

FULL TEXT OF MEASURE _

ORDINANCE No. _____

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA AMENDING SECTION 8-6.05 OF THE HAYWARD MUNICIPAL CODE RELATING TO REAL PROPERTY TRANSFER TAX

THE PEOPLE OF THE CITY OF HAYWARD DO ORDAIN AS FOLLOWS:

Section 1. Section 8-6.05 of the Hayward Municipal Code is hereby amended to read as follows:

SEC. 8-6.05 - IMPOSITION OF TAX.

A tax is hereby imposed on each transfer, by deed, instrument, or writing, by which any lands, tenements, or other real property located in the City are sold, granted, assigned, transferred, or otherwise conveyed to, or vested in, a purchaser or purchasers thereof, or any other person or persons at or by the direction of said purchaser or purchasers, when the value of the consideration exceeds one hundred dollars (\$100.00), said tax to be at the rate of eight dollars and fifty cents (\$8.50) for each one thousand dollars (\$1,000.00) or fractional part of one thousand dollars (\$1,000.00) of the value of the consideration.

As used herein, 'value of the consideration' shall mean the total consideration, paid or delivered, or contracted to be paid or delivered, in return for the transfer of real property, including the amount of any indebtedness, existing immediately prior to the transfer which is secured by a lien, deed of trust or other encumbrance on the property conveyed and which continues to be secured by such lien, deed of trust, or encumbrance after said transfer, and also including the amount of any indebtedness which is secured by a lien, deed of trust, or encumbrance given or placed upon the property in connection with the transfer to secure the payment of the purchase price or any part thereof which remains unpaid at the time of the transfer. Value of the consideration also includes the amount of any special assessment levied or imposed upon the property by a public body, district, or agency, where said special assessment is a lien or encumbrance on the property and the purchaser or transferee agrees to pay such special assessment or takes the property subject to the lien of such special assessment. The value of any lien or encumbrance of a type, other than those which are hereinabove specifically included,

existing immediately prior to the transfer and remaining after said transfer, shall not be included in determining the value of the consideration. If the value of the consideration cannot be definitely determined or is left open to be fixed by future contingencies, value of the consideration shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any of a type which would be excluded in determining the value of the consideration pursuant to above provisions of this section.

Section 2. To the extent allowed under Article XIII C of the California Constitution, this Ordinance may be amended by the City Council without a vote of the people, except that voter approval shall be required for any amendment that increases the tax, within the meaning of Government Code section 53750(h), beyond the levels authorized by this chapter.

Section 3. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 4. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 5. This Ordinance shall become effective 10 days after the certification of its approval by the voters at the Election pursuant to Elections Code section 9217.

Section 6. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

* * * * *