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3 **ORDINANCE NO. 2022-05**

4 **AN ORDINANCE AMENDING SECTION 4-7 AND REPEALING SECTION 4-8 OF**  
5 **CHAPTER IV OF THE ALBANY MUNICIPAL CODE TO ESTABLISH**  
6 **AN EMERGENCY MEDICAL SERVICES, ADVANCED LIFE SUPPORT, AND**  
7 **FIRE PROTECTION SPECIAL TAX AT \$0.074 PER SQUARE FOOT OF LAND,**  
8 **AND PROVIDING FOR CERTAIN EXEMPTIONS AND REBATES FROM**  
9 **THE SPECIAL TAX FOR QUALIFYING VERY LOW-INCOME RESIDENTS**

10 **NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS**  
11 **FOLLOWS:**

12 **SECTION 1: AUTHORITY.**

13 This Ordinance is enacted in accordance with the authority granted to cities by Article XI,  
14 Section 7, Article XIII A, Section 4 and Article XIII C, Section 2 of the California Constitution  
15 and the California Elections Code.

16 **SECTION 2: AMENDMENT OF SECTION 4-7 TO THE ALBANY MUNICIPAL**  
17 **CODE.**

18 Section 4-7 of Chapter IV of the Albany Municipal Code is hereby amended to read as follows:

19 **“4-7.1 Title; Declaration of Findings and Purpose.**

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21 This section may be cited as the "Emergency Medical Services, Advanced Life  
22 Support, and Fire Protection Tax". The special tax imposed under this section is solely for the  
23 purpose of raising revenue for paramedic, advanced life support, firefighting services,  
24 firefighting equipment and ambulance service. This section is not enacted for regulatory  
25 purposes.  
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27 The people of the City find and declare that:  
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1 a. The continuing provision of the City's Emergency Medical Services Program is a  
2 matter of the highest and most urgent necessity.

3 b. In the last two decades, the City's population has grown more than twice as fast as the  
4 number of residences, placing increased demand on emergency medical services without an  
5 increase in tax revenue to support those services.

6 c. The cost for the City to provide emergency transport services exceeds the revenues  
7 generated from fees for providing such services, the Emergency Medical Services Special Tax  
8 and the Paramedic Advanced Life Support, Fire Engine and Ambulance Service Special Tax.  
9 The purpose of this special tax is to fund emergency transport costs and replace the two  
10 aforementioned special taxes and continue to provide funding for the City's Emergency  
11 Medical Services Program.

12 d. Adoption of this special tax by a two-thirds (2/3) vote helps assure that the City can  
13 continue to provide, and improve, the Emergency Medical Services Program and avoid any  
14 severe adverse impact on the health and safety of Albany residents.

15 e. Property owners will pay an amount based on the amount of land square footage that  
16 they own.

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18 **4-7.2 Special Tax.**

19 a. The intent of the tax imposed under this section is solely for the purpose of providing  
20 additional funding for the City's Emergency Medical Services Program in order to protect  
21 individual health and safety and to improve the quality of life in the City of Albany.

22 b. Section 4 of Article XIII A of the California Constitution (Proposition 13) allows two-  
23 thirds (2/3) of the qualified electors of the City to impose a special tax within the City, provided  
24 the special tax is not an ad valorem tax on real property or a transaction tax or a sales tax on  
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1 the sale of real property within the City. The tax imposed by this Section is a special tax which  
2 is authorized for elector approval by Section 4 of Article XIII A of the California Constitution.

3 c. The City Council is hereby authorized to levy the Emergency Medical Services,  
4 Advanced Life Support, and Fire Protection Tax special tax at the maximum rate of \$0.074  
5 per square foot of land for residential and commercial properties. The tax imposed by this  
6 section shall be operative for fiscal year 2023-2024 and each fiscal year thereafter.

7 d. The tax imposed by this Section shall be subject to the exemptions and rebates set forth  
8 in this Section.

9  
10 1. Single-family residential parcels and units on multi-family residential parcels shall  
11 be exempt from the special tax if they are owned and occupied by a person or  
12 persons whose combined family income, from all sources for the previous calendar  
13 year, is at or below the income level qualifying as "very low-income" for a family  
14 of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A.  
15 Sections 1437 et seq.), for such year. The application process will be in the form  
16 of self-certification under penalty of perjury. Owners must apply for the exemption  
17 provided for in this Section annually by application to the Finance Director in the  
18 manner and at the time set forth by the Finance Director. Such applications shall  
19 be on forms provided by the Finance Director and shall provide such information  
20 as the Finance Director may require. If the Finance Director determines the need  
21 to audit an application, the Finance Director may require additional information,  
22 including, but not limited to, federal income tax returns and W-2 forms of owner-  
23 occupants eligible for this exemption.  
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26 2. Renters who reside in a residential rental unit within the City of Albany whose  
27 combined family income, from all sources for the previous calendar year, is at or  
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1 below the income level qualifying as "very low-income" for a family of such size  
2 under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections  
3 1437 et seq.), for such year may apply for a rebate of the special tax imposed by  
4 this section that applies to the rental unit in which they reside. Renters must apply  
5 for the rebate provided in this section annually by application to the Finance  
6 Director in the manner and at the time set forth by the Finance Director. Such  
7 applications shall be on forms provided by the Finance Director and shall provide  
8 such information as the Finance Director may require. If the Finance Director  
9 determines the need to audit an application, the Finance Director may require  
10 additional information, including, but not limited to, federal income tax returns and  
11 W-2 forms of renter occupants eligible for this exemption. Only one such rebate  
12 shall be allowed annually to a rental unit.  
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14 e. The proceeds of the Emergency Medical Services, Advanced Life Support, and Fire  
15 Protection Tax shall be deposited in the Emergency Medical Services, Advanced Life Support,  
16 and Fire Protection Fund and shall be used for the sole and exclusive purpose of providing  
17 paramedic, advanced life support, firefighting services, firefighting equipment and ambulance  
18 service.  
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20 **4-7.3 Annual Audit.** A certified public accounting firm retained by the City will perform an  
21 annual audit to assure accountability of the proper disbursement of these tax proceeds in  
22 accordance with the objectives stated herein. The chief fiscal officer of the City shall cause a  
23 report (the "Report") to be prepared and filed with the City Council no later than June 30 of  
24 each year. The Report shall state: (a) the amount of special tax proceeds collected and  
25 expended in such year; and (b) the status of any projects or description of any programs funded  
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1 from proceeds of the special tax. The Report may be incorporated into or filed with the annual  
2 budget, audit, or other appropriate routine report to the City Council.”

3 **4-7.4 Examination of Books and Records.** The Director of Finance and Administrative  
4 Services or their designee, is hereby authorized to examine assessment rolls, property tax  
5 records, records of the Alameda County Recorder and any other records of the County of  
6 Alameda deemed necessary in order to determine ownership of parcels and computation of the  
7 tax imposed by this section.  
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9 **4-7.5 Collection of Tax: Interest and Penalties.** The City Council is authorized to have the  
10 taxes imposed by this section collected by the County of Alameda in conjunction with the  
11 County's collection of property tax revenues for the City of Albany. In the event that the  
12 County of Alameda collects the taxes imposed by this section, the imposition of penalties,  
13 additional fees and interest upon persons who fail to remit any tax imposed by this section, or  
14 who fail to remit any delinquent remittance under this section, shall be subject to and governed  
15 by the rules, regulations and procedures utilized by the County of Alameda in its collection of  
16 property taxes for the City of Albany and its collection of this additional tax for the City of  
17 Albany.  
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20 **4-7.6 Collection of Unpaid Taxes.** The amount of any tax, penalty, and interest imposed  
21 under the provisions of this section shall be deemed a debt to the City. Any person owing  
22 money under the provisions of this section shall be liable to an action brought in the name of  
23 the City for the recovery for such amount.  
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25 **4-7.7 Refund of Tax, Penalty, or Interest Paid More Than Once; or Erroneously or**  
26 **Illegally Collected.** When the amount of any tax, penalty, or interest has been paid more than  
27 once, or has been erroneously or illegally collected or received by the City under this section  
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1 it may be refunded provided a verified claim in writing therefore, stating the specific ground  
2 upon which claim is founded, is filed with the Director of Finance and Administrative Services  
3 within one (1) year from the date of payment. If the claim is approved by the Director of  
4 Finance and Administrative Services, the excess amount collected or paid may be refunded or  
5 may be credited against any amounts then due and payable from the person from whom it was  
6 collected or by whom paid, and the balance may be refunded to such person, their  
7 administrators or executors.  
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9 **4-7.8 Savings Clause.** The provisions of this section shall not apply to any person, or to any  
10 property as to whom or which it is beyond the power of the City of Albany to impose the tax  
11 herein provided. If any provision, sentence, clause, section or part of this section is found to  
12 be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall  
13 affect only such provision, sentence, clause, section or part of this section and shall not affect  
14 or impair any of the remaining provisions, sentences, clauses, sections or parts of this section.  
15 It is hereby declared to be the intention of the City of Albany that this section would have been  
16 adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part  
17 thereof not been included herein.  
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19 **4-7.9 Regulations.** The City Council is hereby authorized to promulgate such regulations as  
20 it shall deem necessary in order to implement the provision of this section, including codifying  
21 this Ballot Measure as part of Chapter 4, Section 4-7 et seq., of the Albany Municipal Code or  
22 as otherwise directed by the Albany City Clerk.  
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24 **4-7.10 Increase Appropriations Limit.** Pursuant to California Constitution Article XIII B,  
25 the appropriation limit for the City of Albany is hereby increased by the aggregate sum  
26 authorized to be levied by this special tax for fiscal year 2022/2023 and each year thereafter.  
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1 **4-7.11 Reduction in Tax and Limited Authority to Increase.**

2 a. Subject to paragraph b, the tax rates imposed by Section 4-7 are maximum rates and  
3 may not be increased by the City Council above such maximum rates. The tax imposed by this  
4 ordinance may be reduced or eliminated by the City Council on or before July 1st in any year  
5 in which the City Council determines that after such reduction or elimination there will be  
6 sufficient revenues available to balance the City Council's Adopted Policy Budget and the  
7 Council may reverse such action or otherwise adjust the tax rate as determined necessary to  
8 sufficiently fund the Adopted Policy Budget. Such reduction or elimination shall be effective  
9 for the fiscal year following such vote.  
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11 b. Commencing in fiscal year 2023-2024 and each year thereafter, the City Council may  
12 increase the tax imposed hereby only upon a finding that the cost of living in the immediate  
13 San Francisco Bay Area, as verified by the Consumer Price Index established by the United  
14 States Bureau of Labor Statistics (All Urban Consumer-San Francisco Bay Area), has  
15 increased. The increase of the tax imposed hereby shall not exceed such verified index. It is  
16 further provided that in no event shall the tax rate adjustment imposed hereby exceed, on an  
17 annual basis, five percent (5%) of the tax rates imposed by the City of Albany during the  
18 immediately preceding fiscal year.”  
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21 **SECTION 3: REPEAL OF SECTION 4-8 OF THE ALBANY MUNICIPAL CODE.**

22 Section 4-8 of Chapter IV of the Albany Municipal Code is hereby repealed in its entirety.  
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24 **SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

25 The findings for this Ordinance in compliance with the California Environmental Quality Act  
26 (“CEQA”) are the same as those set forth in City Council Resolution No. 2022-77 calling for  
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1 an election on this Ordinance. The CEQA findings set forth in Resolution No. 2022-77 are  
2 incorporated herein by reference.

3 **SECTION 5: SEVERABILITY.**

4 If any provision of this Ordinance or the application thereof to any person or circumstance is  
5 held invalid, the remainder of the Ordinance and the application of such provision to other  
6 persons or circumstances shall not be affected thereby.  
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8 **SECTION 6: EFFECTIVE DATE.**

9 Pursuant to California Constitution Article XIII C §(2)(d) and California Elections Code §  
10 9217, this Ordinance shall take effect only if approved by a two-thirds (2/3) supermajority of  
11 the eligible voters of the City of Albany voting at the General Municipal Election to be held  
12 on November 8, 2022 and shall become effective 10 days after the City Council has declared  
13 the results of the Election.  
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2 Ordinance No. 2022-05 was submitted to the People of the City of Albany at the November 8,  
3 2022 General Municipal Election. It was approved by the following vote of the People:

4 YES: 5752

5 NO: 1794  
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9 Ordinance No. 2022-05 was thereby adopted by the voters at the November 8, 2022 election  
10 and shall become effective ten (10) days following adoption of a resolution declaring the  
11 results of the election at a regular meeting of the City Council held on December 12, 2022 by  
12 the following vote:

13 AYES: Council Members McQuaid, Nason, Tiedemann, and Mayor Jordan

14 NOES: None

15 ABSENT: None

16 ABSTAIN: None  
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21 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and  
22 regularly adopted by the People of the City of Albany, California.  
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26 Anne Hsu, City Clerk  
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