM: Marc Zafferano, City Attorney

SUBJECT: Waive First Reading and Introduce an Ordinance Regarding Amendments to Remaining Portions of San Bruno Municipal Code Title 2 (Administration and Personnel) as Part of a Comprehensive Municipal Code Update and Adopt Three Resolutions: 1) Electing to Become Subject to the California Uniform Public Construction Cost Accounting Act; 2) Approving a Master Mutual Aid Agreement; and 3) Adopting the CalOES Rules and Regulations Relative to Worker's Compensation Benefits for Disaster Service Volunteers

BACKGROUND:

At its meeting on October 9, 2018, the City Council directed staff to work with the City’s code publisher, Quality Code Publishing (“QCP”) to obtain a technical review of the City’s Code, except the Zoning Code which will be reviewed and revised separately, and recommend amendatory actions. It is intended that this comprehensive Municipal Code update occur on an iterative basis. Previously, the City Council adopted amendments to all of Title 1 (General Provisions) and to a portion of Title 2 (Administration and Personnel), specifically Chapter 2.04 (City Council) and Chapter 2.32 (Elections). The amendments contained in this proposed ordinance relate to all of the remaining chapters in Title 2.

On June 11, 2019, the City Council reviewed proposed amendments to the remainder of Title 2, and provided direction to return with ordinances for introduction. The attached ordinances incorporate all amendments reflected previously, with one addition relating to the City Manager’s designees in section 2.12.040.

DISCUSSION:

Chapter 2.04 (City Council)

As noted above, this Chapter was previously amended, no additional changes are proposed, and it is omitted from the redline version of the ordinance attached.
Chapter 2.06, San Bruno Redevelopment Agency

This chapter is obsolete and is proposed to be repealed. As of February 1, 2012, redevelopment agencies throughout the State ceased to exist. On February 28, 2012, the City of San Bruno adopted a resolution confirming that it would serve as the Successor Agency to the dissolved Redevelopment Agency of effective February 1, 2012 (confirm date) under the general direction of an Oversight Board.

Chapter 2.08, Planning Commission

No substantive changes are proposed to this Chapter.

Chapter 2.12, City Manager

Section 2.12.050, Secretary. This section regarding staffing in the city manager’s office is updated to reflect current practice that city manager is provided such administrative and other staff as may be required and approved by the city council. This section retains existing law that such positions are not part of the competitive service of the city (also known as “confidential positions”). Compensation is by reference to the city’s compensation system.

Section 2.12.040, Performance of Duties. The amendments allow the City Council to designate successors to the City Manager by resolution, and allow the City Manager to appoint a designee.

Section 2.10.060, Powers and duties. The amendments clarify that pursuant to Government Code section 40602, the city manager may be designated as the official to approve binding contracts.

Section 2.12.080 Ex officio member of boards, etc. This section currently provides that the city manager is an ex officio member of all boards, commissions, and committees appointed by the mayor or the city council. It is recommended that this section be deleted because it does not comport with current or best practices.

Section 2.12.100 City manager not covered by civil service. The amendment updates the wording from “civil service” to “competitive service.”

Chapter 2.16, City Attorney

No substantive changes are proposed to this Chapter.

Chapter 2.20, City Clerk

The chapter is re-organized so that it consistent with other chapters relating to appointed public officials. Also, a section is added that as an appointed official, the city
clerk serves at the pleasure of the city council and another section relating to duties clarifies that the city clerk may appoint deputies as authorized by the city council.

Chapter 2.24, City Treasurer

This chapter is recommended for repeal in its entirety because Measure R passed in November 2015 thus changing the position from an elected position to an appointed one. The transfer of duties of the former elected city treasurer are addressed in Chapter 2.28.050 relating to the Finance Director.

Chapter 2.28, Finance Director

Section 2.28.050 Financial and accounting duties of city clerk transferred. This section addressed duties and legal obligations under the Government Code that were transferred from the city clerk to the finance director. New subsection B is proposed to add a similar provision relating to the duties of the former elected city treasurer position, which became appointive pursuant to Measure R, which passed in November 2015. In addition, the section is re-titled to include a reference both to the city clerk and to the finance director.

Section 2.28.060 Appointment - When city manager shall serve as finance director. A minor wording adjustment is made in this section to comport with current practices - “civil service” is changed to “competitive service”.

Chapter 2.32, Elections

As noted above, this Chapter was previously amended to reflect new state law that required local agencies to hold election in even-numbered years; no additional changes are proposed, and it is omitted from the redline version of the ordinance attached.

Chapter 2.36, Personnel System

Section 2.36.210 (Political Activity) This section is updated to conform to law. The state has declared that the political activities of public employees are of statewide concern and the state pre-empts the area. The state prohibits local public entities from regulating the political activities of public officers or employees, subject to a number of exceptions. (Cal. Gov’t Code §3201, §3203) Specifically, local public entities may prohibit officers and employees from engaging in political activities and from engaging in political activities on the premises of the local agency. (Cal. Gov’t Code §3207)

While local authority is limited in terms of making laws related to employee political activity, the state law is replete with prohibitions with which city employees, public officers, and public officials must comply or face penalties including but not limited to criminal investigation and/or prosecution. Some prohibitions include:
• No using public agency funds or resources to advocate for a partisan position or to support personal political activities (Gov’t Code §54964);
• May not participate in any political activity while in uniform (Gov’t Code §3206);
• May not knowingly, directly or indirectly, solicit a contribution or donation for a political campaign from any city officer or employee (Gov’t Code §3205(a);
• May not use the authority of his or her official position to exert influence or persuade another officer or employee to do or refrain from political action (Gov’t Code §3204);
• May not make promises to provide a person with money, gifts, a promotion, or other compensation in return for a contribution or vote (Gov’t Code §3204; §3205.5, Elections Code §18520);
• May not threaten to take an action against a person in order to secure a contribution or influence a vote (Gov’t Code §3204 and §3205.5; Elections Code §18521 and §18522);
• May not enclose any political argument or statement in a city pay envelope (Elections Code §18542); and
• May not take actions that obstruct or corrupt the election process (Elections Code §18501, §8502 §18540)

Chapter 2.40, Peace Officer Standards and Training

No substantive changes are proposed to this Chapter.

Chapter 2.44, Purchasing And Bid Procedures

Staff is proposing several substantial changes to this Chapter to increase staff efficiency and reduce costs associated with constructing public works projects.

As a general law city, San Bruno is required to comply with the Public Contracts Code §20162 requiring a formal advertising and bidding process for public works contracts exceeding $5,000. As part of its effort to streamline processes and utilize best practices, staff has proposed updates to the city’s policy and code relating to purchasing and bidding. Staff recommends that like most cities in San Mateo County and over 1,000 local agencies across California, the city council consider electing to make San Bruno subject to the Uniform Public Construction Cost Accounting Procedures Act (“the Act”).

Enacted in 1983, the Act as set forth in the Public Contracts Code §22000, et seq., allows a local agency to replace the low statutory public works bidding thresholds with higher amounts, provided the agency: (1) opts-in to the requirements of the Act and the procedures adopted by the California Uniform Cost Accounting Commission, (2) informs the State Controller’s Office of such election by resolution, and (3) establishes informal bidding procedures for public project contacts below the Act’s formal bidding threshold.

With the adoption of a proposed resolution (Attachment 2) and ordinance, public projects would follow a different process depending on the value of the contract. For
those projects valued at $60,000 or less, also known as “direct hire”, a contract for a public project may be performed by city employees, by force account, by negotiated contract, or by purchase order.

For public projects of $200,000 or less (“informal bidding”), the contract may be let by an informal bidding process that requires an advertising and noticing procedure consistent with Act’s requirements, and which may be awarded by the city manager, subject to the City’s expenditure authority threshold of $75,000. In addition, the city council may on a 4/5ths vote, award a contract at $212,000 to the lowest responsible bidder in an informal bid process if all bids received are in excess of the amount specified in this section and if it determines the cost estimate was reasonable.

 Contracts for public projects greater than $200,000 (“formal bidding”), and awarded by the city council, must be procured through a formal procedure prescribed by the Act and which is substantially similar to the city’s current noticing and bidding procedures for projects over $5,000.

In summary, public agencies that voluntarily elect to become subject to the Act benefit from the direct hire account limit and a higher, more realistic threshold for informal bidding. Further, the California Construction Cost Accounting Commission reviews the informal bid limits for inflation and other factors every five years to determine whether an adjustment should be made to the threshold amounts.

The state indicates that the Act’s procedures result in more projects being completed in a timely manner as a result of a streamlined award process for mid- and small-scale projects under $200,000 (or as noted above, $212,000 with a 4/5 City Council vote). The City’s participation will increase efficiency by reducing the staff time and costs associated with the bidding process, but will not change the dollar threshold required for City Council approval, which remains at $75,000 or above. Nor does participation have any impact on projects in excess of the Act’s formal bidding limit, as those will continue to follow the existing formal bidding procedure.

In addition to proposed changes for public project construction bidding, the ordinance modernizes a number of other provisions. It clarifies the contracting procedures for supplies, services, equipment, and technology at different value thresholds while continuing to recognize the benefits of cooperative purchasing (“piggybacking”) as well as exceptions to competitive bidding such as emergency procedures (temporary eliminating competitive bidding during declared emergency), sole source procurement (only one source of supply), and city council discretion to waive a competitive process in the interests of the city when adhering to such a process is counter to the goal of competitive bidding of achieving the best quality at the lowest price.

In addition, the code authorizes design-build when accomplished within the specific requirements set forth in the Public Contract Code. Finally, there is a new section addressing contracts for concessions allowing the city manager or council, depending
on contract value, to award to the highest ranked proposer taking into consideration the economic return to the city and other factors.

Chapter 2.46, Procedures for the Disposition of Property

No substantive changes are proposed to this Chapter.

Chapter 2.48 Emergency Preparedness

The history of emergency preparedness ordinances in California dates back to World War II, when the state established “war councils” to assist in scouring the coastline for incoming threats. Having discovered that volunteers were useful in these efforts, the state continued the program, but renamed them “disaster councils” and adapted them more generally for disasters as articulated in Cal. Gov’t Code 8610, and following.

This chapter accordingly provides the authority under which the City of San Bruno responds to disasters, authorizes its emergency plan, and protects itself financially from claims of injured volunteer disaster workers. To be accredited, the City must have its ordinance approved by the state. Long ago, San Bruno took the required steps and its disaster council was first accredited on June 16, 1949. The City also adopted a resolution relative to volunteer workers’ compensation benefits in 1948 and adopted a resolution agreeing to abide by the California Disaster and Civil Defense Master Mutual Aid Agreement in 1950. These documents are elements of compliance with the state’s emergency planning.

In 1999, the City established a disaster council by ordinance (section 2.48.030), consisting of the members of the Emergency Preparedness Committee, later renamed the Community Preparedness Committee, whose volunteer members are appointed by the Mayor and subject to approval by the City Council. Since that time, the state has updated its model emergency ordinance to recommend that individuals in certain positions be designated as the disaster council. These positions include: 1) the Mayor and/or City Manager; 2) the Director of Emergency Services; 3) the assistant Director of Emergency Services; 4) Chiefs of emergency services; and 5) representatives of civic or other organizations as appointed by the disaster council. These positions have been designated because the disaster council’s duties include coordination with state emergency relief efforts, directing the City’s emergency activities, making and issuing rules necessary to respond to the emergency, directing employees of the City, and entering into binding contracts for the provision of emergency services.

To comply with the state’s model ordinance, and in consideration of the scope and nature of the required duties, staff recommends that the City’s disaster council consist of the Mayor, the City Manager, the Chief of Police, and the Fire Chief. The Emergency Preparedness Committee as a whole would continue to serve in an advisory role to the City Council in times of emergency and otherwise, consistent with its adopted bylaws, and the proposed amendments to this Chapter retain all of the Committee’s duties.
The state requires cities to update their ordinances and resolutions in order to maintain accreditation. The state requires that the disaster council meet at least once a year and that the city will abide by the California Emergency Services Act. The Act establishes the Governor's Office of Emergency Services, which is charged with coordinating statewide emergency preparedness, post disaster recovery, mitigation, and overseeing emergency plans.

In addition, the City must re-authorize and update two resolutions. One resolution provides that the City will abide by the California Disaster and Civil Defense Master Mutual Aid Agreement. The other resolution provides that San Bruno will continue to register Disaster Service Workers (DSW). The DSW resolution, after adoption, protects the city because all such workers, if injured, receive state worker's compensation rather than the city being potentially liable. Draft resolutions are attached as Attachments 3 and 4.

As required, the City will be sending these documents to the State for review and approval after City Council's initial review. Staff will return with any changes recommended by the state.

Chapter 2.50, Culture and Arts Commission.

Section 2.12.080 Ex officio member of boards, etc. This section currently provides that the city manager is an ex-officio, non-voting member of the commission and serves as secretary. It is recommended that this section be deleted because it does not comport with current or best practices.

FISCAL IMPACT:

None.

RECOMMENDATION:

Waive First Reading and Introduce an Ordinance Regarding Amendments to Remaining Portions of San Bruno Municipal Code Title 2 (Administration and Personnel) as Part of a Comprehensive Municipal Code Update and Adopt Three Resolutions: 1) Electing to Become Subject to the California Uniform Public Construction Cost Accounting Act; 2) Approving a Master Mutual Aid Agreement; and 3) Adopting the CalOES Rules and Regulations Relative to Worker's Compensation Benefits for Disaster Service Volunteers

ALTERNATIVES:

1. Request additional information before introducing the ordinance.
DISTRIBUTION:

None.

ATTACHMENTS:

1. Amendments to remainder of Title 2 for introduction
2. Resolution electing to implement the Uniform Public Construction Cost Accounting Act
3. Resolution regarding Master Mutual Aid Agreement
4. Resolution regarding workers compensation benefits for volunteer disaster service workers
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE MUNICIPAL CODE AS PART OF A COMPREHENSIVE UPDATE

WHEREAS, the city adopted a codification of the general ordinances of the city of San Bruno entitled the “San Bruno Municipal Code Revised and Republished December 1998” (“the Municipal Code” or “the Code”) which was authorized and approved by Ordinance No. 1604 and adopted January 11, 1999, pursuant to Government Code Sections 50022.1-50022.10;

WHEREAS, since that time, the Municipal Code has been regularly amended and augmented with new ordinances expanding its volume and complexity; and

WHEREAS, at its meeting on October 9, 2018, the City Council directed staff to work with the City’s code publisher, Quality Code Publishing (“QCP”) to obtain a technical review of the City’s Code with the purpose of identifying citation conflicts and inconsistencies with state law as well as obsolete provisions, and recommend amendatory actions; and

WHEREAS, in response to the analysis and recommendations of QCP and additional staff recommendations, the City is amending its Code on an iterative basis; and

WHEREAS, the amendments contained in this Ordinance relate to Title 2 (Administration and Personnel) and are generally recommended for reasons of compliance, consistency, citation updates, and/or to reflect current terminology and/or practices.

NOW, THEREFORE, the City Council of the City of San Bruno does ordain as follows:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2. Editorial guidance. The following non-substantive editorial style is used. Words that are underlined are additions; words with a line through are deleted; and words in [brackets] are instructions for the Code publisher and which instructions are not to be published in the City’s Code unless worded as an “editor’s note”.

In addition, the Code publisher will arrange definitions and other changes alphabetically to conform to the Code’s current style and will, as needed, re-order numbering and lettering changes caused by these amendments. The City Clerk and the City Attorney are authorized to work with the Code Publisher to effectuate non-substantive amendments to ensure consistency as to form and style of the Code.

Further, the code publisher is directed to substitute the name of an office and/or position wherever possible rather than use a gender pronoun without further or formal amendments.

SECTION 3. Title 2, Administration and Personnel, is amended and restated to read, as follows:
Chapter 2.08 PLANNING COMMISSION

2.08.010 Establishment.

A. There is established a city planning commission.

B. The commission shall consist of seven members, who at the time of their appointment and at all times thereafter shall be residents of the city but not employees of the city. The members of the commission shall be appointed by and serve at the pleasure of the mayor with the approval of a majority of the city council, subject to removal at any time, pursuant to city council procedures. The terms of office of the members shall be four years. If a vacancy shall occur in such appointment other than by expiration of term, it shall be filled by appointment for the unexpired term. (Ord. 1602 § 2, 1998)

2.08.020 Duties.

The planning commission shall have such duties as are set forth as duties for planning commissions pursuant to state law. The commission shall also have the duties of a planning agency pursuant to Section 65400 et seq., of the Government Code. It shall have such other duties as set forth by ordinance. (Ord. 1602 § 2, 1998)

2.08.030 Officers.

Annually the planning commission shall elect one of its voting members as chairperson and another as vice chairperson, in accordance with the by-laws of the commission. (Ord. 1602 § 2, 1998)
2.08.040 Meetings.

A. Regular meetings of the planning commission shall be on the third Tuesday of each month at seven p.m. If at any time any regular meeting day falls on a legal holiday, such regular meeting shall be held on the next business day if practical. The regular meetings shall be held in the San Bruno Senior Center, or alternative location as designated by the City Council.

B. Special meetings, adjournments and continuances of meetings, hearings, closed sessions during meetings and disorderly conduct during meetings shall be governed by Sections 2.04.040 through 2.04.090, with all references therein to the city council and the mayor or presiding officer to be applicable, for purposes of this section, to the planning commission and its chairperson or presiding officer. (Ord. 1608 § 4, 1999)

2.08.050 By-laws - Rules of procedure - Quorum.

A. By-laws. The commission shall prepare by-laws governing its operations and including rules of procedure governing the conduct of its meetings. Except as provided in the rules of procedure to the contrary, Robert’s Rules of Order Revised or Rosenberg’s Rules, as specified in the by-laws, shall govern the conduct of such meetings. The by-laws shall be approved by the city council. The commission shall review its by-laws on an annual basis.

B. Quorum. Four general members of the commission shall constitute a quorum for the transaction of business. (Ord. 1602 § 2, 1998)

2.08.060 Minutes - Annual report.

A. Minutes. The commission shall issue copies of the minutes of each commission meeting to the city manager, the city clerk and the city council.

B. Annual Report. The commission shall annually provide a report to the city council concerning the commission’s actions, activities and achievements during the preceding year, its goals for the subsequent year and any recommendations for improvement in providing service to the city. (Ord. 1602 § 2, 1998)

Chapter 2.12 CITY MANAGER

2.12.010 Office established - Appointment and removal.

The office of city manager is established. The city manager shall be appointed by and serve at the pleasure of the city council. (Ord. 1349 § 1, 1980; prior code § 2-3.1)


The city shall obtain a surety bond conditioned upon the faithful performance of the duties of the city manager if required by the city council. The sum of such bond shall be in a reasonable amount recommended by the city attorney and as determined by the city council. (Ord. 1349 § 1, 1980; prior code § 2-3.2)
2.12.030 Compensation - Reimbursement for expenses.

The city manager shall receive such compensation as may be fixed by resolution of the city council. The city manager shall be reimbursed for all sums necessarily and reasonably incurred by the city manager in the performance of the duties of this office. (Ord. 1349 § 1, 1980; prior code § 2-3.3)

2.12.040 Performance of duties during absence, vacancy, and disability.

The city council may, by resolution, approve a list of duly qualified persons, in an order of succession, who would perform the duties of the city manager during the absence or disability of the latter, or in the case of a vacancy in such office. Whenever the City Manager is referred to in this Code, it shall include any person designated by the City Manager to perform such duties as are delegated to the designee. The city shall obtain a surety bond conditioned on the faithful performance of the duties of the city manager where required by the city council and in a reasonable amount recommended by the city attorney and as determined by the city council. (Ord. 1349 § 1, 1980; prior code § 2-3.4)

2.12.050 Secretary.

The city manager shall be provided a secretary who shall be specifically excluded from the civil service system of the city and who shall receive such compensation as may be fixed by the city council and such administrative and other staff as may be required and approved by the city council and who shall be specifically excluded from the competitive service of the city with compensation as set forth in the city's compensation system. (Ord. 1349 § 1, 1980; prior code § 2-3.5)

2.12.060 Powers and duties.

The city manager shall be the administrative head of the city government under the direction and control of the city council. The city manager shall be responsible for the efficient administration of all the affairs of the city which are under the control of the city manager. In addition to the general powers of the city manager as administrative head, and not as a limitation thereon, the city manager shall have the following powers and duties:

A. To see that this code and all ordinances, rules, and regulations of the city are duly enforced, and that all franchises, permits, privileges, and contracts granted or approved by the city are faithfully observed or performed;

B. To manage and control the department heads of the city, and through them, their subordinates, except the city clerk and city attorney;

C. To accomplish interdepartmental personnel transfers;

D. To consolidate or combine offices, positions, departments and units under his or her direction, subject to the approval of the city council and the authority of the personnel board to classify employees;

E. To appoint and remove subordinate officers and employees, subject to such limitations and restrictions as may be imposed by the civil service system and memoranda of understanding between the city and employee associations approved by the city council;
F. To attend all meetings of the city council, unless excused there from by the city council;

G. To recommend to the city council such measures and actions as the city manager deems necessary or expedient;

H. To prepare and submit to the city council an annual budget, and to keep the city council fully advised as to the financial conditions and needs of the city;

I. To act as purchasing officer of the city and as such to approve the purchase of all goods and services for all departments or divisions of the city for which the council has made an annual budget appropriation. To make emergency purchases of items when, in the opinion of the city manager, the purchase is required for the operation of the government and to the extent authorized by the city council.

J. To investigate the affairs of the city, any department or division thereof under the city manager's jurisdiction, and all complaints regarding the administration of the city government and public utilities services in the city;

K. To exercise general supervision of all property under the jurisdiction and control of the city;

L. To devote such time to the duties of the city manager's office as shall be determined by the work requirements thereof;

M. To provide leadership for civic movement designed to benefit the residents of the city when so authorized by the city council;

N. To perform such other duties and exercise such other powers as may be authorized by the city council.

O. To execute in the name of the city council and city, any warrant drawn on the city treasurer, all instruments requiring the city seal, and all written contracts and conveyances made or entered into by the city, and authorized or approved by the city council, unless the city council shall expressly provide for other manner of execution of such contract, and further, for the purpose of this section, whenever a motion or resolution of the city council authorizes or directs the "city manager" to sign a document, the term "city manager" shall include the city manager and any other officer or employee of the city when that officer or employee is acting as city manager. (Ord. 1349 § 1, 1980; prior code § 2-3.6)

[Editor's note: New subsection “O” states with more specificity the inherent powers in this section authorizing the city manager to execute all city documents, warrants, instruments, and conveyances.]

2.12.070 Duty of other officers to cooperate.

All officers and employees shall cooperate with and assist the city manager in administering the affairs of the city most efficiently, economically, and harmoniously, as far as may be consistent with their duties. (Ord. 1349 § 1, 1980; prior code § 2-3.7)
2.12.080 City council to deal with city employees only through city manager.

The city council and its members shall deal with the administrative service of the city only through the city manager. Except for the purpose of inquiry, neither the city council nor any of its members shall give orders to any subordinate of the city manager. (Ord. 1349 § 1, 1980; prior code § 2-3.9)

2.12.090 City manager not covered by competitive service.

The office of the city manager is excluded from the competitive service system of the city. The city manager shall not be entitled to or subject to the benefits, advantages, protection, or procedures of such system. (Ord. 1349 § 1, 1980; prior code § 2-3.10)

Chapter 2.16 CITY ATTORNEY

2.16.010 Legal department created.

A legal department is created which shall be under the direction of the city attorney and function under the direction of the city council and general supervision of the city manager, and shall consist of the city attorney and such other employees as the city council may approve. (Ord. 1349 § 1, 1980; prior code § 2-4.1)

2.16.020 Appointment—Qualifications.

A. The city attorney shall be selected and appointed by the city council on the basis of qualifications, with special reference to actual experience in the field of municipal law and in respect to the duties of the office as herein after set forth. The city attorney shall hold office at and during the pleasure of the city council.

B. The position of city attorney shall be a full-time position and the appointee shall not be entitled to engage in private practice without specific approval of the city council, nor shall the city attorney be entitled to make court appearances except on behalf of the city. To become and remain eligible for this position, the appointee shall be an attorney duly admitted and qualified to practice in the Supreme Court of the state of California, and shall have been an active member in good standing of the State Bar of California for at least three years prior to appointment. Nothing contained in this chapter shall be construed to prohibit the city council from retaining special counsel to represent the city in certain legal matters, nor to prevent the council from retaining the services of a qualified attorney-at-law on a full or part-time basis to act as city attorney, de facto or de jure, upon the discharge, resignation or disability of any city attorney appointed pursuant to this chapter. (Ord. 1349 § 1, 1980; prior code § 2-4.2)

2.16.030 Compensation and expenses.

The city attorney shall receive such compensation and expense allowance as the city council shall, from time to time, determine. (Ord. 1349 § 1, 1980; prior code § 2-4.3)

2.16.040 Powers and duties.

In addition to the powers and duties set forth in the Government Code of the state of California, the city attorney shall:
A. Represent and advise the city council and all city officers upon all matters of law pertaining to the city and to their office;

B. Frame all ordinances and resolutions required by the city council;

C. Represent and appear for the city, its authorized agents, officers, and employees, in any and all actions and proceedings in which the city, or its agents, officers, or employees, in or by reason of their official capacity only, is concerned or is a party thereto. The city council shall have control of all legal proceedings, however, and shall direct and control the prosecution and defense of all actions and proceedings to which the city is a party or in which it is interested, and may employ special counsel, if it feels the interests of the city require same, to assist the city attorney, or to prosecute or defend in any such action or proceeding;

D. Attend all meetings of the city council and planning commission, and attend other meetings at the request of the city manager;

E. Render legal opinions or advice, in writing, whenever requested to do so by the council or any of the city boards, commissions, or city officers;

F. Approve the form and execution of all bonds, contracts and other instruments to which the city is a party;

G. Specify the minimum requirements of insurance policies and bonds required to be filed with the city, and no such policy or bond shall be deemed to satisfy legal requirements of the city unless in conformity with such specifications or otherwise approved by the city attorney;

H. Devote such time to the duties of the office, and attend such conferences, meetings, and proceedings as the council may specify from time to time, and as shall be determined by the work requirements of the legal department;

I. Keep on file in the city attorney’s office all written communications, opinions, brief and papers used in the normal course of legal activities of this department. The city attorney shall deliver all books, records, papers, documents, and property of every description, belonging to the city, to the city attorney’s successor in office;

J. Act as director of the legal department, subject to the general administrative direction of the city council;

K. Serve as executive advisor to the city manager and city council on nonlegal matters involving program development, leadership and public relations. (Ord. 1535 § 1, 1992; Ord. 1349 § 1, 1980; prior code § 2-4.4)

Chapter 2.20 CITY CLERK

2.20.010 Office and office hours.

There shall be an office of the city clerk in the City Hall. Such office shall be open for the transaction of all city business between the hours of eight a.m. and five p.m. every calendar day except Saturdays, Sundays, and legal holidays.
[Publisher: This section is former section 2.20.020 and unchanged but moved to the beginning of the chapter so that organization is consistent with other chapters.]

2.20.020 Appointment - Qualifications.

The city clerk shall be selected and appointed by the city council on the basis of qualifications for the office of city clerk. The city clerk shall hold office at and during the pleasure of the city council.

[Publisher: This is new section. In 2015, the electorate voted to change the city clerk from an elected position to an appointed one.]

2.20.030 Duties.

The city clerk shall have the following duties:

A. To maintain custody of official city records;

B. To keep an accurate record of the proceeds of the city council in books bearing appropriate titles and devoted exclusively to such purposes, respectively, which books shall have a comprehensive general index;

C. To keep a book marked “ordinances” and record in it all city ordinances with his or her certificate attached to each, stating its number; that it is a true and correct copy of a city ordinance; and that it has been published or posted pursuant to law;

D. To be custodian of the city seal;

E. To administer oaths and affirmations and take and certify affidavits and depositions pertaining to city affairs and businesses;

F. To acknowledge instruments within the city;

G. To appoint deputies;

H. To perform such additional duties as are prescribed by state law or by ordinance. (Ord. 1349 § 1, 1980; prior code § 2-5.1)

2.20.040 Compensation.

The city clerk shall receive such compensation as may be determined by the city council. (Ord. 1349 § 1, 1980; prior code § 2-5.3)

2.20.050 Bond.

Before entering upon the duties of his or her office, the city clerk shall execute a bond to the city. Except as otherwise provided by statute, the bonds shall conform to the provisions of the Government Code relating to bonds of public officers. The penal sum of the bond shall be in a reasonable amount recommended by the city attorney and fixed by resolution of the city council. (Ord. 1349 § 1, 1980; prior code § 2-5.4)
Chapter 2.28 FINANCE DIRECTOR

2.28.010 Office established.

There is established in the government of the city, the office of finance director. (Ord. 1349 § 1, 1980; prior code § 2-7.1)

2.28.020 Duties - Generally.

The finance director has the following duties and responsibilities:

A. To maintain and operate the general accounting system of the city and each of its divisions and services;

B. To perform such accounting functions duties in accordance with modern municipal accounting practices;

C. To maintain, or to prescribe and require the maintenance of municipal property inventory records in accordance with modern municipal accounting practices;

D. To be responsible for the administration and collection of municipal taxes, licenses, and permit files;

E. To prepare, audit, present, and disburse payrolls and other claims and demands against the city;

F. To assist in the purchase of supplies, materials, and equipment required by the city;

G. To assist in the preparation and administration of the annual budget;

H. To cooperate with other city officers in the control of municipal revenues and expenditures in accordance with modern municipal accounting practices. (Ord. 1349 § 1, 1980; prior code § 2-7.2)

2.28.030 Financial reports.

The finance director shall prepare and present to the city council in sufficient detail to show the exact financial condition of the city, the following reports:

A. A statement of all receipts, disbursements, and balances of the city, which shall be prepared quarterly, or more frequently, if requested;

B. An annual statement of report of the financial condition of the city;

C. Such other financial reports as the city council or city manager may direct. (Ord. 1349 § 1, 1980; prior code § 2-7.3)

2.28.040 Additional duties and functions.

The finance director shall perform such other additional duties and functions as may be prescribed by the city council or city manager. (Ord. 1349 § 1, 1980; prior code § 2-7.4)
2.28.050 Financial and accounting duties of city clerk transferred; duties of elected city treasurer transferred.

A. In accordance with Sections 40805.5 and 37209 of the Government Code, the duties imposed upon the city clerk by Sections 37201 through 37208, inclusive, of the Government Code, and the financial and accounting duties imposed upon the city clerk by Sections 40802 through 40805, inclusive, of the Government Code are transferred to the finance director. (Ord. 1349 § 1, 1980; prior code § 2-7.5)

B. All duties imposed upon an elected city treasurer are transferred to the finance director including but not limited to Sections 41001 - 41005 and Sections 53630 - 53683 inclusive, of the Government Code.

2.28.060 Appointment - When city manager shall serve as finance director.

The finance director is appointed by the city manager and serves under the competitive service of the city. The city manager shall serve as finance director in the absence of an appointment. (Ord. 1349 § 1, 1980; prior code § 2-7.6)

2.28.070 Appointment and duties of deputies.

With the consent of the city manager, the finance director may appoint one or more deputy finance directors. Each deputy director shall perform the duties prescribed by the director and city manager. (Ord. 1349 § 1, 1980; prior code § 2-7.7)

2.28.080 Bond.

When the director enters upon the duties of that office, the finance director shall execute a bond to the city required by Sections 37209 and 36518 of the Government Code. The bond shall conform to the provisions of the Government Code relating to bonds for public officers. The penal sum of the bond shall be in a reasonable amount recommended by the city attorney and fixed by resolution of the city council. (Ord. 1349 § 1, 1980; prior code § 2-7.8)

Chapter 2.32 ELECTIONS

This Chapter is omitted as it was previously amended.

Chapter 2.36 PERSONNEL SYSTEM

2.36.010 Adoption.

The personnel system set out in this chapter is adopted to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness as determined by competitive test; and to provide a reasonable degree of security for qualified employees. (Ord. 1630 § 2, 2000)
2.36.020 Applicability of chapter - Competitive service.

A. The provisions of this chapter shall apply to all offices, positions and employments in the service of the city, except the following:

1. Elective officers; provided, that, in the event the people of the city shall, at a general municipal election or special election held for that purpose, elect to change the status of any one or more elective officers of the city to that of appointive officers, then at the expiration of the term of office of any such officer, the person holding the office at the time of the expiration of such term, providing that the elective officer shall have served in such position for a period of at least six months continuously immediately prior to the expiration of such term of office, shall assume regular status in the competitive service without preliminary examination or working tests and shall thereafter be subject in all respects to the provisions of this chapter;

2. Positions on appointive boards, commissions and committees;

3. All employees whose compensation is not paid by the city;

4. Temporary employees, seasonal employees and others that are not regular city employees (e.g., nonpermanent part-time workers);

5. The city manager, assistant city manager, executive assistant, administrative assistant, clerical personnel and/or other positions assigned to the city manager’s office;

6. The city attorney, any assistant, paralegal, legal secretary, law clerk or clerical personnel; and

7. All employees assigned to the city’s personnel function in the city manager’s office or as otherwise designated.

B. Offices, positions and employments not exempted by subsection A of this section, shall constitute the competitive service of the city. (Ord. 1630 § 2, 2000)

2.36.030 City council - Powers and duties.

The city council shall have the following powers and duties:

A. Approve the personnel system rules and regulations and all amendments thereto. Request the city manager, personnel officer or personnel board research and prepare amendments and revisions to such rules as deemed appropriate and necessary.

B. Approve compensation and pay plan, position classification plan and all amendments thereto.

C. Recognize and approve any and all agreements with those recognized bargaining units representing city employees. (Ord. 1630 § 2, 2000)
2.36.040 Personnel officer - Office established - Appointment.

There is established the position of personnel officer, who shall be the city manager. The personnel officer may delegate the powers and duties vested in him or her to subordinate employees. (Ord. 1630 § 2, 2000)

2.36.050 Personnel officer - Powers and duties.

The powers and duties of the personnel officer shall be as follows:

A. Attend meetings of the personnel board and serve as its secretary;

B. Administer all the provisions of this chapter and of the personnel system rules and regulations not specifically reserved to the city council or the personnel board;

C. Prepare and forward to the city council revisions and amendments to the personnel system rules and regulations. The city attorney shall approve the legality of such revisions and amendments prior to their submission to the city council;

D. Under the direction of the city council, supervise the preparation of a position classification plan, including class specifications, and revisions of the plan; the plan, and any revisions thereof, shall become effective upon approval by the city council; and

E. Under the direction of the city council, supervise the preparation of a plan of compensation, and revisions thereof, covering all classifications in the competitive service; the plan and any revisions thereof shall become effective upon approval by the city council. (Ord. 1630 § 2, 2000)

2.36.060 City manager—Powers and duties.

In addition to those powers and duties that may be assigned by virtue of his or her role as personnel officer, the city manager shall:

A. Appoint or remove all employees subject to the provisions of the personnel system rules and regulations, and agreements between the city and its officially recognized bargaining units representing employee groups, except those employees appointed and removed by the city council. The city manager may delegate this appointing authority to the assistant city manager or other such appointed department heads as the city manager sees fit;

B. Negotiate agreements between the city and its officially recognized bargaining units representing employee groups; and

C. Serve as the “Municipal Employee Relations Officer” as set forth in the City of San Bruno Employer-Employee Relations Resolution No. 1970-20, subsequently amended by Resolution No. 1971-10, and as amended from time to time by the city council. (Ord. 1630 § 2, 2000)

2.36.150 Contracting for special services.

The city council may contract with any qualified person or agency for the establishment or operation of the personnel system. The contract may include delegation to the person or
agency so retained of all or a part of the responsibilities and duties imposed in this chapter, but shall not include the delegation of powers and duties vested in the city council, city manager, personnel officer or personnel office. (Ord. 1804 § 1, 2012; Ord. 1630 § 2, 2000)

2.36.160 Appropriation of funds.

The city council shall appropriate such funds as are necessary to carry out the provisions of this chapter. (Ord. 1630 § 2, 2000)

2.36.170 Adoption of personnel system rules and regulations.

Personnel system rules and regulations, prepared by the personnel officer, subject to this chapter and to revision by the city council, shall be adopted and may be amended from time to time by resolution of the city council. The rules shall establish specific procedures and regulations governing the following phases of the personnel system.

A. Preparation, installation, revision and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class;

B. Preparation, revision and administration of a plan of compensation directly correlated with the position classification plan, providing a rate or range of pay for each class;

C. Public announcement of all tests and the acceptance of applications for employment;

D. Preparation and conduct of tests and the establishment and use of resulting employment of persons eligible for appointment;

E. Certification of persons from employment lists;

F. Evaluation of employees during the probationary period;

G. Transfer, promotion, demotion and reinstatement of employees in the competitive service;

H. Separation of employees from the city service through layoff, suspension and dismissal;

I. Standardization of hours of work, attendance and leave regulations, working conditions and the development of employee morale, welfare and training;

J. Suitable provision for orderly and equitable presentations to the city council by employees relating to general conditions of employment;

K. Content, maintenance and use of personnel records and forms; and

L. Such other matters as deemed appropriate by the personnel officer and the city council. (Ord. 1630 § 2, 2000)
2.36.180 Appointments to competitive service—Regular.

A. Appointments and promotions to vacant positions in the competitive service shall be made in accordance with the personnel system rules and regulations and shall be based on merit and fitness to be ascertained so far as practicable by competitive examination.

B. Examinations shall be used and conducted to aid in the selection of qualified employees. Examinations shall consist of such recognized selection techniques as achievement and aptitude tests and other written tests, personal interview, performance tests, evaluation of daily work performance, work samples or any combination of these which will, in the opinion of the personnel officer, test fairly the qualifications of candidates. Physical ability tests may be, and medical examinations may be, given as part of any examination based on position applied for.

C. In any examination the personnel officer may include, in addition to competitive tests, a qualifying test or tests and set minimum standards therefor.

D. Appointments shall be made by the officer in whom the power to make appointments is vested by law.

E. When appointment is to be made to a vacancy in the competitive service it shall be made from the persons on the eligibility listing in accordance with the personnel system rules and regulations.

F. All regular appointments, including promotional appointments, shall be for a probationary period in accordance with the personnel system rules and regulations.

G. During the probationary period, an employee may be rejected at any time by the city manager without cause, hearing or the right of appeal, except as otherwise provided in the personnel system rules and regulations or applicable memorandum of understanding. (Ord. 1630 § 2, 2000)

2.36.190 Appointments to competitive service - Provisional.

A. In the absence of appropriate employment lists, a provisional appointment may be made by the appointing authority of a person meeting the minimum training and experience qualifications for the position. An employment list shall be established within six months for any permanent position filled by provisional appointment. The city council may, by a three-fifths vote, extend the period for any provisional appointment for not more than thirty days by any one action. When a position is to be filled by provisional appointment, or a provisional appointment is to be extended, the city council shall direct the city clerk to record such action in the minutes of the meeting of the city council.

B. No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment of any employment or promotional lists for service rendered under a provisional appointment.

C. During the period of suspension of an employee or pending final action on proceedings to review suspension, demotion or dismissal of an employee, such vacancy may be filled by the city manager subject to the provisions of this chapter and the personnel rules and regulations. (Ord. 1630 § 2, 2000)
2.36.200 Discrimination prohibited.

No person in the competitive service, or seeking admission thereto, shall be employed, promoted, demoted, discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, sexual orientation or age in any matter prohibited by law. (Ord. 1630 § 2, 2000)

2.36.210 Political activity.

A. Except as otherwise provided by the laws of California, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of the city.

B. As provided by Section 3207 of the California Government Code, the city council may prohibit and does prohibit the following:

(1) Officers and employees engaging in political activity during working hours.
(2) Political activities on the premises of the local agency.

C. The city manager may promulgate administrative rules and regulations to carry out the intent of this section and general law related to political activity of municipal officers and employees and reflecting the city's interest in promoting an unbiased election process.

D. Appeal from the application of such administrative rules and regulations shall be in accordance with the personnel system rules and regulations, provisions set forth in the city's memoranda of understanding with its employee collective bargaining groups or where the latter agreements are not applicable, then directly to the city council.

E. Violation of this section shall not constitute an infraction or a misdemeanor. Violation of this section shall be punishable in a manner set forth in administrative rules and regulations promulgated by the city manager, personnel rules and regulations or in an applicable memorandum of understanding. (Ord. 1630 § 2, 2000)

Chapter 2.40 PEACE OFFICER STANDARDS AND TRAINING

2.40.010 Intention to receive state aid.

The city desires to qualify to receive aid from the state under the provisions of chapter 1, title 4, part 4 of the Penal Code of the state. (Prior code § 18-25)

2.40.020 Adherence to state standards.

The city while receiving aid from the state pursuant to Chapter 1, Title 4, Part 4 of the Penal Code of the state will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training. (Prior code § 18-26)
2.40.030 Public safety dispatchers.

Pursuant to Section 13512, Chapter 1, the commission and its representatives may make such inquiries as deemed appropriate by the commission to ascertain that the San Bruno police department’s public safety dispatcher personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training. (Ord. 1498 § 1, 1988)

Chapter 2.44 PURCHASING AND BID PROCEDURES

Sections:

2.44.010 Adopted—Purpose.
2.44.020 Purchasing authority designated—Purchasing officer.
2.44.030 Departmental estimates of requirements—Exemption from centralized purchasing.
2.44.040 Use of purchase orders; written contract required.
2.44.050 Professional and special services.
2.44.060 Contract procedure for supplies, nonprofessional services, equipment and technology.
2.44.070 Public Projects—Uniform Construction Cost Accounting Act
2.44.080 Inspection, testing and acceptance responsibility.
2.44.090 Splitting orders to avoid competitive bidding prohibited.
2.44.100 Change orders.
2.44.110 Cooperative purchasing agreements with other agencies
2.44.120 Exceptions to Formal Contracting Procedures.
2.44.130 Design build.
2.44.140 Revenue Generating Contracts/Concessions.
2.44.150 Administrative appeal.

2.44.010 Adopted - Purpose.

A purchasing system is adopted in order to establish efficient procedures for the acquisition of supplies, services, equipment, and technology at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases.

Approval of city budget appropriations by the city council authorizes expenditure of city funds in accordance with that appropriation and the established level of city services.

2.44.020 Purchasing authority designated - Purchasing officer.

The city manager is designated as the purchasing officer for the city of San Bruno. The city manager may delegate the duties of purchasing to a purchasing officer or any other city employee. Within those amounts permitted by this ordinance, and in conformance with those rules and procedures specified in administrative policy, the city manager may delegate the duties of purchasing for a department to that department head.

As the purchasing officer, the city manager shall have authority to:

A. Purchase or contract for supplies, services, equipment, and technology required by any using department in accordance with purchasing procedures prescribed by this chapter,
and such administrative regulations as the city manager shall adopt for the internal management and operation of the purchasing system and such other rules and regulations as shall be prescribed by the city council;

B. Negotiate and recommend execution of contracts for the purchase of supplies, services, equipment, and technology;

C. Act to procure for the city the needed quality in supplies, services, equipment, and technology at least expense to the city;

D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;

E. Prepare and recommend to the city council rules governing the purchase of supplies, services and equipment for the city;

F. Supervise the inspection of all supplies, services and equipment purchased to insure conformance with specifications;

G. Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by a department or which have become unsuitable for city use;

H. Join with other governmental agencies in joint purchasing and/or sale endeavors where the purchasing procedures are consistent with state and federal statutory or grant requirements and serve the city's interest in making an efficient and economical purchase.

I. Maintain a bidder's list, vendors catalogue file, and records needed for the efficient operation of the purchasing system.

2.44.030 Departmental estimates of requirements - Exemption from centralized purchasing.

A. All departments using centralized purchasing shall file detailed estimates of their requirements in supplies, services and equipment in such manner, at such time, and for such future periods as the city manager, or his or her designee shall prescribe.

B. Pursuant to an adopted administrative policy, the city manager may authorize any department to purchase or contract for specific supplies, services, equipment, and technology independently of centralized purchasing.

2.44.040 Use of purchase orders; written contract required.

A. Purchases of supplies, professional and special services, non-professional services, equipment, and technology may not be made by purchase order unless within the stated limit specified in the administrative policy of the city of San Bruno as may be amended from time to time.

B. All other city purchases shall be by written contract or as provided in the City’s administrative policy as may be amended from time to time.
2.44.050 Professional and special services.

A. The city shall engage in a selective process when seeking to retain specially trained persons or firms to provide professional services such as architecture, engineering, surveying and construction management and special services such as financial, economic, accounting, economic, legal and administrative or other matters involving specialized expertise or unique skills.

B. Where possible and appropriate, the city shall make reasonable efforts to obtain more than one proposal in a fair and equitable process. The method and details of these procedures shall be outlined in administrative regulations of adopted by the city.

2.44.070 Public Projects – Uniform Cost Accounting Act (UCAA)

A. Definitions. For the purposes of this article the following words and phrases shall have the following meanings:

“Act” means the Uniform Cost Accounting Act (UCAA) (California Public Contracts Code Section 22000, et seq.).

“Commission” means the California Uniform Construction Cost Accounting Commission.

“Facility” means any plant, building, structure, ground facility, utility system, subject to the limitation of subsection (4) of the definition for public project below, real property, streets and highways, or other public work improvement.

“Public project” means any of the following:

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any city owned, leased or operated facility;

2. Painting or repainting of any city owned, leased, or operated facility;

3. In the case of a city owned utility system, “public project” shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of two hundred thirty thousand volts and higher;

4. “Public project” does not include maintenance work. For purposes of this section, “maintenance work” includes all of the following:

   a. Routine, recurring and usual work for the preservation or protection of any city owned or city operated facility for its intended purposes,

   b. Minor repainting,

   c. Resurfacing of streets and highways at less than one inch,

   d. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems,
(e) Work performed to keep, operate, and maintain city owned water, power or waste disposal systems, including, but not limited to, dams, reservoirs, power plants and electrical transmission lines of two hundred thirty thousand volts and higher.

B. Public projects contracting procedures. The city shall follow the contracting procedures set forth in Article 3 of the Uniform Public Construction Cost Accounting Act (Section 22030, et seq., of the Public Contracts Code).

C. Contractors list. The public works director shall compile and maintain a list of qualified contractors identified according to categories of work. This list shall comply with the requirements of the Act and the criteria promulgated, from time to time, by the commission.

D. Informal bidding. Notice.

(1) When a public project is to be performed which qualifies for informal bidding, notice of such project shall be given as follows except where the product or service is proprietary:

(a) Mailed notice shall be sent to all contractors on the contractors list for the category of work being bid; and

(b) Mailed notice shall be given to all construction trade journals specified by the commission for the receipt of such notice for Yolo County;

(c) Additional notice to other contractors and/or trade journals may, in the discretion of the city, be given.

(2) If the product or service to be acquired is proprietary in nature such that it can only be obtained from a certain contractor or contractors, notice inviting bids may be sent only to such contractor or contractors.

(3) All mailing of notices to contractors and construction trade journals shall be completed not less than ten days before bids are due.

(4) The notice shall describe the project in general terms, how to obtain more detailed information about the project and shall state the time and place for submission of bids.

D. Award of contracts. Subject to the city manager’s overall contract authority, the city manager is authorized to award contracts for public projects of two hundred thousand dollars or less or the amount as specified in the Act for project projects which are subject to informal bidding.

E. Rejection of bids. The city manager or the city council, as the case may be, may, in the manager’s or council’s discretion, reject all bids and proceed as authorized by the Act.
**F. Approval of plans and designs.** The city engineer, or designee, is authorized to approve plans and designs, and all amendments and addenda thereto, for performance of a public project of the city.

**2.44.080 Inspection, testing and acceptance responsibility.**

The responsibility for the inspection, testing and acceptance of all supplies, equipment, technology and contractual services performed shall rest with the purchasing department or purchasing agent concerned.

[Publisher: This was former s. 2.44.100 (with the addition of technology) but moved so this obligation follows all the procurement types.]

**2.44.090 Splitting orders to avoid competitive bidding prohibited.**

The purchases of supplies, services, equipment, and technology shall not be split or separated into smaller orders for the purpose of evading the competitive bidding provisions of this chapter.

**2.44.100 Change Orders.**

Following the award of a contract for supplies, services, equipment, and technology or public project, such contract may be amended by the issuance of a change order provided the change which is the subject of the amendment is reasonably related to the scope of the original contract. The city manager will maintain control relative to the scoping, estimating and negotiating of the proposed change(s) and the finance director will certify the availability of funds for the proposed change in the event that the change order increases the contract cost. The total contract budget may include a council authorized contract contingency. Any change order that exceeds the authority limits granted herein or within an administrative policy with respect to purchasing procedures shall be submitted to the city council for approval.

**2.44.110 Cooperative purchasing agreements with other agencies.**

To foster greater economy and efficiency, the city may avail itself of state and local intergovernmental agreements for procurement or use of common goods and services. Joint procurements, state cooperative purchasing programs, and assignment of existing contract rights (“piggyback procurements”) with other public agencies may be used when consistent with applicable state and federal statutory or grant requirements. The city manager is empowered and authorized to act under the provisions of this chapter to procure for the city supplies, services, equipment, and technology in conjunction with such voluntary cooperative purchasing agreements or programs which may be available and advantageous to the city. This authority includes the authority to act as lead agency when appropriate.

**2.44.120 Exceptions to Formal Contracting Procedures.**

**A. Emergency procedures.** In accordance with Public Contract Code sections 20168 and 22050, in the case of an emergency, the city manager may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary supplies, services, equipment, and technology for those purposes, without giving notice for bids to let contracts.
“Emergency” as used in this chapter as defined in Public Contract Code section 1102, means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

The city manager must report such emergency to the city council no later than seven days after the action, or at the next regularly scheduled city council meeting, provided it is no later than fourteen days after the emergency action was taken. The city manager’s report must explain why the action was necessary to respond to the emergency and why the emergency did not permit a delay resulting from a competitive solicitation for bids. The city council shall review the emergency action and determine by a four-fifth’s vote whether such emergency action is still needed.

B. Sole and single source (non-competitive). The city is not required to engage in the competitive bidding process when procuring supplies, services, equipment, and technology for which there exists only a sole source of supply as documented by the city manager acting within his/her procurement authority.

C. Discretion to waive competitive process. The city council may waive the requirements for formal competitive bidding or other procedures set forth in this chapter, in limited circumstances and when permissible under applicable law, when the city council determined that such waiver serves the best interests of the city because competitive bidding would frustrate or undermine the public policy goal of such process.

2.44.130 Design build.

Nothing in this chapter shall preclude the City from utilizing the design-build project delivery method where authorized by and in accordance with the provisions and requirements set forth in Public Contract Code Section 22160, et seq., as it may be amended from time to time.

2.44.140 Revenue Generating Contracts/Concessions.

To the extent they are not otherwise governed by city policies, concession agreements are contracts where the city grants permission to use city facilities or property to vendors to sell products or services, for which the city receives a percentage of the proceeds and/or a flat rate of compensation. Generally, these arrangements are at no direct cost to the city or cost are minor and incidental.

Where it is determined that a number of potential vendors are available to provide similar products or services, a competitive negotiations procedure should be followed, and the city manager may award a contract to the highest ranked proposer, taking into consideration the economic return to the city, quality of the product, service and experience of the vendor. The city council shall approve revenue generating/concessions contracts that exceed the City Manager’s contract authority.

2.44.150 Administrative appeal.

Any individual or business entity aggrieved by any purchasing decision public project contract executed by a department head, or designee of such department head may seek administrative review by the city manager.
A. Such review may only be initiated by an individual or business entity with a financial interest in the purchasing decision.

B. The aggrieved individual or business entity, or their authorized agent or representative, must file a written appeal with the city manager, stating the nature of the complaint, identifying the reason or reasons for such complaint, and explain the remedy they are seeking by way of their review, and giving a return address for a response.

C. Such written review must be delivered or postmarked no later than five business days following the date of the purchasing decision that is administratively appealed.

D. Upon consideration, the city manager will, in writing, rescind, confirm, or modify the subordinate purchasing decision made; and a copy of such written determination shall be mailed to the appellant.

E.1. The administrative review provided by this Section is conclusive as to all:

a. Public project contracts qualifying under the Act for direct hire;

b. Purchasing of supplies, services, equipment and technology less than fifteen thousand dollars.

2. Administrative appeals to the city council pursuant to Chapter 1.32 of this city code may be made:

a. In public project contracts or purchasing decisions where the amount involved exceeds the limits set in subsection (E)(1), above;

b. In public project contracts or purchasing decisions where the city manager has made the original purchasing decision;

c. In every instance where the administrative review by the city council is required by law.

Chapter 2.46 PROCEDURES FOR THE DISPOSITION OF PROPERTY

2.46.010 Adopted - Purpose.

In order to establish efficient procedures for the disposition of personal property which is no longer usable for public purpose intended, or is otherwise obsolete, outmoded, in a state of disrepair, or requiring service costs in excess of salvage value; and to thereafter dispose of such personal property to the best advantage of the city, a procedure for the disposition of personal property is established. (Ord. 1501 § 1, 1988)

2.46.020 Disposition authority designated - Purchasing officer.

The city manager is designated as the purchasing officer for the city of San Bruno. The city manager may delegate the duties of disposing of personal property to a designated department head or any other city employee. (Ord. 1501 § 1, 1988)
2.46.030 Transfer of personal property.

Whenever any items of personal property are no longer needed by any city department having possession thereof, such fact shall be reported to the purchasing officer as well as to other departments within the city. Whenever any department has need for any such materials, it may requisition same without cost, and a transfer of such property shall take place. An account of such property transfers shall be maintained in the department of finance. (Ord. 1501 § 1, 1988)

2.46.040 Disposal of unneeded personal property.

Whenever any item of personal property is, in the opinion of the purchasing officer, surplus and no longer needed by the city, the city may dispose of such property, and shall pay the proceeds of such sale, if any, into the city treasury. Disposition may include discarding of such property when warranted.

A. If in the opinion of the department disposing of personal property, in which any single item of property proposed for disposal exceeds in its present value, the amount of five thousand dollars, such property must be disposed of by sealed bid, public auction or by negotiated sale to secure the highest salvage or sale value to the city of San Bruno.

B. The sale or disposition of personal property wherein any single item of property proposed for disposal does not exceed the amount of five thousand dollars may be disposed of by any reasonable method approved by the finance director.

C. The purchasing officer or his or her designee may determine that particular items of personal property, or aggregate items subject to disposition may be disposed of by action of the city council.

D. Personal property used to trade in, trade up, credit or exchange for alternative personal property is not subject to the procedures provided in this chapter. (Ord. 1501 § 1, 1988)

2.46.050 Disposal for public purposes.

Notwithstanding any other provision of this chapter, whenever, in the opinion of the purchasing officer, the disposal of personal property may serve an alternative public purpose, the city may transfer such property to another public or governmental entity needing such personal property at a sale price less than its estimated value, or for no sale price at all. (Ord. 1501 § 1, 1988)

2.46.060 Agreements with other governmental agencies.

The purchasing officer may authorize in writing any other governmental agency to dispose of personal property by any lawful method. This authority includes the authority to act as lead agency when appropriate in the sale of property of other governmental agencies by the city of San Bruno. (Ord. 1501 § 1, 1988)
Chapter 2.48 EMERGENCY PREPAREDNESS

Sections:
2.48.010 Purpose of chapter.
2.48.020 Definitions.
2.48.030 Disaster council
2.48.040 Powers and duties.
2.48.050 Director and Assistant Director of Emergency Services.
2.48.060 Powers and Duties of the Director and Assistant Director of Emergency Services.
2.48.070 Emergency organization.
2.48.080 Compliance with the California Emergency Services Act.
2.48.090 Emergency plan.
2.48.100 Expenditures
2.48.110 Relationship with San Mateo Operational
2.48.120 Certain acts prohibited.
2.48.130 Emergency Preparedness Committee

2.48.010 Purpose of chapter.

A. The declared purposes of this ordinance are to provide for the preparation and carrying out of plans for the protection of persons and property within this jurisdiction in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions with all other public agencies, corporations, organizations, and affected private persons.

B. Any expenditures for emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

2.48.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings set forth in this section:

A. “Emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this jurisdiction caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities, requiring the combined forces of other political subdivisions to combat.

B. “Emergency preparedness” or “emergency services” shall mean the preparation for and execution of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters. Such term shall not include, nor does any provision of this chapter apply to any condition relating to a labor controversy.

C. “Local emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county,
city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

D. “State of emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

E. “State of war emergency” means the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

2.48.030 Disaster council.

There is hereby established the San Bruno disaster council which shall consist of the Mayor as Chair, Director of the Office of Emergency Services as Vice-Chair, the City Manager, the Chief of Police, and the Fire Chief.

2.48.040 Powers and duties.

It shall be the duty of the City of San Bruno Disaster Council, and it is hereby empowered, to develop and recommend for adoption by this governing body, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet at least once per year, upon call of the chair or, upon call of the vice chair (in the absence of the chair).

2.48.050 Director and Assistant Director of Emergency Services.

There is an office of director of emergency services. The city manager shall be the director. If the city manager is absent or unable to fulfill the duties of director of emergency services, the assistant city manager or acting city manager, as established by resolution of the city council, shall serve as director during the period of emergency.
2.48.060  Powers and Duties of the Director and Assistant Director of Emergency Services.

A. The director is hereby empowered to:

1. Request the governing body to proclaim the existence or threatened existence of a “local emergency” if the governing body is in session, or to issue such proclamation if the governing body is not in session. Whenever a local emergency is proclaimed by the director, the governing body shall take action to ratify the proclamation within seven (7) days thereafter or the proclamation shall have no further force or effect.

2. Request the Governor to proclaim a “state of emergency” when, in the opinion of the director, the circumstances are beyond the jurisdiction’s capacity to adequately respond to or recover from the emergency.

3. Control and direct the effort of this emergency organization for the accomplishment of the purposes of this ordinance.

4. Direct cooperation between and coordination of services and staff of this emergency organization; and resolve questions of authority and responsibility that may arise between them.

5. Represent this jurisdiction in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

6. In the event of the proclamation of a “local emergency” as herein provided, the proclamation of a “state of emergency” by the Governor, or the existence of a “state of war emergency,” the director is hereby empowered:

   (a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the governing body;

   (b) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the jurisdiction for the fair value thereof and, if required immediately, to commandeering the same for public use;

   (c) To require emergency services of any officer or employee and, in the event of the proclamation of a “state of emergency” in the county in which this city is located or the existence of a “state of war emergency,” to command the aid of as many citizens of this community as deemed necessary in the execution of duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster services workers;

   (d) To requisition necessary personnel or material of the departments or agencies; and

   (e) To execute all ordinary power as city manager all of the special powers conferred by this ordinance or by resolution or emergency plan pursuant hereto adopted.
by the governing body, all powers conferred by any statute, by any agreement approved by the governing body, and by any other lawful authority.

B. The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform duties during an emergency. Such order of succession shall be approved by the Governing body.

C. The assistant director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this jurisdiction; and shall have such other powers and duties as may be assigned by the director.

D. In the event of the proclamation of a local emergency or state of emergency, or the existence of a state of war emergency, the director shall also have the following powers:

1. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency. Such rules and regulations must be confirmed at the earliest practicable time by the city council;

2. To obtain vital supplies, equipment and other property found lacking and needed for the protection of life and property, and to bind the city for the fair value thereof. If required immediately, he or she shall have the power to commandeer the same for public use;

3. To require emergency service of any city officer or employee. In the event the proclamation of a state of emergency in San Mateo County or the existence of a state of war emergency, to command the aid of as many citizens of the community as he or she deems necessary in the execution of these duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers; and

4. To requisition necessary personnel or material for any city department or agency.

5. To execute:

   (a) All of his or her ordinary powers as city manager;

   (b) All of the special powers conferred upon him or her by this chapter or by resolution adopted pursuant thereto; and

   (c) All powers conferred upon him or her by any statute, agreement approved by the city council or by any other lawful authority, and in conformity with Section 38791 of the Government Code.

6. To exercise complete authority over the city and to exercise all police power vested in the city by the constitution and general laws of the state.

2.48.070 Emergency organization.

All officers and employees, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or
operation of law, including persons impressed into service under the provisions of 2.48.060(D)(3) of this chapter, be charged with duties incident to the protection of life and property during such emergency, shall constitute the emergency organization of the city of San Bruno.

2.48.080 Compliance with the California Emergency Services Act.

The City of San Bruno Disaster Council shall comply with the California Emergency Services Act.

2.48.090 Emergency plan.

The City of San Bruno Disaster Council shall be responsible for the development of the Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of this jurisdiction, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the governing body.

2.48.100 Expenditures.

Any expenditure made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of City of San Bruno.

2.48.110 Relationship with San Mateo Operational Area.

The city shall be a member of the San Mateo Operational Area Disaster Organization, which serves to coordinate emergency services and disaster plans, programs and agreements between the political subdivision and the officer of emergency services of the state. The mayor, or an alternate from and designated by the city council shall be a member of said disaster organization, which serves as the governing body for the area disaster organization.

2.48.120 Certain acts prohibited.

It shall be a misdemeanor, punishable in accordance with Section 1.28.010(A) (Violations of a misdemeanor or infraction) of this code, during an emergency, to:

A. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this ordinance, or in the performance of any duty imposed upon him by virtue of this ordinance.

B. Do any act forbidden by any lawful rule or regulation issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy or imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof.

C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State.
2.48.130 Emergency Preparedness Committee.

A. There is hereby established the San Bruno Emergency Preparedness Committee of the city. The committee shall consist of five members, who shall be residents of the city and not employees of the city (members serving at the time this ordinance takes effect are excepted).

B. The committee shall be assisted by the director of public works or his or her designated representative, the chief of police or his or her designated representative, and the fire chief or his or her designated representative. (Ord. 1621 § 2, 1999)

C. Members of the committee shall be appointed by and serve at the pleasure of the mayor with the majority approval of the city council, subject to removal at any time, pursuant to city council procedures. If a vacancy shall occur in such appointment other than by expiration of term, it shall be filled by appointment for the unexpired term. (Ord. 1621 § 2, 1999)

D. The term of office of each member is four years. (Ord. 1621 § 2, 1999)

E. The emergency preparedness committee shall have the following duties:

1. To prepare the citizens of the city for disasters and emergencies through the provision of emergency preparedness education;

2. To advise and make recommendations to the director of emergency services regarding the posture of the city to render emergency relief to its citizens and their property in the event of a major disaster;

3. To maintain liaison with the county disaster office through the disaster coordinator;

4. To compile and maintain a file for ready reference of all resources available within the city that may be required for emergency relief;

5. To act as a planning staff at the direction of the director of emergency services to prepare plans for the protection and relief of the community in event of a disaster; and

6. To perform such other duties and functions as may be directed by the director of emergency services.

F. Any official recommendation or actions of the emergency preparedness committee shall be made to the director of emergency services.

G. The director of emergency services may approve, modify or deny such recommendations or actions, or refer them to the city council. He or she may also refer matters back to the emergency services committee for further study. (Ord. 1621 § 2, 1999)

H. All members of the committee shall be voting members.
I. Three committee members shall constitute a quorum for the transaction of business. (Ord. 1621 § 2, 1999)

J. The committee shall elect a chairperson, vice chairperson and secretary for a one year term each January. In the absence of a chairperson, or if a vacancy occurs in the office of chairperson, the vice chairperson shall serve as chairperson.

K. The committee shall establish a regular meeting schedule. In accordance with the Ralph M. Brown Act, all meetings shall be open and public, except as otherwise permitted by law. Such regular meeting schedule shall be approved by resolution of the city council.

L. Special meetings, adjournments and continuances of meetings, hearings, executive sessions during meetings and disorderly conduct during meetings shall be governed by Sections 2.04.040 through 2.04.090, with all references therein to the city council and the mayor or residing officer to be applicable, for purposes of this section, to the committee and its chairperson or presiding officer. (Ord. 1639 § 2, 2001; Ord. 1621 § 2, 1999)

M. By-laws. The committee shall prepare by-laws governing its operations and including rules of procedure governing the conduct of its meetings. Except as provided in the rules of procedure to the contrary, Robert’s Rules of Order Revised shall govern the conduct of such meetings. The by-laws shall be approved by the city council. The committee shall review its by-laws on an annual basis. (Ord. 1621 § 2, 1999)

N. Minutes. The committee shall issue copies of the minutes of each committee meeting to the city manager, the city clerk and the city council.

O. Annual Report. The committee’s actions, activities and achievements during the preceding year, its goals for the subsequent year and any recommendations for improvement in providing service to the city. A summary of the annual report shall be presented orally at a regular city council meeting. (Ord. 1621 § 2, 1999)

Chapter 2.50 CULTURE AND ARTS COMMISSION

2.50.010 Findings and purpose.

The city council finds and declares:

A. Preservation of San Bruno’s diverse cultural heritage is a significant and vital community interest.

B. Cultural and artistic development and growth enhance the quality of life and improve the image and character of the community.

C. The city council of San Bruno deems acquiring and maintaining art and supporting and promoting cultural and artistic programs and events to be important and beneficial to the city of San Bruno and its citizens.
D. The city council finds and declares the establishment of a Culture and Arts Commission will increase the general welfare by promoting and preserving the city’s cultural and artistic resources. (Ord. 1688 § 3, 2003)

2.50.020 Establishment.

The San Bruno culture and arts commission is hereby established. (Ord. 1688 § 3, 2003)

2.50.030 Definition.

Culture and arts means but is not limited to: performance arts, such as drama, music, and dance; visual, tactile or textile arts, such as painting, sculpture, photography, lighting, holograms, graphics, video art, pottery, quilting, and applied art; literary arts, such as literature, poetry, and journalism; communications arts involving film, television, and radio; and other similar expressions of cultural meaning and heritage. The city council intends that culture and arts shall be defined broadly. (Ord. 1688 § 3, 2003)

2.50.040 Members—Terms.

The culture and arts commission is an advisory commission and shall consist of seven commissioners, who at the time of their appointment and continuously during their incumbency shall not be employees of the city. The term of the office of the commissioners shall be four years. However, the city council may by written policy institute terms of less than four years initially and whenever necessary in order to create staggered vacancies. (Ord. 1688 § 3, 2003)

2.50.050 Appointment—Removal—Vacancy.

The members of the commission shall be appointed by a majority of the city council, subject to removal at any time, pursuant to city council procedures. If a vacancy shall occur in such appointment other than by expiration of term, it shall be filled by appointment for the unexpired term by a majority of the city council. The members of the commission shall serve at the pleasure of the city council. (Ord. 1688 § 3, 2003)

2.50.060 Qualifications.

The members shall be selected from among those in the community, including up to two non-residents, who have a special knowledge of and a demonstrated interest in the arts and who are interested in promoting such activity. In making appointments to the commission, the city council may consider representation on the commission from a number of arts-related disciplines and activities, including but not limited to, the following:

A. Performance arts, such as drama, music, and dance;

B. Visual, tactile or textile arts, such as painting, sculpture, photography, lighting, holograms, graphics, video art, pottery, quilting, and applied art;

C. Literary arts, such as literature, poetry and journalism;

D. Communications arts involving film, television, and radio;

E. Art education, such as schools, libraries and community education; and
F. Funding, such as fundraisers, representatives of public and private funding agencies and art patrons. (Ord. 1688 § 3, 2003)

2.50.070 Compensation.

No person shall receive any compensation for his or her services as a member of the commission, except for reimbursement of all such expenses necessarily and legitimately incurred and authorized during the performance of official duties. (Ord. 1688 § 3, 2003)

2.50.080 Officers.

The commission shall select one of its voting members as chairperson and another as vice chairperson, each serving a term not to exceed one year. (Ord. 1688 § 3, 2003)

2.50.090 Meetings.

A. The commission shall establish a regular meeting schedule. In accordance with the Ralph M. Brown Act, all meetings shall be open and public, except as otherwise permitted by law. Such regular meeting schedule shall be approved by resolution of the city council.

B. Special meetings, adjournments and continuance of meetings, hearings, closed sessions during meetings, and disorderly conduct during meetings shall be governed by Section 2.04.040 through 2.04.090, with all references therein to the city council and the mayor or presiding officer to be applicable, for purposes of this section, to the commission and its chairperson or presiding officer. (Ord. 1688 § 3, 2003)

2.50.100 By-laws—Rules of procedure—Quorum.

A. By-laws. The commission shall prepare by-laws governing its operations and including rules of procedure governing the conduct of its meetings. Except as provided in the rules of procedure to the contrary, Robert’s Rules of Order Revised or Rosenberg’s Rules, as specified in the by-laws, shall govern the conduct of such meetings. The by-laws shall be approved by the city council. The commission shall review its by-laws on an annual basis.

B. Quorum. Four members of the commission shall constitute a quorum for the transaction of business. (Ord. 1688 § 3, 2003)

2.50.110 Minutes—Annual report.

A. Minutes. The commission shall issue copies of the minutes of each commission meeting to the city manager, the city clerk, and the city council.

B. Mission Statement and Annual Report. The commission shall create a mission statement detailing the commission’s long-range plans and the steps the commission will make in order to achieve its objectives. The mission statement may include a needs assessment of the community, an inventory of public artworks, cultural facilities, and art services within the community. Within the commission’s first year, the commission shall make an initial written report to the city council regarding its mission plan. Thereafter, the commission shall provide an annual written report to the city council regarding its mission statement, long range plans, its action plan, the commission’s actions, activities, and achievements during the preceding year,
and any recommendations for improvement in providing services to the city. A summary of the report shall be presented orally at a regular city council meeting. (Ord. 1688 § 3, 2003)

2.50.120 Duties and responsibilities.

The commission shall have the duties and responsibilities listed below.

A. To review and make recommendations to the city council for its action in all matters pertaining to culture and art, including formulating policies,

B. To develop a five-year capital improvement program for culture and arts in San Bruno for review and approval by the city council.

C. To create an annual budget that supports and reflects the long-range culture and arts goals as articulated in the five-year capital improvement program for review and approval by the city council.

D. To make recommendations to the city council for its action on the acquisition, selection and placement of public art.

E. To make initial and periodic inventories of existing public art, location and condition and to locate and catalog potential public art sites which shall be reported to the city council.

F. To make recommendations to the city council for its action on issues related to planning, supporting and developing culture and art related facilities, projects, programs, and events.

G. To cooperate with other governmental agencies and civic groups in the advancement of sound planning of culture and arts in the city of San Bruno, subject to approval by the city council,

H. To administer the art in public places program as set forth in Chapter 3.40 of the San Bruno Municipal Code.

I. To perform such duties as may be assigned to the commission by the city council. (Ord. 1688 § 3, 2003)

2.50.130 Gifts.

The commission may receive donations, gifts, legacies, endowments or bequests for purposes consistent with the commission’s goals and objectives, subject to the final approval of the city council. All monetary donations, gifts, legacies, endowments and bequests shall be turned over to the director of finance or his or her designee and shall be kept in a special fund designated for culture and art purposes. (Ord. 1688 § 3, 2003)

Section 4. California Environmental Quality Act (CEQA). This ordinance is not a “project” pursuant to Section 21065 of the Public Resource Code because it does not change the existing regulatory scheme.

Section 5. Severability. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity
shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Section 6. Effective Date. The City Clerk shall certify to the adoption of this ordinance and shall cause a summary thereof to be published in a newspaper of general circulation at least five (5) days prior to the meeting at which the proposed ordinance is to be adopted and shall post a certified copy of the proposed ordinance in the office of the City Clerk, and within fifteen (15) days of its adoption, shall cause a summary of it to be published, including the vote for and against the same, and shall post a certified copy of the adopted ordinance in the office of the City Clerk, in accordance with California Government Code Section 36933.

Rico E. Medina, Mayor

ATTEST:

Melissa Thurman, City Clerk

APPROVED AS TO FORM:

Marc Zafferano, City Attorney

--oOo--

I hereby certify that foregoing Ordinance No. _________ was introduced at a regular meeting of the San Bruno City Council on __________, 2019, and adopted by the San Bruno City Council at a regular meeting on __________, 2019 by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:
RESOLUTION NO. ____  
CITY OF SAN BRUNO, COUNTY OF SAN MATEO  
STATE OF CALIFORNIA

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO ELECTING  
TO BECOME SUBJECT TO THE UNIFORM PUBLIC CONSTRUCTION COST  
ACCOUNTING PROCEDURES SET FORTH IN THE UNIFORM PUBLIC  
CONSTRUCTION COST ACCOUNTING ACT AND DIRECTING THE CITY  
MANAGER TO NOTIFY THE STATE CONTROLLER OF THIS ELECTION

WHEREAS, California Public Contract Code Section 22000, et seq., the Uniform  
Public Construction Cost Accounting Act (the "Act"), establishes a uniform cost accounting  
standard for construction work contracted by local agencies; and

WHEREAS, the California Uniform Construction Cost Accounting Commission (the  
"Commission"), established under the Act, has developed uniform public construction cost  
accounting procedures for implementation by local public agencies in the contracting for  
construction of public projects; and

WHEREAS, the City Council of the City of San Bruno elects to become subject to the  
procedures set forth in the Act, and to the Commission's policies and procedures manual, as  
they may each be amended from time to time.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE  
CITY OF SAN BRUNO elects, under California Public Contract Code Section 22030, to become  
subject to the Uniform Public Construction Cost Accounting Act, and to the California Uniform  
Construction Cost Accounting Commission's policies and procedures manual, as they may each  
be amended from time to time; and

BE IT FURTHER RESOLVED that the City Council directs the City Manager or  
designee to notify the State Controller's Office of this election.

ATTEST:  
Melissa Thurman, City Clerk

______________________

I, Melissa Thurman City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this ___ day of ____ 2019 by the following vote:

AYES: Councilmembers:  ____________________________________________
NOES: Councilmembers:  ____________________________________________
ABSENT: Councilmembers:  ____________________________________________
RESOLUTION NO. ____________

RESOLUTION BY THE CITY COUNCIL OF SAN BRUNO REGARDING MASTER MUTUAL AID AGREEMENT

WHEREAS, EARL WARREN, Governor of the State of California, on the 15th day of November, 1950, executed the California Disaster and Civil Defense Master Mutual Aid Agreement on behalf of the State of California and all its Departments and Agencies;

NOW, THEREFORE, the City Council of the City of San Bruno does, by resolution, hereby approve and agree to abide by said California Disaster and Civil Defense Master Mutual Aid Agreement; and the City Clerk is hereby authorized and directed to send a certified copy of this resolution to the California Governor’s Office of Emergency Services.

Adopted and approved ________________, ______

(Date)

_______________________________________
Mayor, City of San Bruno

ATTEST:

____________________
Clerk/Recorder

Mail a certified copy to:
California Governor’s Office of Emergency Services
Attn: Preparedness /Local Disaster Council
3650 Schriever Avenue
Mather, CA 95655
RESOLUTION NO.________________

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SAN BRUNO
RELATIVE TO WORKERS’ COMPENSATION BENEFITS FOR
REGISTERED DISASTER SERVICE WORKER VOLUNTEERS

WHEREAS, Section 8585.5 of the Government Code provides: The California Governor’s Office of Emergency Services (Cal OES) shall establish by rule and regulation various classes of disaster service worker volunteers and the scope of the duties of each class. Cal OES shall also adopt rules and regulations prescribing the manner in which disaster service worker (DSW) volunteers of each class are to be registered. All of the rules and regulations shall be designed to facilitate the payment of workers’ compensation; and

WHEREAS, Cal OES adopted rules and regulations establishing classes of DSW volunteers, the scope of duties of each class, and the manner of registration; and

WHEREAS, Section 8612 of the Government Code provides: Any disaster council which both agrees to follow the rules and regulations established by Cal OES pursuant to the provisions of Section 8585.5 and substantially complies with those rules and regulations shall be certified by the office. Upon that certification, and not before, the disaster council becomes an accredited disaster council; and

WHEREAS, the City of San Bruno has registered and will hereafter register DSW volunteers; and

WHEREAS, the City of San Bruno desires to become an “accredited disaster council” organization in order that injured DSW volunteers registered with it may benefit by the provisions of Chapter 10 of Division 4 of Part 1 of the Labor Code;

NOW, THEREFORE, the Council of the City of San Bruno hereby agrees to follow the rules and regulations established by Cal OES pursuant to the provisions of Government Code Section 8585.5.

The Clerk/Recorder is hereby instructed to send a certified copy hereof to Cal OES.

Effective: ______________, ______
(Date)

_____________________________________
Mayor, City of San Bruno

ATTEST:
Mail a certified copy to:
California Governor’s Office of Emergency Services
Preparedness Branch
3650 Schriever Avenue
Mather, CA 95655
DATE: June 25, 2019

TO: Honorable Mayor and Members of the City Council

FROM: Marc Zafferano, City Attorney

SUBJECT: Waive First Reading and Introduce an Ordinance Regarding Amendments to San Bruno Municipal Code Title 3 (Revenue and Finance) as part of a comprehensive Municipal Code Update

BACKGROUND:

At its meeting on October 9, 2018, the City Council directed staff to work with the City’s code publisher, Quality Code Publishing (“QCP”) to obtain a technical review of the City’s Code and recommend amendatory actions. It is intended that this comprehensive Municipal Code update occur on an iterative basis. Previously, the City Council adopted amendments to Title 1, General Provisions, and Title 2, Administration and Personnel. Title 3, Revenue and Finance, consists of the following chapters and are being amended as generally explained below and described more specifically in the discussion section of this report.

On June 11, 2019, the City Council reviewed proposed amendments to the remainder of Title 3, and provided direction to return with an ordinance for introduction. The attached ordinance incorporates all amendments reflected previously.

Article 1 Business Taxes

Chapter 3.04 Definitions Amendments
Chapter 3.08 General Provisions Amendments
Chapter 3.12 Applications for License – Payment of Tax Amendments
Chapter 3.16 Schedule of Taxes Amendments

Article 2 Other Taxes

Chapter 3.20 Definitions Amendments
Chapter 3.24 Tax Function Transfers No change
Chapter 3.28 Sales and Use Tax No change
Chapter 3.32 Transient Occupancy Tax Amendments
Chapter 3.36 Real Property Documentary Stamp Tax Amendments
Chapter 3.38 Additional Provisions Amendments
Honorable Mayor and Members of the City Council
June 25, 2019
Page 2 of 6

Article 3  Fees

Chapter 3.40 Art in Public Places Amendments

DISCUSSION:

General Comment

Some definitions in Title 3 differ slightly from the same word or phrase in other chapters in the Municipal Code. In order to bring the definitions into alignment, a few definitions are revised and some definitions in Title 3 will simply refer to the section in the chapter that regulates that particular business. It is recommended that other definitions await the review and amendment of later chapters such as the zoning code due to the more in-depth policy review and examination required.

Chapter 3.04, Definitions (Article I, Business Taxes)

Section 3.04.030, Auxiliary Unit.
Eliminated “milk receiving stations for dairies” from list of facilities that constitute an “auxiliary unit” as not relevant today.

Section 3.04.150, Family.
Over time and as a result of litigation, codes have moved away from regulating zoning based on biological or legal relationships which intruded into privacy and moved toward regulating based on space, occupancy maximum, building codes, and/or shared housekeeping obligations. The current definition is revised to avoid these issues by referring to the zoning code’s definition of “housekeeping” as “a single living unit, consisting of a room or suite or combination of rooms, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.”

Section 3.04.170, Gross receipts.
This is a minor revision updating citation language.

Section 3.04.190, Peddler.
Cal. Gov’t Code Section 51036, and following (also known as SB 946) is the new state law regulating street vendors, both roaming and stationary, and which will necessitate a change to the city’s existing law contained in Chapter 4.18 (Pushcart and Sidewalk Vendors) and may also require changes to Chapter 4.16 (Peddlers) and Section 6.12.080 (Solicitation regulations).

In Title 3, there are definitions for both “peddler” and “solicitor” with the difference being that peddlers take orders for immediate delivery and solicitors for future delivery. Peddlers are regulated in Chapter 4.16. The definition in that chapter combines...
peddlers and solicitors into one definition called “peddler.” This amendment to Title 3 (and that to “Solicitor” below) makes a similar change.

Section 3.04.200, Person.
Eliminated from the definition of “person” is "Massachusetts business or common law trust" because that reference is outdated.

Section 3.04.230, Sale.
Adds a title to a referenced section for the purpose of clarity.

3.04.240, Solicitor.
See comments above under “peddler.” The term "solicitor" should be removed from the code as redundant and as additional titles are amended.

Chapter 3.08, General Provisions.

Section 3.08.020, License required – Violations.
Adds a chapter title to a reference chapter for the purpose of clarity.

Section 3.08.100, Exemptions – constitutional and statutory.
The PUC regulates charter party carriers, which are transportation companies operating on a pre-arranged basis like a limousine for hire. In 2013, the PUC created a new transportation category called a “transportation network company” or “TNC” to regulate companies like Uber and Lyft. As provided by Section 5431(a) of the Public Utilities Code, a TNC means "an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle."

TNCs are subject to state jurisdiction as a charter-party carrier. Recently, the legislature enacted two new laws to regulate TNCs. One statute requires TNCS to obtain local and national criminal background checks on each participating driver. (Ca. Pub. Util. section 5445.2, also known as AB 1289). Another enactment protects drivers who operate in multiple jurisdictions as part of a transportation network company from having to obtain a license in every jurisdiction. (Ca. Bus. & Prof. Code s. 16550.2) The law provides a TNC driver is only required to obtain a single business license in the jurisdiction in which the driver is domiciled, regardless of the number of local jurisdictions in which the driver might operate. If the local jurisdiction where the driver is domiciled does not require such a business license, the drive is not required to obtain a business license in any other jurisdiction. An additional exception has been added to subsection A of this section of the City’s code to provide for this business license exemption.
Chapter 3.12, Applications for License – Payment of Tax

Section 3.12.100, Contents of license.
Added the title of a referenced section for purpose of clarity.

Section 3.12.250, Designated penalty.
Added the title of a referenced section for purpose of clarity.

Chapter 3.16, Schedule of Taxes.

Section 3.16.120, Peddlers and solicitors.
Added the titles of referenced sections for purpose of clarity.

Section 3.16.130, Public dances – Place of public dance.
Added the title of a referenced section for purpose of clarity.

Section 3.16.160, Condominium projects.
Added the title of a referenced section for purpose of clarity.

Section 3.16.170, Single-family residential structures.
Added the title of a referenced section for purpose of clarity.

Chapter 3.20, Definitions (Article II, Other Taxes)

Section 3.20.100, Rental agent.
In order to address collection of transient occupancy taxes (TOT) by companies like AirBnb, a new definition of “rental agent” is added to this section in order to facilitate the collection of TOT from such companies. The amendment defines “rental agent” to mean “any person other than an operator who collects rent from a transient for the transient’s occupancy of a hotel."

Chapter 3.28, Sales and Use Tax

Section 3.28.040, Exemptions.
Adds the title of a referenced section and titles of referenced state statutes for the purpose of clarity.

Section 3.28.070, Additional seller’s permit not required.
Adds the title of a referenced state statute for the purpose of clarity.

Section 3.28.080, Rules of construction.
Adds the titles of referenced state statutes for the purpose of clarity.

Chapter 3.32, Transient Occupancy Tax
Numerous sections add “rental agent” as defined in 3.20.100 to its provisions. This clarifies existing law that transients (i.e. guests) are required to pay the tax even if they book a room through an internet platform (“rental agent.”) As part of an upcoming regulatory ordinance scheduled for review later this year, individuals who host guests in their homes through the use of a rental agent such as an internet platform will be required to remit the tax to the City unless the City has entered into an agreement with the rental agent.

Section 3.32.030 (Operator’s duties)  
Changes the title and adds a provision clarifying that if an operator or rental agent fails or refuses to collect the tax, the operator or rental agent is liable to the city for the amount of the uncollected tax.

Section 3.32.070 (Failure to collect and report tax)  
Adds a provision that nothing in this section prohibits the tax administrator from assessing the full amount of any unremitted taxes and penalties solely against the operator in lieu of assessing some or all of those taxes and penalties against the rental agent.

Section 3.32.110 (Actions to collect)  
Adds provisions reinforcing the amendments to Section 3.32.030, as described above.

Chapter 3.36, Real Property Documentary Stamp Tax

Section 3.36.020 (Tax imposed – Amount.)  
Amendment strikes state law citation that is no longer valid. Title to referenced state statute added for purpose of clarity.

Section 3.36.040, Exemptions.  
Amendment strikes invalid citations and updates a federal bankruptcy definition of “corporation” with a new citation, which when referenced, defines “corporation as follows: “The term “corporation”-- (A) includes--(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses; (ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association; (iii) joint-stock company; (iv) unincorporated company or association; or (v) business trust; but (B) does not include limited partnership.

Chapter 3.40, Art in Public Places

Section 3.40.030, Art defined.  
Adds a title to a referenced chapter and section for purpose of clarity.
FISCAL IMPACT:

None at this time. Once the City adopts a regulatory ordinance for short term rentals, the City will be able to collect TOT from either the hosts or the rental agent, resulting in increased revenue to the City. City costs to implement the tax collection and regulatory programs can be recovered from registration fees.

RECOMMENDATION:

Waive First Reading and Introduce an Ordinance Regarding Amendments to San Bruno Municipal Code Title 3 (Revenue and Finance) as part of a comprehensive Municipal Code Update

ALTERNATIVES:

1. Request additional information before introducing the ordinance.

DISTRIBUTION:

None.

ATTACHMENTS:

1. Amendments to Title 3 for introduction.
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO AMENDING TITLE 3 (REVENUE AND FINANCE) OF THE MUNICIPAL CODE AS PART OF A COMPREHENSIVE UPDATE

WHEREAS, the city adopted a codification of the general ordinances of the city of San Bruno entitled the “San Bruno Municipal Code Revised and Republished December 1998” (“the Municipal Code” or “the Code”) which was authorized and approved by Ordinance No. 1604 and adopted January 11, 1999, pursuant to Government Code Sections 50022.1-50022.10;

WHEREAS, since that time, the Municipal Code has been regularly amended and augmented with new ordinances expanding its volume and complexity; and

WHEREAS, at its meeting on October 9, 2018, the City Council directed staff to work with the City’s code publisher, Quality Code Publishing (“QCP”) to obtain a technical review of the City’s Code with the purpose of identifying citation conflicts and inconsistencies with state law as well as obsolete provisions, and recommend amendatory actions; and

WHEREAS, in response to the analysis and recommendations of Municode and additional staff recommendations, the City is amending its Code on an iterative basis; and

WHEREAS, the amendments contained in this Ordinance relate to Title 3 (Revenue and Finance) and are generally recommended for reasons of compliance, consistency, citation updates, and/or to reflect current terminology and/or practices.

NOW, THEREFORE, the City Council of the City of the City of San Bruno does ordain as follows:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2. Editorial guidance. The following non-substantive editorial style is used. Words that are underlined are additions; words with a line through are deleted; and words in brackets are instructions for the Code publisher and which instructions are not to be published in the City’s Code unless worded as an “editor’s note”.

In addition, the Code publisher will arrange definitions and other changes alphabetically to conform to the Code’s current style and will, as needed, re-order numbering and lettering changes caused by these amendments. The City Clerk and the City Attorney are authorized to work with the Code Publisher to effectuate non-substantive amendments to ensure consistency as to form and style of the Code.

Further, the code publisher is directed to substitute the name of an office and/or position wherever possible rather than use a gender pronoun without further or formal amendments.

SECTION 3. Title 3, Administration and Personnel, is amended and restated to read, as follows:
Article I. Business Taxes

Chapter 3.04 Definitions

3.04.010 Generally.

For the purposes of this article the words and phrases set forth in Sections 3.04.020 through 3.04.270 shall have the meanings respectively ascribed to them. (Ord. 1420 § 1, 1983; prior code § 12-1.1)

3.04.020 Apartment house.

“Apartment house” means any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and includes flats and apartments. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (A))

3.04.030 Auxiliary unit.

“Auxiliary unit” means an establishment primarily engaged in performing supporting services for other establishments of the same business rather than for the general public or for other businesses. “Auxiliary unit” includes but is not limited to the following:

A. A separate research and development or testing laboratory operated for manufacturing plants of the same business.

B. A separate warehouse or storage yard for merchandise of establishments of the same business for its own use and not for public storage.
C. Trading stamp redemption stores.

D. An automotive repair shop or storage garage operated by a department store, manufacturing, or transportation company, for its own use and not for the public (commercial) repair or storage of vehicles.

E. A separate repair shop serving various establishments of the same business primarily for the maintenance and repair of its own machinery and equipment.

F. Showrooms in which sales do not take place.

G. Field engineering support activities.

H. Separate establishments engaged in news collection, editorial work, or advertising sales related to the publishing activity of the same company.

I. A separate establishment providing equipment to construction establishments of the same business.

J. Computing, tabulating, or data processing establishments primarily operated for a business’ own use, rather than for the general public or for other business firms.

K. Purchasing offices of multiunit firms.

L. Accounting and billing offices operated for company use. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (B))

3.04.040 Average number of persons employed.

“Average number of persons employed” means the number of employees, as defined in Section 3.04.140, employed within the city, earning wages during pay periods nearest the fifteenth day of each month as reported to the state department of employment on forms which are used for reporting payments under the Unemployment Insurance Act, for each month of the previous calendar year, adding the same and dividing by twelve. If the employer has been in business less than one year, he or she may use the average number of employees who will be employed by him or her during the remainder of the calendar year. At the option of the licensee, the average number of persons employed daily in his or her business for one year for the purpose of fixing the license tax due under this chapter shall be determined by ascertaining the total number of hours of service performed by all employees in the city during the previous year and dividing the total amount of hours of service thus obtained by the number of hours of service constituting a year’s work of one full-time employee according to the custom or laws governing such employment. In computing the average number of persons employed, fractions of numbers shall be excluded. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (C))

3.04.050 Business.

“Business” means professions, trades and occupations and every kind of calling, whether or not carried on for profit or livelihood. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (D))
3.04.070 Central administrative office.

“Central administrative office” means an establishment primarily engaged in general administrative, supervisory, accounting/purchasing, engineering and systems planning, advertising, legal, financial, or related management functions performed centrally for other establishments of the same business. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (F))

3.04.080 Community apartment.

“Community apartment” means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (G))

3.04.090 Condominium.

“Condominium” means an estate in real property consisting of any undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building. Such separate interest may, with respect to the duration of its enjoyment, be either an estate of inheritance, or perpetual estate, an estate for life, an estate for years, such as a leasehold or subleasehold, or a right to use. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (H))

3.04.100 Condominium project.

“Condominium project” means an undertaking whereby either:

A. Real property is developed or will be developed with dwellings consisting of two or more dwelling units; or

B. The estate or interest in one or more existing dwellings consisting of two or more dwelling units has been converted or is to be converted to one or more of the following forms of estates or interests in real property:

1. Condominiums;
2. Community apartments;
3. Stock cooperatives;
4. Such other estate or property interest by which a purchaser or occupant of a dwelling unit in such a dwelling may obtain a transferable, monetary equity accumulating right of ownership, occupancy, or use of such dwelling unit or the airspace therein, as opposed to the right of a mere tenant or lessee in a dwelling unit. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (I))

3.04.110 Condominium unit.

“Condominium unit” means a dwelling unit within a condominium project. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (J))
3.04.120 Development and construction.

“Development and construction” means any and all acts, connected with the building, erection, construction, creation, production, conversion into, subdivision to create or improvement to create any condominium project or single-family residential structure. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (K))

3.04.130 Electrical musical device.

“Electrical musical device” means any machine, apparatus, or device operated or which may be operated by electricity, and:

1. Is designed or constructed for the purpose of producing or playing any musical tone or combination of tones;

2. The use, operation or playing of which is commenced, permitted, or allowed by the deposit of any coin, slug, or token in any slot or receptacle attached thereto; and

3. Which does not dispense any article or thing which cannot be operated as a game or contest. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (L))

3.04.140 Employee.

“Employee” means any person engaged in the operation or conduct of any business, whether as owner, any member of owner’s family, partner, agent, manager, solicitor and any and all persons employed or working in said business. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (M))

3.04.150 Family.

“Family” means one or more persons occupying a premises and living as a single housekeeping unit as defined in 12.80.265 (Housekeeping unit) of Chapter 12.80 (Definitions) of Title 12 (Land Use) of this code, as distinguished from a group occupying a motel, club, fraternity or sorority house. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (N))

3.04.160 Fixed place of business.

“Fixed place of business” means a place of business regularly kept open, with someone in charge thereof, for the transaction of the particular business engaged in during the hours customary to transact such business. Any person residing in the city and maintaining in his or her home any office for the transaction of details incidental to a business carried on elsewhere shall be deemed to have a fixed place of business. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (O))

3.04.165 Gambling club.

“Gambling club” means any establishment where legal gambling or gaming is conducted or licensed, specifically including any business or other enterprise that conducts or operates legal gambling or gaming. “Gambling club” does not include any facility operated by any bona fide nonprofit society, club, fraternity, labor, or other organization organized for similar purposes, which has adopted bylaws and duly elected directors and members, where the tables are for the
exclusive use of the members of the organization, and no charge is made for any of the
facilities. “Legal gambling” means any card or other game, except for bingo, played for
currency, check, credit or any other thing of value which is not prohibited and made unlawful by
Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title
9 of Part 1 of the Penal Code, or otherwise prohibited by any ordinance of the city of San Bruno.
(Ord. 1476 § 3, 1987)

3.04.170 Gross receipts.

“Gross receipts,” except as otherwise specifically provided, means and includes the total
of amounts actually received or receivable from the sales and/or the total amounts actually
received or receivable for the performance of any act or service, of whatever nature it may be,
for which a charge is made or credit allowed, including interest and carrying charges in
connection with such sales or services, whether or not such act or service is done as a part of or
in connection with the sale of materials, goods, wares or merchandise.

A. Included in such term shall be all receipts, cash, credits, redemption stamps, and
property of any kind or nature, without any deduction therefrom on account of the cost of
materials used, labor or service costs, interest paid or payable, or losses or other expenses
whatsoever.

B. Not included in such term shall be the following:

1. Cash discounts allowed and taken on sales;

2. Sales, use, transient occupancy or any taxes, required by law to be included or
added to the purchase price and collected from the consumer or purchaser;

3. Such part of the purchase price of property returned by purchasers upon
rescission of the contract of sale as is refunded in either case or by credit;

4. Receipts of persons acting as agents, brokers or trustees, provided the agent,
broker, or trustee has furnished the collector with the names and addresses of the others and
the amounts paid to them, other than receipts received as commissions or fees earned, or
charges of any character received for the performance of any service as agent, broker, or
trustee. However, any agent, broker, or trustee dealing stocks or any other similar written
instruments evidencing a right to participate in the assets of any business, or dealing in bonds
or other evidences of indebtedness, who also deals in such property as a principal, shall include
in the gross receipts by which the tax is measured the amount of his or her trading profits
resulting from such dealings. No deduction from receipts attributable to trading as a principal
shall be made unless such deduction is provided for in this section;

5. Receipts of refundable deposits, except that refundable deposits forfeited and
taken into the income of the business shall not be excluded;

6. As to a retail gasoline dealer, a portion of his or her receipts from the sale of
motor vehicle fuel equal to the motor fuel license imposed by and previously paid under the
provisions of Part 2 of Division 2 of the Revenue and Taxation Code of the state;
7. As to retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of the United States Code, as it may be amended from time to time, if paid by the dealer or collected by him or her from the consumer or purchaser;

8. That portion of the receipts of a general contractor which represents payments to subcontractors; provided, that such subcontractors are licensed (or taxed) under this article, and provided, that the general contractor furnishes the tax collector with the names and addresses (personal and/or business) of the subcontractor and the amounts paid or payable to each subcontractor;

9. Cash value of sales, trades, or transactions between departments or units of the same business, commonly called "interdepartmental transfers;"

10. Sales for convenience where sales of new goods, wares, or merchandise are made by a person engaged in selling such articles to another person similarly engaged where:
   i. The primary purpose of the particular transaction of sale is to accommodate the purchaser rather than to make a sale in the ordinary course of business, and the price paid is essentially the book value of the article; and
   ii. Where, in the particular kind of business involved, a similar manner of dealing is frequent or customary in the circumstances under which the particular sale is made; and
   iii. Where goods, wares, or merchandise of like or similar kind and of substantially equivalent value to that which was sold is received in consideration;

11. The amount of gross receipts which has been subject to a license tax paid to any other city;

12. Gross receipts from the sale of alcoholic beverages. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (P))

3.04.180 Mechanical amusement devise.

"Mechanical amusement device" means any machine, device, or contrivance designed, constructed or operated for the playing of any game or contest, or for the exhibition of any display or picture for amusement, the use, operations, or playing of which is dependent upon or is commenced, permitted, or allowed by the deposit of any coin, slug, or token in any slot or receptacle attached thereto or connected therewith. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (Q))

3.04.190 Peddler.

"Peddler" means as defined in Section 4.16.020 (Definitions) of Chapter 4.16 (Peddlers) of this code. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (R)

[Publisher: This definition combines the two definitions which makes it consistent with 4.16.020 and 6.12.080.]

[Related references: 3.16.120, 6.12.080]
3.04.200 Person.

“Person” means any domestic or foreign corporation, association, syndicate, joint stock corporation, partnership of any kind, club, society or individual transacting and carrying on any business in the city, other than as an employee. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (S))

3.04.210 Room.

“Room” means a space in a structure for living, eating, sleeping, or cooking. “Room” does not include bathrooms, toilet compartments, halls, storage or utility space, and similar areas. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (T))

3.04.220 Roominghouse.

“Roominghouse” means a dwelling other than a hotel where lodging is provided for three or more persons for compensation. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (U))

3.04.230 Sale.

“Sale,” as used in Section 3.16.160 (Condominium projects), means a conveyance or transfer of title to a condominium unit, to a community apartment, or to a single-family residence or lot, an issuance of stock and leasehold interest pertaining to a condominium unit or to a community apartment, or any other issuance or transfer of an equity interest in a condominium project unit to a unit purchase in such form as may be appropriate to the particular type of condominium project. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (V))

3.04.240 Solicitor.

“Solicitor” means the same thing as “peddler” and which is defined in Section 3.04.190 herein. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (W))

[Publisher: This definition combines the two definitions which makes it consistent with 4.16.020 and 6.12.080.]

[Related references: 3.16.120, 6.12.080]


“Standard Industrial Classification Manual” means the most recently published edition of the Standard Industrial Classification Manual of the Office of Management and Budget of the Executive Office of the President of the United States. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (X))

3.04.260 Stock cooperative.

“Stock cooperative” means a corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, where all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock
or membership certificate in the corporation held by the person having such right of occupancy. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (Y))

3.04.270 Temporary vendor.

“Temporary vendor” means any person engaging in the business of selling or taking orders for goods, wares, merchandise, or other things of value, whether in his or her actual possession or for future delivery, from a fixed place of business, for a period of time not exceeding thirty days, without any intention of engaging in such business at such location on a permanent basis. (Ord. 1420 § 1, 1983; prior code § 12-1.1 (Z))

3.04.280 Vehicle vendor.

“Vehicle vendor” means any person (natural person, firm, partnership, association, corporation, or other entity) vending from a vehicle used for the purposes of selling, or offering for sale, goods or merchandise to the public. “Vending vehicles” means and includes but is not limited to any catering truck, lunch wagon, eating car, van or trailer. (Ord. 1714 § 3, 2006)

Chapter 3.08 GENERAL PROVISIONS

3.08.010 Purpose.

This article is enacted solely to raise revenue for municipal purposes and is not intended for the purpose of regulation. (Ord. 1405 § 1, 1982; prior code § 12-2.1)

3.08.020 License required - Violations.

A. There are imposed upon all businesses in the city license taxes in the amounts set forth in Chapter 3.16 (Schedule of Taxes).

B. It is unlawful for any person, either for himself or herself or for any other person, to commence, transact or carry on any business in the city not excluded by this article, without first having procured a license from the city to do so, or without complying with any and all regulations contained in this article. (Ord. 1405 § 1, 1982; prior code § 12-2.2)

3.08.030 Unlawful business not authorized.

No license issued under the provisions of this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the city. (Ord. 1405 § 1, 1982; prior code § 12-2.3)

3.08.040 Conformance to other regulations required.

The payment of a license tax and the issuance of a license to any person by the city shall not entitle the licensee to carry on any business unless he or she has complied with all the requirements of this code and all other applicable laws, nor to engage in or to carry on any business in any building or in any premises designated in such license if such building or premises are situated in an area or locality in which the conduct of such business is in violation of this code, or any ordinance of the city, or any other law. (Ord. 1405 § 1, 1982; prior code § 12-2.4)
3.08.050 Evidence of doing business.

When any person shall by use of signs, circulars, cards, telephone book, or newspapers, advertise, hold out, or represent that he or she is in business in the city, for one transaction or more, or when any person holds an active license or permit issued by a governmental agency indicating that he or she is in business in the city, such facts shall be considered prima facie evidence that he or she is conducting a business in the city. (Ord. 1405 § 1, 1982; prior code § 12-2.5)

3.08.060 Enforcement of article - Exhibit of certificate on demand required.

A. It shall be the duty of the tax collector and his or her authorized deputies or assistants to enforce the provisions of this article. The chief of police shall render such assistance as the tax collector may require.

B. In the performance of his or her duties under this article, the tax collector and his or her authorized deputies and assistants may examine all places of business in the city to ascertain whether the provisions of this article have been complied with. They and any police officer shall be authorized to enter, free of charge, at any reasonable time, any place of business required to be licensed under this article and demand exhibition of its license certificate.

C. It is unlawful for any person having such license certificate in his or her possession or under his or her control to willfully fail to exhibit such certificate on demand of the tax collector, any authorized deputy or assistant of the tax collector, or any police officer. (Ord. 1405 § 1, 1982; prior code § 12-2.6)

3.08.070 Branch establishment - Separate businesses at one location.

A. Separate licenses shall be obtained for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business.

B. Separate licenses shall be obtained for each separate type of business at the same location.

C. Each license shall authorize the licensee to engage only in the business licensed thereby at the location of in the manner designated in such license.

D. Warehouses, distributing plants and other locations which generate no additional gross receipts but are used in connection with and incidental to a business licensed under this article shall not be deemed to be separate places of business or branch establishments. (Ord. 1405 § 1, 1982; prior code § 12-2.7)

3.08.080 Carrying on two or more businesses.

A. Any person managing, carrying on, or conducting two or more separate businesses subject to the payment of a license tax under more than one classification in this article, whether or not at the same location or under the same management shall pay a separate license tax for each of said businesses.
B. The gross receipts derived from that portion of the two or more businesses which is subject to a license tax other than on the basis of gross receipts, shall be deducted from the total gross receipts in determining the annual gross receipts upon which the tax based upon gross receipts is predicated. (Ord. 1405 § 1, 1982; prior code § 12-2.8)

3.08.090 Exhibiting licenses.

A. Every person having a license under the provisions of this article and carrying on a business at a fixed place of business shall keep such license posted and exhibited while in force, in some conspicuous part of the place of business.

B. Every person having such a license and not having a fixed place of business shall carry such license with him or her at all times while carrying on the business for which the license was granted. If a vehicle is used in the conduct of the business, a windshield sticker shall be attached thereto as otherwise required by this article. (Ord. 1405 § 1, 1982; prior code § 12-2.9)

3.08.100 Exemptions - Constitutional and statutory.

A. Except as may be otherwise specifically provided in this article, the terms hereof shall not be deemed or construed to apply to any of the following persons:

1. Any public utility which pays to the city a tax under a franchise or similar agreement;

2. Insurance companies and associations to the extent that cities are precluded from levying license taxes under Article 13, Section 28 of the State Constitution;

3. Banks and financial corporations to the extent that cities are precluded from levying license taxes under Part 11 of Division 2 of the Revenue and Taxation Code;

4. Any person transacting or carrying on any business exempt by virtue of the Constitution or applicable Statutes of the United States or the state from the payment of such taxes as prescribed in this article; and

5. To the extent exempted by federal or state law, including but not limited Ca. Bus. & Prof. Code 16550.2 (Driver operating in multiple local jurisdictions).

B. The tax collector may require the filing of a verified statement from any person claiming to be excluded or exempt by the provisions of this section. Such statement shall set forth all facts upon which the exclusion or exemption is claimed. (Ord. 1405 § 1, 1982; prior code § 12-2.10)

3.08.110 Exemptions from payment of tax - Charities, disabled persons and other persons.

A. Charitable and Nonprofit Organizations and Events. The provisions of this article shall not require the payment of a license tax to conduct, manage, or carry on:
1. Any business, occupation, or activity from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes or from which profits not derived, either directly or indirectly, by any individual;

2. Any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects within the city, whenever the receipts of any such event are to be appropriated to any church or school or to any religious or benevolent purpose; or

3. Any entertainment, dance, concert, exhibition, or lecture by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association whenever the receipts of any such event are to be appropriated for the purpose and objects for which the organization or association was formed, and from which profit is not derived, either directly or indirectly, by any individual.

This subsection shall not exempt any organization or association from complying with any other provisions of this code which may require a permit for any activity thereof, nor any person acting as a promoter of any such activity for profit of livelihood.

B. Disabled Persons. The provisions of this article shall not require the payment of a license tax by:

1. Any honorably discharged or relieved veteran of any of the armed forces of the United States who provides a certificate of disability from the Veteran’s Administration, is physically unable to earn a livelihood by manual labor, is a voter or resident, respectively, of this state, and desires to hawk, peddle or vend goods, wares, and merchandise owned by him or her or to distribute circulars;

2. Any city employee who is injured during the course of the performance of his or her duties, and who becomes physically disabled as a result therefrom; provided, that such exemption shall first be approved by the city council.

C. Auctioneers. The provisions of this article shall not require the payment of a license tax by any real estate auctioneer whose business is limited exclusively to auctioning real estate, except if such auctioneer has a fixed place of business in the city.

D. Young Persons With Limited Revenues. The provisions of this article shall not require the payment of a license tax by any individual person of the age of sixteen years and under whose annual gross receipts from any and all businesses is five hundred dollars or less.

E. Highway Carriers. The provisions of this article shall not require the payment of a license tax for the operation of vehicles for the sole purpose of transportation of property for hire, where such activity is subject to the highway carriers uniform business license tax and defined as intercity transportation business pursuant to the Highway Carriers’ Uniform Business License Tax Act; provided, however, that:

1. Persons who make deliveries of goods, wares, or merchandise, or other personal property on a basis other than for-hire shall not be entitled to such exemption in connection with such activities; and
2. Any person who conducts any business in the city other than as defined as intercity transportation business in said act shall be required to pay a business license tax as specified in this chapter.

F. Application for Exemption. Any person claiming an exemption pursuant to this section shall file a verified statement with the tax collector stating the facts upon which the exemption is claimed. The tax collector, upon a proper showing contained in the verified statement, shall issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this article. (Ord. 1405 § 1, 1982; prior code § 12-2.11)

3.08.120 Revocation of exemption.

The tax collector may revoke any exempt license granted pursuant to the provisions of this article upon information that the licensee is not entitled to the exemption. In such revocation the procedure to be followed and right of appeal and hearing shall be provided as is applicable to issuance or refusal to issue licenses, the amount of license tax due, or the classification of the business for purposes of calculating the license tax. (Ord. 1405 § 1, 1982; prior code § 12-2.12)

3.08.130 Interstate commerce - Relief from undue burdens.

A. No license tax authorized by this article shall be so applied as to occasion an undue burden upon interstate commerce.

B. If a licensee or applicant for a license believes that the license tax places an undue burden on such commerce, he or she may apply to the tax collector for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license tax.

C. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume or estimated gross volume of business and such other information as the tax collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

D. The tax collector shall conduct an investigation. After obtaining the written approval of the city attorney, the tax collector shall within fifteen days after the applicant has submitted the necessary information fix the license tax for the applicant in an amount that is reasonable and nondiscriminatory. If the license tax has already been paid, the tax collector shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the tax collector shall be authorized to base the license tax upon a percentage of gross receipts or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this article.

E. Should the tax collector determine the gross receipts measure of license tax to be the proper basis, he or she may require the applicant to submit, either at the time of termination of the applicant’s business in the city or at the end of each three months, a sworn statement of the gross receipts and pay the amount of license tax therefor: provided, that no additional license tax during any one calendar quarter shall be required after licensee shall have
paid an amount equal to the annual license tax as prescribed in this article. (Ord. 1405 § 1, 1982; prior code § 12-2.13)

### 3.08.140 Calculation of tax - Persons doing business within and outside city.

#### A. Business Within and Outside of City - Apportionment.

1. Each person who transacts and carries on a business in the city and maintains fixed places of business both within and outside the city, and who is subjected to a business license tax based upon gross receipts pursuant to this article shall apportion that portion of his or her gross receipts derived from business transacted or carried on within the city as the basis for liability for business license tax pursuant to this article.

2. When such apportionment cannot be accurately made between cities wherein business is transacted by accounting methods normally or customarily used by the taxpayer, the taxpayer shall apportion as that portion of the gross receipts derived from business transacted or carried on within the city that proportion of his or her gross receipts which the cost of doing business within the city bears to the total costs of doing business both within and outside the city.

#### B. Business Without Fixed Place of Business in City - Apportionment.

1. Each person who transacts and calls on a business in the city who does not maintain a fixed place of business in the city and is subject to a business license tax based upon gross receipts pursuant to this article shall apportion his or her gross receipts in the same manner as provided in subsection A of this section for persons maintaining fixed places of business within and outside the city.

2. Each person to whom this subsection applies shall be allowed as a credit against the business tax otherwise due the city, an amount equal to the amount of business tax or business license tax paid to another city for the same period to the extent that such tax is attributable to gross receipts derived from business transacted and carried on in the city; provided, however, that no credit shall be allowed in excess of the amount of business license tax which would otherwise be due to the city.

#### C. Business With Fixed Place of Business Only Within City Doing Business Outside City - Credit For Taxes Paid.

1. Each person who transacts and carries on a business at a fixed place of business within the city and who transacts and carries on such an activity outside the city without a fixed place of business shall compute his or her tax liability pursuant to this article as if his or her entire business were conducted and transacted within the city.

2. Such person shall be allowed as a credit against the business license tax otherwise due to the city an amount equal to the amount of business tax or business license tax paid to another city for the same period on account of business carried out and transacted in such city, but no credit shall be allowed in excess of the amount of business license tax which would otherwise be due to the city.

3. This subsection shall not apply to any business licensed pursuant to Section 3.16.015.
D. Flat Tax Not Subject to Apportionment. The apportionment provisions of this section shall not apply to any business license tax to the extent payable on a flat rate basis. (Ord. 1420 § 2, 1983; Ord. 1405 § 1, 1982; prior code § 12-2.14)

Chapter 3.12 APPLICATIONS FOR LICENSE—PAYMENT OF TAX

3.12.010 Application - Generally.

Every person required to be licensed under this article shall apply to the tax collector for a business license. (Ord. 1420 § 3, 1983; prior code § 12-3.1)

3.12.020 Application - Statements required in determining amount of tax.

A. When a person applies for the first business license for a business or a newly established business the applicant shall submit to the tax collector a written statement containing the following information on a form furnished by the tax collector and sworn to by a person authorized to administer oaths:

<table>
<thead>
<tr>
<th>Type of Business</th>
<th>Information to be Furnished</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Bowling alley</td>
<td>1. Number of alleys.</td>
</tr>
<tr>
<td>2. Cardrooms</td>
<td>2. Maximum number of tables authorized by cardroom license.</td>
</tr>
<tr>
<td>5. Businesses taxed based upon annual gross receipts</td>
<td>5. Estimated gross receipts for the period to be covered by the license to be issued.</td>
</tr>
</tbody>
</table>

Where the number of games, alleys, tables, or devices is unknown at the time of the application, the applicant shall submit estimated numbers.

B. Such estimate of gross receipts or numbers of games, alleys, tables, or devices, if accepted by the tax collector as reasonable, shall be used in determining the amount of license tax to be paid by the applicant. The amount of the tax so determined shall be tentative only, and such person shall, within thirty days after the expiration of the period for which the license was issued, furnish the tax collector a sworn statement, upon a form furnished by the tax collector, showing the gross receipts during the period of such license or the number of games, alleys, tables, or devices which were in actual use at the commencement of the license period. The license tax for such period shall be finally ascertained and paid in the manner provided by this chapter for ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due the amount paid at the time such first license was issued. The tax collector shall not issue to any such person another license for the same or any other business until such person shall have furnished to him or her the written statement and paid the license tax as required in this chapter.

C. Business licenses based upon number of card tables authorized shall be paid in advance based upon actual numbers of tables authorized.
D. When a person applies for the second the initial licensing period business license for a business or newly established business the tax of which is based upon gross receipts, and the initial licensing period was less than one fiscal year, the basis of the tax imposed for the second license year shall be a dollar amount of gross receipts determined by the following formula:

\[
\text{Actual amount of gross receipts from initial licensing period} \times \frac{\text{Total number of days in the fiscal year}}{\text{Number of days in the fiscal year of the initial licensing period}}
\]

(Ord. 1420 § 3, 1983; prior code § 12-3.2)

3.12.030 Renewal licenses.

An applicant for a renewal license shall submit to the tax collector a written statement setting forth such information concerning the applicant’s business during the preceding licensing period as may be required by the tax collector to enable him or her to ascertain the amount of the license tax to be paid by the applicant for the ensuing licensing period. Such statement shall be furnished on a form provided by the tax collector and shall be sworn to before a person authorized to administer oaths. (Ord. 1420 § 3, 1983; prior code § 12-3.3)

3.12.040 Limitations.

A. No greater or less amount of money shall be charged or received for any license tax other than provided for in this article.

B. In no case shall any mistake made by the city in stating the amount of a license tax prevent or prejudice the collection by the city of what shall actually be due from anyone carrying on a business subject to a license tax under this article. No statement shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable under this article. (Ord. 1405 § 1, 1982; prior code § 12-3.4)


All license taxes due under this article shall be paid in advance in lawful money of the United States, at the office of the tax collector. (Ord. 1405 § 1, 1982; prior code § 12-3.5)

3.12.060 Confidentiality of information.

It is unlawful for the tax collector or any person having an administrative duty under the provisions of this article to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person or business or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth in any statement or to permit any statement or copy of any statement or book containing any
abstract or particulars thereof, to be seen or examined by any person. Nothing in this section, however, shall be construed to prevent the following:

A. The disclosure to or the examination of records and equipment by another city official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this article or collecting taxes imposed under this article;

B. The disclosure of information to, or the examination of records by federal or state officials, or the tax officials of any city or county or the tax officials of the city and its auditors if a reciprocal arrangement exists, or to a grand jury or a court of law, upon subpoena;

C. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any business license tax liability of the particular taxpayers to the city;

D. The disclosure after the filing of a written request to that effect to the taxpayer himself or herself, or to his or her successors, receivers, trustees, executors, administrators, assignees and guarantors if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalty; provided further, that the city attorney approve such disclosure and that the tax collector may refuse to make any disclosure referred to in this subsection when in his or her opinion the public interest would suffer thereby;

E. The disclosure of the names and addresses of taxpayers pursuant to this article, and the general type or nature of their businesses;

F. The disclosure of statistical information or compilations as to various categories of businesses and their gross receipts, where no financial data relative to specific business is released. (Ord. 1405 § 1, 1982; prior code § 12-3.6)

3.12.070 Audit of statements and records.

A. Any statement submitted to the tax collector and each of the several items therein contained shall be subject to audit and verification by the tax collector, his or her deputies, or authorized employees of the city who are hereby authorized to examine, audit and inspect such books and records of the business which is the subject of the statement as may be necessary in their judgment to verify or ascertain the amount of business license tax due. Records which shall be maintained for audit purposes, shall include state and federal income tax returns, schedules and records included in such returns.

B. All persons subject to the provisions of this article shall keep complete records of business transactions, including sales receipts, purchases and other expenditures, state and federal income tax returns (including schedules and records included in such returns). Such persons shall retain such records for a period of at least three years. No person required under this section to keep records shall refuse to allow authorized representatives of the tax collector to examine such records at reasonable times and places. (Ord. 1405 § 1, 1982; prior code § 12-3.7)
3.12.080 Determination of tax or license classification - Right to hearing.

A. Initial Determination. The tax collector shall determine the amount of license tax due or the proper classification for a business by means of such information as he or she may be able to obtain if:

1. Any person fails to file any required statement within the time prescribed; or

2. If, after demand therefor has been made by the tax collector, he or she fails to file a corrected statement within fifteen days after notification to do so; or

3. It appears to the satisfaction of the tax collector that a statement filed does not set forth the facts of the business for which a license is required; or

4. If a licensee or an applicant for a license believes that his or her individual business is not assigned to the proper classification because of circumstances peculiar to it.

B. Notice of Determination. If such determination is made, the tax collector shall give notice of the amount so assessed, or classification found to be appropriate in the following manner:

1. By serving it personally; or

2. By depositing it in the United States mail, postage prepaid, addressed to the person so assessed at the address appearing on his or her last business license or application therefor.

C. Right to Hearing. Such persons may, within ten days after the serving or mailing of such notice, apply in writing to the tax collector for a hearing on the amount of the license tax or classification determined.

If such application is made, the tax collector shall give not less than five days’ written notice, in the manner prescribed herein, to the licensee to show cause, at a time and place fixed in the notice, why the amount specified therein should not be fixed or classification determined for such license.

At such hearing the licensee may appear and offer evidence why such specified tax should not be fixed as the license tax or such classification prescribed.

After such hearing the tax collector shall determine the proper tax to be charged or classification prescribed. He or she shall forthwith give written notice to the licensee in the manner prescribed herein of such determination and the amount of such tax. (Ord. 1405 § 1, 1982; prior code § 12-3.8)

3.12.090 Reporting of gross receipts.

When an applicant for a business license is required to pay a business license tax measured by gross receipts, except in case of an application for an original license pursuant to Section 3.12.020 (Application – Statements required in determining amount of tax), he or she shall not be required to report the exact amount of his or her gross annual receipts, but shall
report to the tax collector the particular bracket of the schedules in this article within which his or her gross annual receipts fall. (Ord. 1405 § 1, 1982; prior code § 12-3.9)

3.12.100 Contents of license.

Upon application for a license under this article and upon the payment of the prescribed license tax, the tax collector shall issue to such applicant a license which shall contain the following:

A. The business licensed;
B. The place where such business is to be transacted and carried on;
C. The date of the expiration of the license;
D. Such information as may be necessary for the enforcement of the provisions of this article. (Ord. 1405 § 1, 1982; prior code § 12-3.10)

3.12.110 How and when tax payable.

A. Annual Licenses. Unless otherwise specifically provided in this article, all annual license taxes shall be due and payable on the first day of August of each year and delinquent on the first day of September of each year.

B. Licenses Other Than Annual. Except as otherwise specifically proved in this article, license taxes other than annual shall be due and payable and delinquent as follows:

<table>
<thead>
<tr>
<th></th>
<th>DUE</th>
<th>DELINQUENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Quarterly</td>
<td>February 1st</td>
</tr>
<tr>
<td></td>
<td></td>
<td>March 1st</td>
</tr>
<tr>
<td></td>
<td></td>
<td>June 1st</td>
</tr>
<tr>
<td></td>
<td></td>
<td>September 1st</td>
</tr>
<tr>
<td></td>
<td></td>
<td>December 1st</td>
</tr>
<tr>
<td>2.</td>
<td>Daily</td>
<td>Each day in advance</td>
</tr>
</tbody>
</table>

(Ord. 1405 § 1, 1982; prior code § 12-3.11)

3.12.120 Penalty - Failure to pay tax when due.

If a person responsible for payment of a business license tax fails to pay such tax when due, there shall be added a penalty of twenty percent of such license tax on the last day of each month after the due date thereof. The amount of the penalty to be added shall not exceed one hundred percent of the amount of the license tax due. If, after a payment is made to the tax collector, the records of the taxpayer are examined, audited, or inspected and it is determined by the tax collector that the amount paid was, in fact, less than the amount due, the penalty applicable for failure to pay the tax when due shall begin to apply from the date the amount of the deficiency was delinquent rather than from the date of notice by the tax collector of the deficiency. (Ord. 1405 § 1, 1982; prior code § 12-3.12)
3.12.130 Transfer of license.

A. No license issued pursuant to this article shall be transferable from one person to another.

B. If a license is issued for the transaction of business at a particular place of business, the license, upon application and payment of a fee in an amount established by resolution of the city council, may have the same license amended to reflect the transfer of the business under the same license at some other location. (Ord. 1405 § 1, 1982; prior code § 12-3.13)

3.12.140 Duplicate licenses.

The tax collector may issue a duplicate license to a licensee to replace a license previously issued which has been lost or destroyed. To obtain a duplicate license, the licensee shall file a statement that the license has been lost or destroyed and pay the tax collector a duplicate license fee in an amount established by resolution of the city council. (Ord. 1405 § 1, 1982; prior code § 12-3.14)

3.12.150 Granting of waivers, variances by tax collector.

The tax collector shall have the power for good cause shown:

A. To extend the time for filing any required sworn statement for a period not exceeding thirty days;

B. To waive any penalty that would otherwise have accrued;

C. To compromise any claim involving five hundred dollars or less as to the amount due; provided, that claims involving greater amounts shall only be compromised with the consent of the city council. (Ord. 1405 § 1, 1982; prior code § 12-3.15)


A. Upon the issuance of a business license for any business which is taxed according to the number of vehicles used in the business, the tax collector shall deliver to the licensee one windshield sticker for each vehicle used by the licensee in the conduct of his or her business. The sticker shall be attached to the windshield of such vehicle. If the vehicle does not have a windshield, the sticker shall be attached in a conspicuous place in the operator’s compartment of each vehicle.

B. If subsequent to the issuance of any license and prior to its expiration date, any licensee uses any vehicle in his or her business for which a windshield sticker has not been issued, he or she shall procure a windshield sticker for each such vehicle from the tax collector. The tax collector shall furnish such windshield sticker without cost other than any additional license tax which may be due, upon satisfactory proof of the use of such vehicle by the licensee.

C. No person subject to license under this article shall drive, operate, use, or cause to be driven, operated, or used, any vehicle in the conduct of his or her business without a sticker being attached as required in this article, or to remove or deface or cover up the sticker,
or to place the same upon any vehicle other than a vehicle used by the licensee in his or her business. (Ord. 1405 § 1, 1982; prior code § 12-3.16)


A. Upon the issuance of any license for any electrical musical device or mechanical amusement device, the tax collector shall deliver to the licensee one sticker for each device used in the conduct of his or her business. Such sticker shall be attached in a conspicuous place on the device.

B. If subsequent to the issuance of any license and prior to its expiration date, any licensee uses any electrical musical device or mechanical amusement device for which a sticker has not been issued, he or she shall procure a sticker from the tax collector. The tax collector shall furnish such sticker without cost other than any additional license tax which may be due upon production of satisfactory proof of the use of such device by the licensee.

C. No person subject to license under this article shall operate or use, or cause to be operated or used, any electrical musical device or mechanical amusement device in the conduct of his or her business without a sticker being attached as required in this article, or to remove, deface or cover up the sticker, or place, cause to be placed, or permit the placing of such sticker upon any such device other than the one used by the licensee in his or her business. (Ord. 1405 § 1, 1982; prior code § 12-3.17)

3.12.180 Minimum license tax - Persons refusing to permit audits.

If a licensee or person engaged in business for which a license is required refuses to permit an audit pursuant to Section 3.12.070, the minimum business license tax shall be one thousand five hundred dollars per year. (Ord. 1420 § 4, 1983; prior code § 12-3.18)

3.12.190 License tax a debt.

The amount of any license tax and penalty imposed pursuant to this article shall be a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent license tax and penalties. (Ord. 1405 § 1, 1982; prior code § 12-3.19)


Any action commenced to enforce the payment of any business license tax due, or any other requirement of this article shall be commenced within four years of the accrual of the cause of action. (Ord. 1405 § 1, 1982; prior code § 12-3.20)


A. Except as provided in subsection C of this section, no refund for any overpayment of business license taxes imposed by this article shall be allowed in whole or in part unless a claim for refund is filed with the tax collector within a period of three years from the last day of the calendar month following the period for which the overpayment was made.

B. All claims for refund of the amount must be filed with the tax collector on forms furnished by him or her and in the manner prescribed. The tax collector may refund the amount
overpaid upon the filing of such claim if he or she determines that an overpayment has been made.

C. The filing of a claim shall not be required if the amount due has been verified by an independent auditor selected by the city. (Ord. 1405 § 1, 1982; prior code § 12-3.21)

3.12.220 Appeals - Due date of tax finally determined.

A. Who May Appeal. Any person aggrieved by any decision of the tax collector regarding the issuance or refusal to issue a license, the appropriate license classification of the business, or the amount of a license tax may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of such decision. The notice of appeal shall be accompanied by an appeal fee in an amount established by resolution of the city council and shall state the grounds for the appeal.

B. Public Hearing. The city clerk shall set a time and place for a public hearing of such appeal before the city council and shall give the appellant not less than ten days’ written notice thereof in the following manner:

1. By serving it personally; or

2. By depositing it in the United States mail, postage prepaid, addressed to such person at the address appearing on his or her last business license or application.

At the public hearing the city council shall consider the evidence presented by the appellant, the tax collector, and other interested parties prior to making a decision. The hearing may be continued from time to time.

C. Findings of City Council. The findings of the city council shall be final and conclusive. They shall be served upon the appellant in the manner prescribed in subsection B of this section by the city clerk.

D. Due Date of Tax. The amount of any license tax finally determined as provided in this section shall be due and payable as of the date the original license tax was due and payable, together with any penalties that may be due thereon; provided, however, that if the amount of such license tax is fixed in accordance with the original statement of the appellant no penalty shall attach by reason of any delinquency. (Ord. 1405 § 1, 1982; prior code § 12-3.22)

3.12.230 Remedies cumulative.

All remedies provided under this article shall be cumulative. The use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article. (Ord. 1405 § 1, 1982; prior code § 12-3.23)

3.12.240 Effect on past actions and obligations.

Neither the adoption of the ordinance codified in this article, nor its superseding of any portion of any other ordinance of the city shall in any manner be construed:

A. To affect prosecution for violation of any other ordinance committed prior to the effective date of the ordinance codified in this chapter; or
B. As a waiver of any license or other penal provisions applicable to such violation; or

C. To affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited.

All rights and obligations pertaining to the foregoing shall continue in full force and effect. (Ord. 1405 § 1, 1982; prior code § 12-3.24)

3.12.250 Designated penalty.

A. Any person violating Section 3.12.070 shall be guilty of a misdemeanor.

B. Any person violating any other provision of this article or failing to comply with any of the other mandatory provisions thereof shall be guilty of an infraction.

C. The penalty for misdemeanors and infractions is as set forth in Section 1.28.010 (Violations a misdemeanor or infraction). (Ord. 1405 § 1, 1982; prior code § 12-3.25)

Chapter 3.16 SCHEDULE OF TAXES

3.16.010 Generally applicable tax rate.

A. Every person having a fixed place of business transacting, engaging in or carrying on a business in the city, except a business as to which the tax rate established by another section of this article is made specifically applicable, shall pay a business license tax based upon the annual gross receipts of such businesses as follows:

<table>
<thead>
<tr>
<th>Gross Receipts</th>
<th>Annual Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $75,000</td>
<td>$75.00</td>
</tr>
<tr>
<td>$75,000 or more, but less than $100,000</td>
<td>$100.00</td>
</tr>
<tr>
<td>Over $100,000</td>
<td>$110.00, plus $5.25 for each additional $5,000 or fraction thereof up to $500,000</td>
</tr>
<tr>
<td>Over $500,000</td>
<td>$530.00, plus $4.00 for each additional $5,000 or fraction thereof up to $1,000,000</td>
</tr>
<tr>
<td>Over $1,000, 000</td>
<td>$930.00, plus $2.75 for each additional $5,000 or fraction thereof up to $5,000,000</td>
</tr>
<tr>
<td>Over $5,000,000</td>
<td>$3,130.00, plus $1.65 for each additional $5,000 or fraction thereof</td>
</tr>
</tbody>
</table>

B. Persons having a fixed place of business selling at retail any goods, wares or merchandise which are classified under “retailing industries” in the most recently published annual statement studies published by Robert Morris and Associates may be entitled to a credit against the foregoing annual tax if:
1. The most recent average cost of sales for the retailing industry in which such business is categorized is greater than the average cost of sales for all retailing industries studied; and

2. The most recent average operating profit for such retailing industry is less than the average operating profit for all retailing industries studied. The credit allowed shall be equal to the sum of:

   a. The difference between the foregoing average cost of sales figures; and

   b. The difference between the foregoing average operating profit figures. The determination of the average costs and profits for various industries shall be made with reference to said publication of Robert Morris and Associates. The determination as to the appropriate category in which a particular business is to be placed shall be made with reference to the Standard Industrial Classification Manual. The credit allowed shall be calculated to the nearest 0.1%. (Ord. 1625 § 2, 1999)

3.16.015 Central administrative offices - Auxiliary units - Manufacturing.

A. Every person who, at a fixed place of business within the city, transacts, engages in or carries on any central administrative office, auxiliary unit or manufacturing establishment shall pay an annual license tax based upon the area of the place of business occupied and the average number of persons employed, as follows:

<table>
<thead>
<tr>
<th>Area of Place of Business Occupied</th>
<th>Annual Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>999 square feet or less</td>
<td>$150.00</td>
</tr>
<tr>
<td>1,000 - 2,499 square feet</td>
<td>$250.00</td>
</tr>
<tr>
<td>2,500 - 4,999 square feet</td>
<td>$350.00</td>
</tr>
<tr>
<td>5,000 - 9,999 square feet</td>
<td>$550.00</td>
</tr>
<tr>
<td>10,000 square feet or more</td>
<td>$850.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of Employees</th>
<th>Additional Annual Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 10</td>
<td>$7.50 per employee</td>
</tr>
<tr>
<td>11 - 25</td>
<td>$75.00, plus $5.00 for each employee in excess of 10</td>
</tr>
<tr>
<td>26 - 50</td>
<td>$195.00, plus $4.00 for each employee in excess of 25</td>
</tr>
<tr>
<td>51 or more</td>
<td>$350.00, plus $3.00 for each employee in excess of 50</td>
</tr>
</tbody>
</table>

If the nature or method of operation of any such central administrative office, auxiliary unit or manufacturing establishment is such that gross receipts may be attributable to such office, unit or establishment, such business shall be taxed pursuant to Section 3.16.010 if use of that section as a basis for calculation of the tax would produce a higher tax than this section.

The terms “central administrative office,” “auxiliary unit” and “manufacturing establishment” shall have the meanings and descriptions set forth in the Standard Industrial Classification Manual and in Sections 3.04.030 and 3.04.070 of this code. (Ord. 1625 § 2, 1999)
3.16.020 Amusement concessions.

Every person conducting any amusement concession, not in conjunction with a carnival or fair, shall pay a license tax for each concession and device as follows:

<table>
<thead>
<tr>
<th>Type of Concession</th>
<th>Quarterly Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Merry-go-round, Ferris wheel, dodgem, swing or other mechanical device for the carrying of passengers</td>
<td>$75.00</td>
</tr>
<tr>
<td>B. Ball and ring throwing games, spin-the-wheel, mechanical and electrical games, shooting gallery, keno, lotto and similar games of chance</td>
<td>$50.00</td>
</tr>
<tr>
<td>C. Sales of merchandise or foodstuffs, not in connection with any game of chance</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

(Ord. 1625 § 2, 1999)

3.16.030 Apartments and rooming houses.

Every person conducting the business of apartment house or rooming house shall pay an annual license tax of fifty dollar base fee and one dollar for each room, based on a three room minimum. (Ord. 1625 § 2, 1999)

3.16.040 Commercial property rental.

Every person conducting the business of commercial property rental shall pay an annual license tax of a fifty dollar base fee and ten dollars for up to the first one thousand square feet and ten dollars for each additional one thousand square feet of property available for commercial rental. (Ord. 1625 § 2, 1999)

3.16.050 Bowling alleys and similar games.

Every person conducting a public bowling alley, skee ball, bat ball or other similar device, equipment or means of entertainment shall pay an annual license tax of forty dollars for each alley. (Ord. 1625 § 2, 1999)

3.16.060 Boxing or wrestling exhibitions.

Every person staging a boxing or wrestling exhibition shall pay a license tax of two hundred dollars for each such exhibition. (Ord. 1625 § 2, 1999)

3.16.070 Carnivals and circuses.

Every person conducting any carnival, circus, menagerie, wild west show, rodeo or any other like or similar exhibition or amusement shall pay a license tax of three hundred dollars for the first day and seventy-five dollars for each additional day, payable in advance. (Ord. 1625 § 2, 1999)
3.16.080 Gambling clubs.

Every person, corporation, partnership or other entity conducting the business of a gambling club shall pay a quarterly tax in advance, and due on January 1st, April 1st, July 1st and October 1st of each calendar year. Commencing January 1, 1995, the tax per quarter shall be calculated as follows:

<table>
<thead>
<tr>
<th>Tables Permitted by Gambling Club License</th>
<th>Quarterly Tax Per Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum 10</td>
<td>$400</td>
</tr>
<tr>
<td>11 to 15</td>
<td>$1,200</td>
</tr>
<tr>
<td>16 to 20</td>
<td>$1,800</td>
</tr>
<tr>
<td>21 to 25</td>
<td>$2,400</td>
</tr>
<tr>
<td>26 to 30</td>
<td>$3,000</td>
</tr>
<tr>
<td>31 to 35</td>
<td>$3,600</td>
</tr>
<tr>
<td>36 to 40</td>
<td>$4,200</td>
</tr>
<tr>
<td>41 to 45</td>
<td>$4,800</td>
</tr>
<tr>
<td>46 to 50</td>
<td>$5,400</td>
</tr>
<tr>
<td>51 to 55</td>
<td>$6,000</td>
</tr>
<tr>
<td>56 to 60</td>
<td>$6,600</td>
</tr>
</tbody>
</table>

Beginning with the above schedule, the tax paid by gambling clubs shall automatically increase July 1st of each year, commencing July 1, 1995, by the greater of two percent or the average of the annual percentage increase in the All Urban Consumer Price Index for the San Francisco/ San Jose/Oakland area for the months ending February 28th (or 29th) and April 30th.

Notwithstanding the above, in the event a gambling club operator reduces the number of tables operated, the amount of tax paid shall be reduced accordingly, except that in no event shall the applicable tax fall below the amount of tax upon one-half the highest number of tables operated. (For example, if a gambling club operator reduces the number of tables operated from forty to ten, the tax liability shall be based upon twenty tables.) The amount of tax paid under this provision shall be based upon the above schedule and successor schedules as the tax is automatically increased each year. (Ord. 1625 § 2, 1999)

3.16.090 Electrical musical devices.

A. No person shall operate, maintain or permit to be operated or maintained in any place of business or premises open to the public and occupied by or under the control of such person any electrical musical device without having first applied for and received a license for each electrical musical device so operated and maintained.

B. Application for such license shall be made to the tax collector, upon a form to be provided by such officer, and shall be accompanied by a business license tax of twenty five dollars for any fiscal year within which it is proposed to operate or maintain any such device, at the time of such application. (Ord. 1625 § 2, 1999)
3.16.100 Mechanical, electronic and video amusement devices.

A. No person shall operate, maintain or permit to be operated or maintained in any place of business or premises open to the public or under his or her control any mechanical amusement device without first having applied for and received a license therefor.

B. Application for such license shall be made to the tax collector, upon a form to be provided by such officer, and shall be accompanied by a business license tax of thirty dollars for each such device for any fiscal year within which it is proposed to operate or maintain any such device.

C. Each license and the application therefor shall specify the person to whom such license is issued, a description of the device, with the manufacturer’s name and serial number, to which the same shall exclusively apply.

D. Such licenses shall not be transferable either from person to person nor from one device to another.

E. Any mechanical amusement device operated or maintained in violation of this section shall be a public nuisance and subject to abatement as such. (Ord. 1625 § 2, 1999)

3.16.110 Nonresident contractors and other businesses.

Every person not having a fixed place of business in the city who:

A. Engages in the business of contracting within the city; or

B. Engages in a business within the city not specifically licensed by another section of this chapter shall pay a license tax of seventy-five dollars per year. (Ord. 1625 § 2, 1999)

3.16.120 Peddlers and solicitors.

A. Every person who conducts the business of peddler or solicitor shall pay a business license tax of forty dollars per day for the first day and ten dollars per day thereafter; provided, that if the tax collector determines pursuant to Section 3.08.130 that such tax places an undue burden on interstate commerce he or she may adjust the tax to be based upon gross receipts pursuant to Section 3.16.010 (Generally applicable tax rate) measured upon business done within the city, or as otherwise authorized pursuant to Section 3.08.130 (Interstate commerce – Relief from undue burdens).

B. Persons maintaining a regular route of established deliveries of food products shall pay the annual license tax required under Section 3.16.010 (Generally applicable tax rate).

C. This section shall not apply to persons soliciting or peddling goods solely to merchants with a fixed place of business for the purpose of resale. (Ord. 1625 § 2, 1999)

3.16.125 Vehicle vendors.

Every vehicle vendor who engages in business in the city shall pay a license tax of seventy-five dollars per year. (Ord. 1714 § 4, 2006)
3.16.130 Public dances - Place of public dance.

A. Every person conducting a public dance, as defined in Section 4.08.020 (Definitions) of Chapter 4 (License and Regulations), shall pay a business license tax of fifty dollars.

B. Every person operating a business in which public dancing is performed, conducted, allowed, carried on or proposed to be performed, conducted, allowed or carried on not less than three times or on three days within a period of six months shall pay a business license tax as follows:

1. If the dancing is accompanied by mechanized music, an annual tax of two hundred dollars; or

2. If the dancing is accompanied by live or unmechanized music, an annual tax of four hundred fifty dollars. (Ord. 1625 § 2, 1999)

3.16.140 Shuffleboards.

Every person engaged in the business of operating or maintaining and offering for use by patrons any shuffleboards or other game or amusement device other than mechanical amusement devices otherwise licensed, shall pay in advance an annual license tax of fifteen dollars for each such game. (Ord. 1625 § 2, 1999)

3.16.150 Temporary vendors.

Every person conducting the business of temporary vendor shall pay an annual business license tax of forty dollars for the first day and ten dollars per day for each subsequent day. (Ord. 1625 § 2, 1999)

3.16.160 Condominium projects.

A. Tax Imposed - Purpose. A business license tax is imposed solely for revenue purposes upon the development and construction of all condominium projects, in the sum of one thousand dollars per planned salable condominium unit. No tax shall be imposed upon the development and construction of a condominium unit for which a completed sale or transfer of interest to the purchaser or occupant has occurred.

B. Condominium License.

1. A condominium license shall be issued by the director of finance upon the payment of the required license tax provided herein, or upon execution of an agreement between the city and the owner or owners of record of all property within the condominium project, approved as to form by the city attorney and approved as to substance by the city council, agreeing to pay the tax either wholly or partially on a deferred basis.

2. Such agreement may provide for an initial payment, periodic payments on specific dates, payments contingent upon sales of units or any combination thereof.

3. Such agreement shall require that any deferred payments be in such amounts as to guarantee that the city shall receive a sum at least equal to the amount it would have
received if the total amount of the tax had been paid initially without such an agreement and had been prudently invested in interest bearing accounts as authorized by law.

4. Such agreement shall provide further that the owner shall furnish to the city a faithful performance bond issued by a corporate surety authorized to do business in the state, or an instrument of credit for one or more financial institutions subject to regulation by the state or federal government, or such other security instrument as may be approved by the city attorney guaranteeing payment of the tax.

C. Failure to Obtain License Unlawful. It is unlawful to engage in, permit, suffer or assist in the construction, development or occupation of any condominium project or condominium unit for which a license has not been obtained as provided in this section.

D. Failure to Pay License Tax - Denial of Permits. No permit for building, construction, demolition, grading, subdividing, condominium conversion, variance, conditional use permit or occupancy shall be granted unless the license provided for in this section is obtained. Notwithstanding any other provision of law, no occupancy permit may be obtained under any circumstances until the condominium business license tax has been paid. A certificate of occupancy is required for the occupancy of any condominium unit. Separate occupancy permits may be granted upon separate payment of the required license tax.

E. Remedies of This Section - Supplementary and Cumulative. The remedies for failure to pay the tax imposed by this section are supplementary to any other remedy provided by law for the failure to pay a business license tax and are also cumulative both with regard to each remedy provided by this article and by law.

F. Tax Refund. If the condominium project is abandoned before substantial work has begun in the case of a condominium project described in subsection A of Section 3.04.100 (Condominium project) of Chapter 3.04 (Definitions), i.e., new development, or before the issuance by the California Real Estate Commissioner of a Public Report in the case of a conversion project described in subsection B of Section 3.04.100 (Condominium project) of Chapter 3.04 (Definitions), the tax paid shall be refunded to the person who paid it upon his or her filing of a statement that he or she has abandoned the project, and upon his or her relinquishment of the issued condominium license. In the event of any refund, it is unlawful for any person to proceed with the project without first applying for and receiving the applicable condominium business license, and payment of the business license tax is required for the issuance of a condominium business license. In the event such refund is requested, the matter shall be referred to the city council for determination of a reasonable amount to cover the cost of processing the application. (Ord. 1625 § 2, 1999)

3.16.170 Single-family residential structures.

A. Tax Imposed - Purpose. A single-family residential business license tax is imposed solely for revenue purposes upon the development and construction of all single-family residential structures in the sum of one thousand dollars per planned salable unit.

B. Exceptions. No such tax shall be imposed upon the development or construction of any such single-family residential unit for which a completed sale has occurred or for which a condominium license tax has been paid pursuant to Section 3.16.160 (Condominium Projects) of Chapter 3.16 (Schedule of Taxes). Such tax shall not be applicable to any person
constructing no more than one single-family residential structure during any one-year period for his or her own personal residence.

C. Single-family Residential Business License. A single-family residential business license shall be issued by the director of finance upon the payment of the required license tax provided herein.

D. Failure to Obtain License Unlawful. It is unlawful to engage in, permit, suffer or assist in the construction, development or occupation of any single-family residential structure for which a license has not been obtained as provided in this section.

E. Failure to Pay License Tax - Denial of Permits. No permit for building, construction, demolition, grading or any final subdivision map, shall be granted or approved unless the license provided for in this section is obtained.

F. Remedies of This Section - Supplementary and Cumulative. The remedies for failure to pay the tax imposed by this section are supplementary to any other remedy provided by law for the failure to pay a business license tax and are also cumulative both with regard to each remedy provided by this article and by law.

G. Tax Refund. If the project involving the development and construction of a single-family residential structure is abandoned before substantial work is done, and any building permit issued to authorize such construction and development is revoked or otherwise terminated, the tax paid shall be refunded to the person who paid it upon his or her filing of a statement that he or she has abandoned the project, and upon relinquishment of his or her single-family residential business license. In the event of any refund, it is unlawful for any person to proceed with the project without first applying for and receiving the applicable single-family residential business license, and the payment of the business license tax is required for the issuance of the license. In the event such refund is requested, the matter shall be referred to the city council for determination of a reasonable amount to cover the cost of processing the application. (Ord. 1625 § 2, 1999)

3.16.180 Airport parking facilities.

“Airport parking facility” means any privately owned or operated facility with the purpose of providing, for any form of consideration, parking or storage of motor vehicles, motorcycles or other similar means of conveyances for persons going to or from the San Francisco International Airport.

Every person, corporation, partnership or other entity conducting the business of an airport parking facility shall pay a quarterly tax due as follows:

The airport parking facility tax shall be eight percent of gross receipts. Said tax shall only be applicable to gross receipts generated by the parking or storage of vehicles at the airport parking facility. Each operator of an airport parking facility shall, on or before the last day of the month following the close of each calendar quarter make a return to the city of the total tax. At the time the return is filed, the full amount of the tax shall be remitted to the city.

Upon finding of public benefit, the city council may, by ordinance, decrease the airport parking facility tax set forth above. (Ord. 1626 § 1, 1999)
Article II. Other Taxes

Chapter 3.20 DEFINITIONS

3.20.010 Generally.

As used in this article, the following words, phrases or terms shall have the meanings set forth in Sections 3.20.020 through 3.20.090. (Ord. 1357 § 1, 1980; prior code § 22-1.1(part))

3.20.020 Hotel.

“Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house-trailer at a fixed location, or other similar structure or portion thereof. (Ord. 1357 § 1, 1980; prior code § 22-1.1(a))

3.20.030 Occupancy.

“Occupancy” means the use or possession, or the right to use or possess any room or rooms or portions thereof, in any hotel for dwelling, lodging or sleeping purposes. (Ord. 1357 § 1, 1980; prior code § 22-1.1(b))

3.20.040 Operator.

“Operator” means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than as an employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his or her principal compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both. (Ord. 1357 § 1, 1980; prior code § 22-1.1(c))

3.20.050 Person.

“Person” means, except as used in the definition of “transient,” any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit. (Ord. 1357 § 1, 1980; prior code § 22-1.1(d))

3.20.060 Rent.

“Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. (Ord. 1357 § 1, 1980; prior code § 22-1.1(e))
3.20.070 State sales and use tax law.

“State sales and use tax law” means the Bradley-Burns Uniform Local Sales and Use Tax Law, Part 1.5, Division 2 of the Revenue and Taxation Code of the state. (Ord. 1357 § 1, 1980; prior code § 22-1.1(f))

3.20.080 Tax administrator.

“Tax administrator” means the director of finance of the city. (Ord. 1357 § 1, 1980; prior code § 22-1.1(g))

3.20.090 Transient.

“Transient” means any individual who exercises occupancy or is entitled to occupancy of a specific room by reason of concession, permit, right of access, license, or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing providing for a longer period of the room. In determining whether an individual is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this article may be considered. (Ord. 1357 § 1, 1980; prior code § 22-1.1(h))

3.20.100 Rental agent.

“Rental agent” means any person other than an operator who collects rent from a transient for the transient’s occupancy of a hotel.

Chapter 3.24 TAX FUNCTION TRANSFER

3.24.010 Delegation of duties to county.

The city council delegates to the county and to its proper officers and employees the functions of assessing, levying and collection of municipal taxes for the city pursuant to Title 5, Division 1, Part 2 of the Government Code. (Ord. 1357 § 1, 1980; prior code § 22-2.1)

3.24.020 Contract with county to perform services.

A. The city council will enter into an appropriate contract with the county for the carrying out of the purposes of this article.

B. The term of such contract shall be five years commencing with the assessment of 1954-55 taxes and shall continue for a period of five years each, unless, in the meantime, the city council or the board of supervisors of the county shall vote not to continue the term at a meeting to be held at least one year before the expiration of any five-year period. (Ord. 1357 § 1, 1980; prior code § 22-2.2)

3.24.030 Reservation of duties of city treasurer.

The duties of the city treasurer are reserved to such officer and not included in the transfer accomplished by this article. The city treasurer shall, upon payment by the county
auditor or controller of sums due the city, keep and disburse the same in accordance with existing custom, practice and regulation of the city. (Ord. 1357 § 1, 1980; prior code § 22-2.3)

Chapter 3.28 SALES AND USE TAX

3.28.010 Short title.

This chapter shall be known as “Uniform Local Sales and Use Tax Regulations” of the city. (Ord. 1357 § 1, 1980; prior code § 22-3.1)

3.28.020 Purpose.

The purpose of this chapter is to adopt sales and use tax regulations which:

A. Comply with and incorporate provisions of state sales and use tax law;

B. Impose a ninety-five hundredths of one percent (0.95%) tax which can be administered and collected by the state board of equalization in the manner most consistent with the board’s existing procedures in state sales and use tax collection;

C. Can be administered so as to minimize both the cost of collecting city sales tax and the burden of record keeping of taxpayers. (Ord. 1357 § 1, 1980; prior code § 22-3.2)

3.28.030 Generally.

A. Sales Tax. For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the city after the operative date of the ordinance codified in this article. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made.

B. Use Tax. An excise tax is imposed upon the storage, use, or other consumption in the city of tangible personal property purchased from any retailer on or after the operative date of the ordinance codified in this article for storage, use, or other consumption in the city at the rate of ninety-five hundredths of one percent (0.95%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to sales or use tax regardless of the place to which delivery is made. (Ord. 1357 § 1, 1980; prior code § 22-3.3)

3.28.040 Exemptions.

A. There shall be exempt from the sales tax imposed by subsection A of Section 3.28.030 (Generally) the following:

1. The amount of any sales or use tax imposed by the state upon a consumer;

2. The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

B. There shall be exempt from the use tax imposed by subsection B of Section 3.28.030 (Generally) the following:

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1. The amount of any sales or use tax imposed by the state upon a consumer;

2. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with state sales and use tax law by any city and county, city, or county in this state;

3. In addition to the exemptions provided in sections 6366 (Aircraft; component parts; presumptions relating to common carrier status) and 6366.1 (Aircraft for leasing to carriers in interstate or foreign commerce or to foreign governments) of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government.

In the event that the Legislature of the State of California adopts an act which amends or repeals and reenacts Section 7202 (Sales tax on tangible personal property at retail; imposition; included provisions) of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators of water borne vessels in the same, or substantially the same, language as that existing in subdivisions (i)(7) and (i)(8) of Section 7202 of the Revenue and Taxation Code as those subdivisions read on October 1, 1983, on the operative date of such act Section 3.28.040 of the San Bruno City Code shall be amended to read as it read immediately prior to the adoption of Ordinance No. 1425. (Ord. 1425 § 1, 1983: Ord. 1357 § 1, 1980; prior code § 22-3.4)

3.28.050 Application of state law.

Except as otherwise provided in this chapter and except insofar as they may be inconsistent with state sales and use tax law:

A. All of the provisions of Part 1, Division 2 of the Revenue and Taxation Code, as amended and in force and effect on January 1, 1961, applicable to sales and use taxes are adopted and made a part of this chapter as though fully set forth herein:

B. All amendments of the Revenue and Taxation Code of the state enacted subsequent to the effective date of the ordinance codified in this chapter which relate to sales and use taxes and which are not inconsistent with state sales and use tax law shall automatically become a part of this chapter. (Ord. 1357 § 1, 1980; prior code § 22-3.5)

3.28.060 Place of consummation of sale.

For the purpose of this chapter all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to any out of state destination. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and pursuant to Ordinance No. 1425, adopted December 12, 1983. (Ord. 1357 § 1, 1980; prior code § 22-3.6)
3.28.070 Additional seller’s permit not required.

If a seller’s permit has been issued to a retailer under Section 6067 (Issuance; non-assignability; display) of the Revenue and Taxation Code, an additional seller’s permit shall not be required by reason of this chapter. (Ord. 1357 § 1, 1980; prior code § 22-3.7)

3.28.080 Rules of construction.

A. Whenever, and to the extent that, in Part 1, Division 2 of the Revenue and Taxation Code, the state is named as the taxing agency, the city shall be substituted therefor.

B. Nothing in this section shall be deemed to require the substitution of the name of the city for the word “state” in the following instances:

1. When the word “state” is used as part of the title of the state controller, treasurer, board of control, board of equalization, treasury, or Constitution;

2. In any section when the result of the substitution would require action to be taken by or against the city or any agency thereof, rather than by or against the State Board of Equalization in performing the functions incident to the administration or operation of this chapter;

3. In those sections which refer to the exterior boundaries of the state where the result of the substitution would be to provide an exemption from the sales or use tax with respect to certain gross receipts storage, use, or other consumption of tangible personal property which would not otherwise be exempt from such taxes while those gross receipts or such storage, use or other consumption remains subject to tax by the state under the provisions of Part 1, Division 2, of the Revenue and Taxation Code;

4. In the phrase “retailer engaged in business in this state” in section 6203 (Collection by retailer from purchaser) of the Revenue and Taxation Code or the definition of such phrase in that section;

5. In Sections 6701 (Authority to require; amount; increase or decrease; notice and sale; auction; surplus), 6702 (Notice to withhold; service time; withholding payments or transfer to taxpayers) (except in the last sentence thereof), 6711 (Authority to sue; statute of limitations), 6715 (Use tax actions; service of process), 6797 (Notice of sale), and 6828 (Board’s authority to act for people) of such Revenue and Taxation Code, as adopted.

C. Nothing in this section shall be construed to impose a sales or use tax with respect to certain gross receipts or certain storage, use, or consumption which would not be subjected to tax by the state under the foregoing provisions of the Revenue and Taxation Code. (Ord. 1357 § 1, 1980; prior code § 22-3.8)

3.28.090 Disposition of funds.

All money collected under and pursuant to the provisions of this chapter shall be deposited and paid into the general fund of the city. Forty-five percent of the net receipts from sales and use taxes shall be used to reduce the payment of city obligations that would normally be paid out of funds derived from real and personal property taxes and the remaining fifty-five
percent shall be added to the unbudgeted reserve of the city. (Ord. 1357 § 1, 1980; prior code § 22-3.9)

3.28.100 Enjoining collection prohibited.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer thereof, to prevent or enjoin the collection under this chapter or under state sales and use tax law of any tax or amount of tax to be collected. (Ord. 1357 § 1, 1980; prior code § 22-3.10)

Chapter 3.32 TRANSIENT OCCUPANCY TAX

3.32.010 Tax imposed – Amount - Debt to city.

For the privilege of occupancy in any hotel or motel, each transient is subject to and shall pay a tax in the amount of twelve percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator, a rental agent, or the city. The transient shall pay the tax to the operator or rental agent at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient’s ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator or rental agent, the tax administrator may require that such tax shall be paid directly to the tax administrator. (Ord. 1779 § 1, 2009; Ord. 1531 § 2, 1991; Ord. 1465 § 1, 1986; Ord. 1357 § 1, 1980; prior code § 22-4.1)

3.32.020 Exemptions.

No tax shall be imposed upon:

A. Any person as to whom, of any occupancy as to which, is beyond the power of the city to impose the tax herein provided;

B. Any federal or state officer or employee when on official business;

C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Ord. 1357 § 1, 1980; prior code § 22-4.2)

3.32.030 Operator and rental agent duties.

A. Each operator or rental agent shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of rent charged. The operator or rental agent shall provide a receipt for payment to each transient.

B. No operator or rental agent shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof:

1. Will be assumed or absorbed by the operator or rental agent; or
2. Will not be added to the rent; or
3. If added, any part will be refunded except in the manner hereinafter provided.

C. If an operator or rental agent fails or refuses to collect the tax, the operator or rental agent shall be liable to the city for the amount of uncollected tax. (Ord. 1357 § 1, 1980; prior code § 22-4.3)

3.32.040 Registration.

Within thirty days after commencing business, each operator of any hotel renting occupancy to transients shall register such hotel with the tax administrator and obtain from him or her a transient occupancy registration certificate, to be at all times posted in a conspicuous place on the premises. Such certificate shall, among other things, state the following:

A. The name of the operator;
B. The address of the hotel;
C. The date upon which the certificate was issued;
D. This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit. (Ord. 1357 § 1, 1980; prior code § 22-4.4)

3.32.050 Reporting and remitting.

A. Each operator and each rental agent shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him or her, of the total rents collected and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator.

B. The tax administrator may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax and he or she may require further information in the return.

C. Returns and payments are due immediately upon cessation of business for any reason.

D. All taxes collected by operators or rental agents pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator. (Ord. 1357 § 1, 1980; prior code § 22-4.5)
3.32.060 Penalties and interest.

A. Original Delinquency. Any operator or rental agent who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. Any operator or rental agent who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator or rental agent who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid. Interest shall be imposed on penalties from thirty days after an operator or rental agent is notified of a delinquency.

E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

(Ord. 1357 § 1, 1980; prior code § 22-4.6)

3.32.070 Failure to collect and report tax - Determination of tax and notice of same - Hearing.

A. If any operator or rental agent fails or refuses to collect such tax and to make any report and remittance of such tax within the time required by this chapter, the tax administrator shall proceed in such matter as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due.

B. When the tax administrator has procured such facts and information he or she shall proceed to determine and assess against the operator or rental agent the tax, interest, and penalties provided for by this chapter.

C. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator or rental agent at his or her last known place of address.

D. The operator or rental agent may within ten days after the service or mailing of such notice apply in writing to the tax administrator for a hearing on the amount assessed. If such an application is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable.

E. If such application is made, the tax administrator shall give not less than five days’ written notice to the operator or rental agent in the manner prescribed herein of the time and place at which a hearing shall be conducted on the subject of the amount due. At such
hearing, the operator or rental agent may appear and offer evidence why the specified tax, interest, and penalties should not be fixed as determined by the tax administrator.

F. After such hearing the tax administrator shall determine the proper amount to be remitted, and shall give written notice to the operator or rental agent of such determination in the manner prescribed herein. The amount determined to be due as tax, interest, and penalties shall be payable fifteen days from the date of notice unless an appeal is taken as provided in Section 3.32.080. (Ord. 1357 § 1, 1980; prior code § 22-4.7)

G. Nothing in this section shall prohibit the tax administrator from assessing the full amount of any unremitted taxes and penalties solely against the operator in lieu of assessing some or all of those taxes and penalties against the rental agent.

3.32.080 Appeals.

A. Any operator or rental agent aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest, and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within fifteen days of the service or mailing of the notice of determination of tax due.

B. The city council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to the appellant not less than ten days prior to the date of the hearing in the manner prescribed by subsection C of Section 3.32.070.

C. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. 1357 § 1, 1980; prior code § 22-4.8)

3.32.090 Records to be kept.

Every operator or rental agent shall keep for a period of three years all records as may be necessary to determine the amount of such tax for which the operator or rental agent may have been liable pursuant to this chapter. The tax administrator shall have the right to inspect such records at all reasonable times. The rental agent shall provide the operator with copies of all records necessary for the operator to comply with its obligations under this chapter. (Ord. 1357 § 1, 1980; prior code § 22-4.9)

3.32.100 Refunds and tax credits.

A. Refunds and credits against taxes collected may be claimed and processed pursuant to this section. They shall be allowed whenever the amount of any tax, interest, or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city.

B. An operator, a rental agent, or a transient may claim a refund or credit by providing a claim in writing to the tax administrator on a form furnished by him or her stating under penalty of perjury the specific grounds upon which the claim is founded. No refund shall be paid unless the claimant establishes his or her right thereto by written records showing entitlement.
C. An operator or rental agent may claim a refund or a credit only when it is established in a manner prescribed by the tax administrator that the person from whom the tax was collected was not a transient. No refund or credit shall be allowed unless the amount of the tax so collected has either been refunded to the person from whom it was collected or credited to rent subsequently payable by him.

D. A transient may obtain a refund only when the tax was paid by him or her directly to the tax administrator, or when the transient has paid the tax to the operator or rental agent and establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator or rental agent who collected the tax. (Ord. 1357 § 1, 1980; prior code § 22-4.10)

3.32.110 Actions to collect.

A. Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city.

B. Any such tax collected by an operator or rental agent which has not been paid to the city shall be deemed a debt owed by the operator or rental agent to the city. If the operator or rental agent fails or refuses to collect the tax, the uncollected tax shall be deemed a debt owed by the operator or rental agent to the city.

C. Any person owing money to the city under the provisions of this chapter shall be liable to the city in an action brought in the name of the city for the recovery of such amount. Nothing in this section shall prohibit the tax administrator from assessing the full amount of any unremitting taxes and penalties solely against the operator in lieu of assessing some or all of those taxes and penalties against the rental agent. (Ord. 1357 § 1, 1980; prior code § 22-4.11)

Chapter 3.36 REAL PROPERTY DOCUMENTARY STAMP TAX

3.36.010 Title.

This chapter shall be known as the “Real Property Transfer Tax Regulations.” 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. (Ord. 1357 § 1, 1980; prior code § 22-5.1)

3.36.020 Tax imposed - Amount.

A. The tax imposed herein is 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 or her or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars.

B. The rate of such tax is twenty-seven and one-half cents for each five hundred dollars or fraction thereof.

C. The transfer of any mobile home installed on a foundation system, and subject to this chapter. The purchaser of a new mobile home which is sold and installed for occupancy as a residence in accordance with Section 18613 (Permit for location, installation, or reinstallation
of manufactured homes or mobile homes, etc.) of the Health and Safety Code, on or after July 1, 1980, shall be subject to the tax imposed pursuant to this chapter. (Ord. 1357 § 1, 1980; prior code § 22-5.2)

3.36.030 Persons liable for payment.

Any tax imposed pursuant to this chapter shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed, or issued. (Ord. 1357 § 1, 1980; prior code § 22-5.3)

3.36.040 Exemptions.

The tax imposed by this chapter shall not apply to:

A. Any instrument in writing given to secure a debt;

B. Any deed, instrument, or writing to which the United States or any agency or instrumentality thereof any state or territory, or political subdivision thereof, is a party when the exempt agency is acquiring title;

C. Any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure.

Consideration, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on such deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes;

D. Mobile homes held in the mobile home dealer’s inventory;

E. The making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

1. Confirmed under the Federal Bankruptcy Act, as amended,

2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended,

3. Approved in an equity receivership proceeding in a court involving a corporation, Section 101 (Definitions) of Title 11 (Bankruptcy) of the United States Code, as amended, or

4. Whereby a mere change in identity, form or place of organization is effected.

Subdivisions 1 through 4, inclusive, of this subsection shall apply only 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;

F. The making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, but only if:
1. 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 the Public Utility Holding Company Act of 1935,

2. Such order specified the property which is ordered to be conveyed,

3. Such conveyance is made in obedience to such order;

G. In the case of any realty held by a partnership, by reason of any transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, and

2. Such continuing partnership continues to hold the realty concerned.

If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for the 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.

Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in the immediately previous paragraph and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in the immediately previous paragraph and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 1357 § 1, 1980; prior code § 22-5.4)

3.36.050 Tax administrator.

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 of the state and the provisions of any county ordinance adopted pursuant thereto. (Ord. 1357 § 1, 1980; prior code § 22-5.5)

3.36.060 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 of Division 1 of the Revenue and Taxation Code. (Ord. 1357 § 1, 1980; prior code § 22-5.6)

Chapter 3.38 ADDITIONAL PROVISIONS

3.38.010 Payment of assessed taxes required prior to legal action.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the city or an officer thereof, to prevent or enjoin the collection of taxes sought to be collected pursuant to Title 3 of this code; and payment of all
tax, interest and penalties shall be required as a condition precedent to seeking judicial review of any tax liability. (Ord. 1786 § 1, 2010)

**Article III. Fees**

**Chapter 3.40 ART IN PUBLIC PLACES**

**Note**

* Editor's note: In July 2007, under the direction of the city attorney, Ch. 9.33 was renumbered to be Ch. 3.40, under new Article III, Fees.

**3.40.010 Findings.**

The city council finds and declares:

A. San Bruno’s community is largely built-out. The city is undergoing an intense infill through home remodeling and additions, large housing developments, and commercial redevelopment.

B. The city has been consistently mindful of incorporating aesthetic considerations into the city’s residential and commercial growth. For example, the city’s planning commission reviews at two levels all applications for new construction and for additions that substantially increase a home or building size. The city has a Beautification Task Force that recognizes those in the community who maintain their homes and landscapes in an aesthetically pleasing fashion. An agreement with a developer to develop the former Navy site includes a requirement for artwork.

C. The city finds that it is important to develop, support and maintain the city’s cultural and artistic heritage, resources and assets in order to enhance the community’s aesthetic quality of life, to add to a sense of community, and to improve the image and character of the community as it grows.

D. The financial burden of developing, supporting and maintaining the city’s cultural and artistic resources and assets should be distributed in a manner roughly proportionate to the building impact of each project in the community.

E. Establishment of an art in public places program will promote the city’s goal of developing the community’s aesthetic qualities and will promote the general welfare of the community. (Ord. 1684 § 1, 2003)

**3.40.020 Purpose.**

The purpose of this chapter is to create an Art in Public Places program funded by the community as a whole for the purpose of creating, conducting and sponsoring art programs, events and exhibits and for the purpose of accepting, commissioning, acquiring, selecting, installing, maintaining, and insuring art work in the city of San Bruno. (Ord. 1684 § 1, 2003)

**3.40.030 Art defined.**

Art shall be defined as in Chapter 2.50.030, (Culture and Arts Commission – Definition). (Ord. 1684 § 1, 2003)
3.40.040 Fund created.

The “City Art Fund” is hereby established to account for fees paid pursuant to this chapter. This fund shall be maintained by the city finance director or designee, and shall be used solely for the purpose of sponsoring, conducting and hosting art programs, events and exhibits and for the purpose of accepting, commissioning, acquiring, selecting, installing, maintaining, and insuring art work to be displayed in the city. (Ord. 1684 § 1, 2003)

3.40.050 Program allocation.

The program allocation, as used in this chapter, shall be established as part of the city’s building division permit collection fee system. In the absence of a development agreement or other similar agreement providing for public art or an art fund fee, the program allocation shall be as follows:

A. Five percent of residential building, mechanical, electrical, or plumbing permit fee;

B. Seven percent of commercial (non-residential) building, mechanical, electrical, or plumbing permit fee. (Ord. 1684 § 1, 2003)

3.40.060 Program compliance.

No final city approval, such as a final inspection or certificate of occupancy, for any project subject to this chapter shall be granted or issued unless and until full compliance with the provisions of this chapter is achieved, until all required fees under this chapter have been paid. (Ord. 1684 § 1, 2003)

3.40.070 Administration of art in public places program.

A. As set forth in Chapter 2.50.130H, the Culture and Arts Commission shall administer the art in public places program under the general direction of the city council.

B. General Considerations. The commission shall consider at a minimum the aesthetic quality, harmony and propriety of proposed artwork with existing on-site improvements, maintenance of the artwork, and proposed location of and public accessibility to the artwork. The commission shall consider whether a proposed program or event comports with the findings and purposes of this chapter.

C. Relationship to Planning Commission.

1. If a development project is subject to planning commission review and approval and includes on site placement of art work, the culture and arts commission shall first review a completed application for consistency with subsection B of this section, including any recommended conditions of approval, and forward its recommendation to the planning commission;

2. The planning commission shall consider the recommendations and conditions of approval of the culture and arts commission.
D. Relationship to City Council.

1. The culture and arts commission shall seek approval from the city council for all expenditures of the culture and arts commission from the city art fund;

2. The city council may call up any matter relating to the culture and arts commission for de novo review and action by the city council or refer to the redevelopment agency board where appropriate. The decision of the city council or redevelopment agency board shall be final. (Ord. 1684 § 1, 2003)

3.40.080 Ownership of public art.

Artwork donated to the city and accepted by the city shall be the property of the city. (Ord. 1684 § 1, 2003)

Section 4. California Environmental Quality Act (CEQA). This ordinance is not a “project” pursuant to Section 21065 of the Public Resource Code because it does not change the existing regulatory scheme.

Section 5. Severability. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Section 6. Effective Date. The City Clerk shall certify to the adoption of this ordinance and shall cause a summary thereof to be published in a newspaper of general circulation at least five (5) days prior to the meeting at which the proposed ordinance is to be adopted and shall post a certified copy of the proposed ordinance in the office of the City Clerk, and within fifteen (15) days of its adoption, shall cause a summary of it to be published, including the vote for and against the same, and shall post a certified copy of the adopted ordinance in the office of the City Clerk, in accordance with California Government Code Section 36933.

Rico E. Medina, Mayor

Melissa Thurman, City Clerk

APPROVED AS TO FORM:

Marc Zafferano, City Attorney
I hereby certify that foregoing Ordinance No. _________ was introduced at a regular meeting of the San Bruno City Council on __________, 2019, and adopted by the San Bruno City Council at a regular meeting on __________, 2019 by the following vote:

AYES:  Councilmembers:

NOES:  Councilmembers:

ABSENT:  Councilmembers:
DATE: June 25, 2019

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

SUBJECT: Receive Report and Direct Staff to Cancel the August 13, 2019 Regular City Council Meeting

BACKGROUND:

City Council typically considers the cancellation of one regular City Council meeting during the month August. Most recently, City Council has opted to cancel the first meeting in August to coincide with the San Bruno Park School District’s academic year and summer break. Staff recommends the City Council to consider a cancellation in advance of a regularly scheduled meeting in an effort to avoid significant impact to City business and to provide advance notice of cancellation to the public.

DISCUSSION:

Regular City Council meetings are stipulated in the Municipal Code to occur on the second and fourth Tuesdays of each month, with the exception of December. Staff recommends City Council to consider the cancellation of the regular City Council meeting on August 13, 2019. Cancellation of a regular meeting requires action by the City Council.

FISCAL IMPACT:

None

ALTERNATIVES:

1. Do not consider cancellation of City Council meeting on August 13, 2019.
2. Consider cancellation of a different City Council meeting.

RECOMMENDATION:

Receive report and direct staff to cancel the August 13, 2019 regular City Council meeting.

ATTACHMENTS:

None