

1 **WHEREAS**, the ballot measure is an ordinance adding Section 5-2.3.5 to Article 2 of
2 Chapter 5 of the Albany Municipal Code to:

3 (A) Establish a supplemental special business license tax on residential rental
4 businesses operating within the City of Albany to fund tenant rental assistance
5 programs, Code Enforcement efforts related to residential rentals, legal assistance
6 for tenants and landlords, to support rental providers to avoid financial hardship
7 (“Special BL Tax”) at the following rates:
8

9 1.) 0.36% of gross receipts earned from the business of renting four residential
10 units or less within the City of Albany; and

11 2.) 1% of gross receipts earned from the business of renting five or more
12 residential units within the City of Albany; and

13 (B) Incorporate an exemption from the tax for any residential rentals rented by the City
14 of Albany or pursuant to an agreement with the City of Albany.
15

16 **WHEREAS**, the specific terms of the Special BL Tax measure are provided for in the
17 ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” (the “Special
18 BL Tax Ordinance” or “Special BL Tax Measure”) and by this reference made an operative
19 part hereof, and in accordance with all applicable laws; and

20 **WHEREAS**, the “Rental Assistance and Code Enforcement Fund” and are dedicated
21 for the following sole and exclusive purposes:
22

- 23 ▪ To fund local tenant rental assistance programs, including financial assistance
24 to assist qualifying tenants in paying the cost of rent, security deposit, utility
25 service, or any other costs reasonably related to occupancy of a residential rental
26 unit within the City;
27
28

- 1 ▪ To increase funding for Code Enforcement activities in order to enhance the
- 2 City’s monitoring of conditions at residential rental units and to enhance the
- 3 City’s response to address Code violations and other conditions affecting
- 4 habitability within residential rental units;
- 5 ▪ To fund free or reduced-cost legal services to be made available to qualifying
- 6 tenants and landlords of residential rental units within the City;
- 7
- 8 ▪ To fund support of rental providers to avoid financial hardship.

9 **WHEREAS**, on November 6, 1996, the voters of the State of California approved
10 Proposition 218 (California Constitution, Article XIIIIC), an amendment to the State
11 Constitution which requires that all special taxes which are imposed, extended or increased
12 must be submitted to the electorate and approved by a two-thirds (2/3) vote of the qualified
13 electors voting in the election; and

14 **WHEREAS**, the proposed amendments which enact the Special BL Tax constitute a
15 tax “increase” subject to Proposition 218; and

16 **WHEREAS**, pursuant to Proposition 218 (California Constitution Article XIIIIC,
17 §2(b)), a local election for the approval of an increase to a special tax may be scheduled for
18 any date authorized by the California Elections Code; and

19 **WHEREAS**, the next regularly scheduled general election for City Council members
20 on November 5, 2024 is a date authorized under the California Elections Code for the
21 placement of a special tax measure; and

22 **WHEREAS**, pursuant to California Government Code Section 50077, on July 15,
23 2024, the City Council held a public hearing after due notice regarding calling for an election
24 on the Special BL Tax Measure; and

1 **WHEREAS**, pursuant to Albany City Charter Section 2.05, “[T]he affirmative vote of
2 a majority of the Council shall be necessary to adopt any ordinances, resolutions or claims
3 against the City, which vote shall be taken by ayes and noes and entered upon the record”.

4
5 **NOW THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY**
6 **RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**
7

8 **Section 1** Recitals. The City Council hereby finds and determines that the
9 foregoing recitals are true and correct, are incorporated herein and by this reference made an
10 operative part hereof.

11 **Section 2** Submission of Ballot Measure. Pursuant to Albany City Charter Section
12 2.05, California Elections Code §9222, and any other applicable requirements of the laws of
13 the State of California relating to the City of Albany, the City Council, by a simple majority
14 vote of its members, hereby orders the Special BL Tax Measure to be submitted to the voters
15 of the City at the General Municipal Election to be held on Tuesday, November 5, 2024.
16

17 **Section 3** There is hereby called and ordered to be held in the City of Albany,
18 California on November 5, 2024, a General Municipal Election for the purposes of submitting
19 to the voters the Special Business License Tax Measure as set forth in Exhibit A.

20 **Section 4** The City Council hereby orders that the ballot question for the Measure
21 shall be presented and printed upon the ballot submitted to the qualified voters in the manner
22 and form set forth in this Section 4. On the ballot to be submitted to the qualified voters at the
23 General Municipal Election to be held on November 5, 2024, in addition to any other matters
24 required by law, there shall be printed substantially the following ballot question:
25
26
27
28

<p>1 “To fund local tenant rental assistance programs, residential rental 2 code enforcement, legal assistance for tenants and landlords, and to 3 support rental providers to avoid financial hardship, shall a measure 4 establishing a supplemental special business license tax on residential 5 rental businesses of 0.36% of gross receipts for renting four or fewer 6 units in the City and 1% of gross receipts for renting five or more 7 units, providing approximately \$475,000 annually until ended by 8 voters, be adopted?”</p>	<p>YES</p>
	<p>NO</p>

6 **Section 5** This Measure requires the approval of a two-thirds (2/3) supermajority
7
8 of the qualified electors casting votes at the General Municipal Election.

9 **Section 6** Conduct of Election. The City Clerk is authorized, instructed, and
10 directed to coordinate with the Alameda County Registrar of Voters/Elections Official to
11 procure and furnish any and all official ballots, printed matter and all supplies, equipment and
12 paraphernalia that may be necessary in order to properly and lawfully conduct the election.

13 **Section 7** Impartial Analysis. Pursuant to California Elections Code Section
14 9280, the City Council hereby directs the City Clerk to transmit a copy of the Measure to the
15 City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to
16 exceed 500 words in length, showing the effect of the Measure on the existing law and the
17 operation of the Measure, and transmit such impartial analysis to the City Clerk not later than
18 the deadline for submittal of primary arguments for or against the Measure. The impartial
19 analysis shall include a statement indicating whether the Measure was placed on the ballot by
20 a petition signed by the requisite number of voters or by the City Council. In the event the
21 entire text of the Measure is not printed on the ballot, nor in the voter information portion of
22 the sample ballot, there shall be printed immediately below the impartial analysis, in no less
23 than 10-font bold type, the following: **“The above statement is an impartial analysis of**
24 **Ordinance or Measure ____.** **If you desire a copy of the Ordinance or Measure, please**
25 **call the Office of the City Clerk at (510) 528-5710 and a copy will be mailed at no cost to**
26 **you.”**
27
28

1 **Section 8** The City Clerk is hereby directed to cause notice of the Measure to be
2 published in a newspaper of general circulation, or any other newspaper designated as an
3 official newspaper of the City of Albany in accordance with Elections Code §12111 and
4 Government Code §6061.

5 **Section 9** Placement on the Ballot. The full text of the Measure shall be printed
6 in the voter information guide and pursuant to Elections Code §9223 voters may obtain a copy
7 of this Resolution and the Measure, at no cost, upon request made to the City Clerk.
8

9 **Section 10** Public Examination. Pursuant to California Elections Code §9295, the
10 Measure will be available for public examination for no fewer than ten (10) calendar days prior
11 to being submitted for printing in the voter information guide. The City Clerk shall post notice
12 in the Clerk's office of the specific dates that the examination period will run.
13

14 **Section 11** That in all particulars not recited in this Resolution, said election shall
15 be held and conducted as provided by law for holding Municipal Elections in the City of
16 Albany.

17 **Section 12** That the General Municipal Election, to be held in the City of Albany,
18 shall be canvassed by the Registrar of Voters of the County of Alameda, State of California.

19 **Section 13** That the City Clerk of the City of Albany is hereby authorized instructed
20 and directed to provide the Alameda County Registrar of Voters with all pertinent information
21 and material as required.
22

23 **Section 14** That the City Clerk of the City of Albany is hereby authorized and
24 directed to file a copy of this Resolution immediately upon its adoption with the appropriate
25 County agencies. With the concurrence of the City Attorney, the City Clerk is hereby
26 authorized to make such minor, technical and clarifying changes to this Resolution and/or the
27 Exhibits hereto as may be deemed necessary and appropriate.
28

1 **Section 15** The Voter Information Guide shall include the ballot question's
2 wording to the voters as set forth above, and the exact wording of the proposed Albany
3 Municipal Code sections or present Albany Municipal Code with language to be deleted shown
4 in ~~strikeout type~~ and the language to be added to be shown in underlined, *italicized*, or
5 otherwise **highlighted** in the Exhibit "A" attached hereto.

6 **Section 16** The approval of this Resolution is exempt from the California
7 Environmental Quality Act (CEQA). The Special BL Tax Measure to be submitted to the
8 voters is a special tax dedicated to funding tenant rental assistance programs, Code
9 Enforcement efforts related to residential rentals, legal assistance for tenants and landlords,
10 community and homeless prevention services. However, the funding is not committed to any
11 specific project or service; and any future decisions to approve particular projects or services
12 utilizing the tax proceeds will be subject to environmental review at the earliest feasible time
13 prior to the point at which such future decisions are made. As such, under CEQA Guidelines
14 Section 15378(b)(4), this Measure is not a project within the meaning of CEQA because it
15 creates a government funding mechanism that does not involve any commitment to any
16 specific project that may result in a potentially significant physical impact on the environment.
17 If revenue from this Measure were used for a purpose that would have any such effect, the City
18 would undertake the required CEQA review for that particular project at the earliest feasible
19 time prior to approval of the project. Therefore, under CEQA Guidelines Section 15060,
20 review under CEQA is not required prior to enactment of the Measure.
21
22
23
24
25
26
27
28

1 The undersigned hereby certifies that the foregoing is a full, true, and complete copy of the
2 Resolution duly passed and adopted by the City Council of the City of Albany at a regular
3 meeting thereof on the 15th day of July, 2024.
4
5

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOHN MIKI, MAYOR

ATTACHMENT:

Exhibit A – Proposed Supplemental Special Business License Tax Ordinance

1 **EXHIBIT “A”**

2

3

4

5

6

7

“To fund local tenant rental assistance programs, residential rental code enforcement, legal assistance for tenants and landlords, and to support rental providers to avoid financial hardship, shall a measure establishing a supplemental special business license tax on residential rental businesses of 0.36% of gross receipts for renting four or fewer units in the City and 1% of gross receipts for renting five or more units, providing approximately \$475,000 annually until ended by voters, be adopted?”	YES
	NO

8

9 **ORDINANCE NO. 2024-04**

10 **AN ORDINANCE OF THE PEOPLE OF THE CITY OF ALBANY ADDING**

11 **SECTION 5-2.3.5 TO ARTICLE 2 (LICENSE TAX) OF CHAPTER 5 (GENERAL**

12 **LICENSING AND BUSINESS REGULATIONS) OF THE ALBANY MUNICIPAL**

13 **CODE TO ESTABLISH A SUPPLEMENTAL SPECIAL BUSINESS LICENSE TAX**

14 **ON RESIDENTIAL RENTAL BUSINESSES OPERATING WITHIN THE CITY OF**

15 **ALBANY TO FUND TENANT RENTAL ASSISTANCE PROGRAMS, CODE**

16 **ENFORCEMENT EFFORTS RELATED TO RESIDENTIAL RENTALS, LEGAL**

17 **ASSISTANCE FOR TENANTS AND LANDLORDS, AND TO SUPPORT RENTAL**

18 **PROVIDERS**

19 **NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS**

20 **FOLLOWS:**

21 **SECTION 1: AUTHORITY.**

22 This Ordinance is enacted in accordance with the authority granted to cities by Article XI,

23 Section 7, Article XIII A, Section 4 and Article XIII C, Section 2 of the California Constitution

24 and the California Elections Code.

25 **SECTION 2: ADDITION OF SECTION 5-2.3.5 TO THE MUNICIPAL CODE.**

26 Section 5-2.3.5 is hereby added to Chapter 5 of the City of Albany Municipal Code and shall

27 read as follows:

28

1 **“5-2.3.5 Supplemental Special Tax on Residential Rental Businesses.**

2 ***a. In addition to any other business licenses taxes due under this Chapter 5, every***
3 ***person engaged, directly or indirectly, including through an interest in another entity, in the***
4 ***business of renting or leasing residential dwelling units in the City of Albany shall pay an***
5 ***annual supplemental special business license tax equal to the percentage of gross receipts***
6 ***earned by said business, as set forth below.***

7

Categories	Percentage of Gross Receipts
Residential Rental (four units or less)	0.36%
Residential Rental (five units or more)	1.0%

10

11 ***b. For purposes of this section, “gross receipts” means the total amount of money,***
12 ***credits, reimbursed expenses, value of any free or reduced rent, or other things of value***
13 ***actually received or receivable in connection with engaging in residential rental business in***
14 ***the City of Albany, including any transfer or sale of any materials, goods, wares,***
15 ***merchandise, or other things of value, or for the performance of any act or service, of any***
16 ***nature, for which a charge is made, credit allowed, or other thing of value received, without***
17 ***any deduction on account of the cost of property sold, cost of materials used, labor or service***
18 ***costs, interest paid or payable, reimbursed or passed through expenses, or losses or other***
19 ***expenses. Gross receipts includes all payments made to a lessor, or paid to third parties on***
20 ***behalf of a lessor as part of a lease agreement, including but not limited to, taxes, business***
21 ***taxes, insurance, mortgage payment, rent, and the cash value of all services rendered to or***
22 ***on behalf of the lessor by a lessee.***

23

24

25 ***Notwithstanding the foregoing, the following shall be excluded from the definition of gross***
26 ***receipts:***

1 1. *Any other tax required by law to be included in or added to the rent and*
2 *collected from the tenant;*

3 2. *Such part of the rent returned by lessors to the lessees by way of cash or credit*
4 *allowances or refundable security, cleaning and other deposits collected from the*
5 *tenant, provided, however, that any deposits that are lawfully forfeited and not*
6 *returned to the tenant shall be counted as gross receipts;*

7
8 3. *Whenever there are included within the gross receipts amounts which reflect*
9 *rent for which credit is extended and such amount proved uncollectible in a*
10 *subsequent year, those amounts may be excluded from the gross receipts in the year*
11 *they prove to be uncollectible; provided, however, if the whole or portion of such*
12 *amounts excluded as uncollectible are subsequently collected, they shall be included*
13 *in the amount of gross receipts for the period when they are recovered.*

14
15 c. *For purposes of this section, “residential rental” shall mean conducting or operating*
16 *an apartment house, lodging house, and every person engaged in the business of conducting*
17 *or letting rooms, and/or any building structure, for dwelling, sleeping, or non-transient*
18 *lodging, including, but not limited to, a single-family house, duplex, triplex, townhouse,*
19 *condominium, accessory dwelling unit, or co-operative.*

20
21 d. *Gross receipts from the following categories of residential rentals shall not be subject*
22 *to this Section, but shall be subject to the general business license tax provided elsewhere in*
23 *this Chapter:*

24
25 1. *residential rental units owned by a nonprofit corporation whose primary*
26 *purpose is the provision of affordable housing;*

1 2. *residential rental units whose rents are controlled under local, state or federal*
2 *law, deed restrictions, or agreements with public agencies, at rental rates that are*
3 *affordable to households earning no more than 80% of Area Median Income and*
4 *whose tenants must be income-qualified;*

5 3. *any residential rental unit rented by the City or pursuant to an agreement*
6 *with the City;*

7 4. *any residential rental unit on property owned or leased by a State university*
8 *or college whose primary purpose is the provision of housing for students attending*
9 *the university or college, or faculty or staff employed by the university or college;*
10

11 5. *any residential rental unit on property owned or leased by the Albany Unified*
12 *School District whose primary purpose is the provision of housing for faculty or staff*
13 *employed by the School District;*
14

15 6. *any additional exemption(s) that the City Council may adopt, from time to*
16 *time, by resolution or ordinance. The City Council may also, by resolution or*
17 *ordinance, reverse or amend any such additional exemption(s) at any time.*
18

19 e. *The tax imposed by this section shall be operative on January 1, 2025.*

20 f. *The proceeds of the supplemental special business license tax shall be deposited in*
21 *the Rental Assistance and Code Enforcement Fund and shall be used for the following sole*
22 *and exclusive purposes:*
23

24 1. *To fund local tenant rental assistance programs, including any City rental*
25 *voucher program or other financial assistance to assist qualifying tenants in paying*
26 *the cost of any rent, security deposit, utility service, or any other costs reasonably*
27 *related to occupancy of a residential rental unit within the City;*
28

1 2. *To increase funding for Albany Code Enforcement activities in order to*
2 *enhance the City's monitoring of habitability at residential rental units and to*
3 *enhance the City's response to address violations and other conditions affecting*
4 *compliance with applicable State and local codes;*

5 3. *To fund free or reduced-cost legal services to be made available to qualifying*
6 *tenants and landlords of residential rental units within the City;*

7 4. *To fund support of rental providers to avoid financial hardship .;*

8
9
10 g. *Except as otherwise provided in this Section, the supplemental special business*
11 *license tax shall be collected and administered as set forth in Chapter 5 of this Code.*

12 h. *The City Council may reduce the tax rate set forth in this Section and may terminate*
13 *any such reductions and restore the rate to the maximum provided in this voter-approved*
14 *ordinance, without further voter approval.*

15
16 i. *The City Council may, from time to time, adopt supplemental ordinances,*
17 *resolutions, policies, programs and procedures as necessary for the implementation of this*
18 *Section, provided no such action increases the codified rate or methodology of this*
19 *supplemental business license tax in this Section."*

20
21 **SECTION 6: CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

22 Under CEQA Guidelines Section 15378(b)(4), this Measure is not a project within the meaning
23 of CEQA because it creates a government funding mechanism that does not involve any
24 commitment to any specific project that may result in a potentially significant physical impact
25 on the environment. If revenue from this Measure were used for a purpose that would have
26 any such effect, the City would undertake the required CEQA review for that particular project
27
28

1 at the earliest feasible time prior to approval of the project. Therefore, under CEQA Guidelines
2 Section 15060, review under CEQA is not required prior to enactment of the Measure.
3

4 **SECTION 7: SEVERABILITY.**

5 If any provision of this Ordinance or the application thereof to any person or circumstance is
6 held invalid, the remainder of the Ordinance and the application of such provision to other
7 persons or circumstances shall not be affected thereby.

8 **SECTION 8: EFFECTIVE DATE.**

9 Pursuant to California Constitution Article XIIC §(2)(d) and California Elections Code §9217,
10 this Ordinance shall take effect only if approved by a two-thirds (2/3) supermajority of the
11 eligible voters of the City of Albany voting at the General Municipal Election to be held on
12 November 5, 2024 and shall become effective 10 days after the City Council has declared the
13 results of the Election.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Ordinance No. 2024-04 was submitted to the People of the City of Albany at the November 5,
2 2024 General Municipal Election. It was approved by the following vote of the People:

3 YES:

4 NO:

5
6
7
8 Ordinance No. 2024-04 was thereby adopted by the voters at the November 5, 2024 election
9 and shall become effective ten (10) days following adoption of a resolution declaring the
10 results of the election at a regular meeting of the City Council held on December __, 2024 by
11 the following vote:

12 AYES:

13 NOES:

14 ABSENT:

15 ABSTAIN:

16
17
18
19
20 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and
21 regularly adopted by the People of the City of Albany, California.
22
23
24

25

Anne Hsu, City Clerk
26
27
28