City of San Marino

August 3, 2026

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
63 October 6, 2026

EDWARD YEN
EXECUTIVE OFFICER

RECEIVED
2026 AUG -5 PM 2:43
COUNTY OF LOS ANGELES
REG-RECORDER/CO. CLK
ELECTION INFO

County of Los Angeles
Registrar-Recorder/County Clerk
12400 Imperial Highway
Norwalk, CA 90650

RE: RESOLUTION NO. R-26-28

Dear County of Los Angeles Recorder:

Enclosed, please find the certified copy of Resolution No. R-26-28, a Resolution of the City Council of the City of San Marino, California, submitting one ballot measure to the voters to re-adopt and amend the San Marino Municipal Code (Chapter 26), Article 03, (Utility User Tax) to extend the term of the tax and increase the tax rate from five percent to six percent, to be considered by the voters at the consolidated general municipal election on November 3, 2026. This Resolution was adopted by the San Marino City Council on July 8, 2026.

If you have any questions, please contact me at (626) 300-0705.

Sincerely,

Nia Calistro
City Clerk
City of San Marino

Enclosure

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2026 AUG -5 PM 2:43
COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/CLERK

RESOLUTION NO. R-26-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARINO, CALIFORNIA, SUBMITTING ONE BALLOT MEASURE TO THE VOTERS TO RE-ADOPT AND AMEND SAN MARINO MUNICIPAL CODE CHAPTER 26, ARTICLE 03 (UTILITY USER TAX) TO EXTEND THE TERM OF THE TAX AND INCREASE THE TAX RATE FROM FIVE PERCENT TO SIX PERCENT, TO BE CONSIDERED BY THE VOTERS AT THE CONSOLIDATED GENERAL MUNICIPAL ELECTION ON NOVEMBER 3, 2026; AND DESIGNATING INDIVIDUALS TO SUBMIT PRIMARY AND REBUTTAL BALLOT ARGUMENTS IN FAVOR OF THE BALLOT MEASURE

WHEREAS, the City Council of the City of San Marino ("City Council") is authorized to levy a utility user tax for general governmental purposes (a "general tax") pursuant to California Government Code Section 37101.5 and California Constitution Article XI, Section 5, subject to approval by a two-thirds vote of all members of the City Council and by a majority vote of the electorate pursuant to California Constitution Article XIII C, Section 2, and California Government Code Section 53724; and

WHEREAS, the City Council is authorized to submit a measure for voter consideration to enact an ordinance at a general municipal election consolidated with a statewide general election pursuant to California Constitution Article XIII C, Section 2(b), and California Elections Code Section 9222; and

WHEREAS, the City has previously obtained voter approval for a utility user tax ("UUT"), as codified at San Marino Municipal Code Chapter 26, Article 03 ("UUT Ordinance"); and the City Council intends, through adoption of this resolution, to submit to the voters a measure to re-adopt and amend the UUT Ordinance by which the City would delete the previous automatic repeal date of March 31, 2027, and the City would increase the tax rate for the UUT from 5% to 6%; and

WHEREAS, the City Council intends to present the UUT measure on the ballot as a general tax imposed for general governmental purposes, with revenue from the UUT to be placed in the City's general fund to pay for important general City services to include, but not be limited to, repairing streets/sidewalks/alleyways/potholes and other City infrastructure, improving public safety, providing youth and senior programs, library and park maintenance and enhancements, and general government use; and

WHEREAS, on June 10, 2026, the City Council approved Resolution No. R-26-15 to call and give notice of the General Municipal Election to be held on November 3, 2026; Resolution No. R-26-16 to authorize and request the County of Los Angeles to consolidate the General Municipal Election with the Statewide General Election; and Resolution No. R-26-17 to establish procedures which candidates for City elective office must follow for consideration at the consolidated General Municipal Election; and

WHEREAS, the City Council intends to submit the Ballot Measure described herein to be considered by the voters at the consolidated General Municipal Election on November 3, 2026; and

WHEREAS, the text of the UUT measure to be submitted to the voters for consideration is as set forth on the Ordinance Re-Adopting and Amending the City's Utility User Tax, as set forth on Exhibit "A," attached hereto and incorporated herein by reference ("Ballot Measure").

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MARINO, CALIFORNIA, DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby finds that the facts and determinations set forth in the recitals to this resolution are true and correct and support the City's Council's adoption of this resolution.

SECTION 2. The City Council hereby orders the submission of the Ballot Measure to the voters of the City of San Marino at the general municipal election on November 3, 2026; and, subject to approval by a majority vote of the electorate, the City Council hereby approves the ordinance, and the form thereof as set forth on Exhibit "A" (the "Ballot Measure). Upon approval by a majority of the electorate, the ordinance will amend the San Marino Municipal Code to re-adopt and amend Article 03 ("Utility User Tax") of Chapter XXVI to extend the term of the Utility User Tax and increase the tax rate from 5 percent to 6 percent.

SECTION 3. The City Council hereby approves and orders the following ballot question for the Ballot Measure to be submitted to the voters of the City of San Marino at the general municipal election on November 3, 2026:

SAN MARINO SERVICE PRESERVATION MEASURE. To maintain existing funding which supports essential San Marino services including: police, fire, paramedic, emergency preparedness, repairing streets and sidewalks and other City infrastructure, providing youth and senior programs, and general government use; shall the City of San Marino measure be adopted extending the currently existing utility users tax at a rate of 6 percent, raising $2,620,000 annually, until ended by voters?	Yes
	No

SECTION 4: Pursuant to California Elections Code Sections 9223 and 9295, the Ballot Measure will be printed and made available for public examination upon request and for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The full text of the Ballot Measure shall be printed in the voter information guide. The City Clerk shall post notice in the City Clerk's Office of the specific dates that the examination period will run. Notice of the special election is hereby given and the City Clerk is authorized and directed to give further or additional notices of the special election in the time, form and manner as required by law.

SECTION 5: The City Manager, or duly authorized designee, is authorized and directed to take all actions and execute all documents deemed necessary to implement the intent of this resolution.

SECTION 6. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ballot Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Ballot Measure, not to exceed 500 words in length, showing the effect of the Ballot Measure on the existing law and the operation of the measure, and shall transmit such impartial analysis to the City Clerk.

SECTION 7. Pursuant to California Elections Code Sections 9286 and 9287, the City elections official shall fix the date and time for submitting arguments for or against, as well as rebuttal arguments, for the Ballot Measure.

SECTION 8. Pursuant to California Elections Code Section 9282(b), the City Council or the Mayor, Vice-Mayor and the members of the San Marino ballot measure support committee (as determined in the Mayor's discretion) will be the individuals authorized to submit ballot arguments in favor of the Ballot Measure, and in rebuttal to any ballot argument in opposition to the Ballot Measure. The City Council hereby adopts the provisions of California Elections Code Section 9285 regarding the procedures by which the City elections official will consider ballot arguments in favor, against, or rebuttal for the Ballot Measure.

SECTION 9: The City Council hereby finds and determines that this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(8), and California Code of Regulations Section 15378(b)(5) because it relates to organizational or administrative activities of the City, it leads to the establishment of funding City services within existing service areas, and will not result in direct or indirect physical changes to the environment.

SECTION 10: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have adopted this Resolution, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 11: This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED, at a Regular Meeting of the City Council of the City of San Marino, California, on this 8th day of July, 2026.

CALVIN LO
VICE MAYOR

ATTEST:

JANET MARTINEZ
INTERIM CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF SAN MARINO)

I, Janet Martinez, Interim City Clerk of the City of San Marino, California, hereby certify that Resolution No R-26-28 was adopted by the City Council of the City of San Marino at a Regular Meeting held on the 8th day of July, 2026, and that the same was adopted by the following vote:

AYES:	Council Member Chang, Council Member Chou, Council Member Shepherd Romey, Vice Mayor Lo, and Mayor Chou
NOES:	None
ABSTAIN:	None
ABSENT:	None

JANET MARTINEZ
INTERIM CITY CLERK

Exhibit A – Ballot Measure

ORDINANCE NO. O-26-1427

AN ORDINANCE OF THE VOTERS OF THE CITY OF SAN MARINO RE-ADOPTING AND AMENDING THE CITY'S UTILITY USER TAX BY AMENDING SAN MARINO MUNICIPAL CODE CHAPTER 26 ARTICLE 03 (UTILITY USER TAX) TO EXTEND THE TERM OF THE TAX AND INCREASE THE TAX RATE FROM FIVE PERCENT TO SIX PERCENT

THE VOTERS OF THE CITY OF SAN MARINO ORDAIN AS FOLLOWS:

Section 1. Article 03 of Chapter 26 of the San Marino Municipal Code, the existing Utility User Tax of the City of San Marino, is hereby re-adopted and amended to read as follows:

ARTICLE 03
UTILITY USER TAX

SECTION:

26.03.01: Title and Purpose
26.03.02: Definitions
26.03.03: Exemptions
26.03.04: Telecommunications User Tax
26.03.05: Video User Tax
26.03.06: Electricity User Tax
26.03.07: Gas User Tax
26.03.08: Service Users Receiving Direct Purchase of Gas or Electricity
26.03.09: Water User Tax
26.03.10 Effect of Commingling Taxable Items with Nontaxable Items
26.03.11 Substantial Nexus/Minimum Contacts
26.03.12 Duty to Collect; Procedures
26.03.13 Collection Penalties; Service Suppliers or Self-Collectors
26.03.14 Deficiency Determination and Assessment; Tax Application Errors
26.03.15 Administrative Remedy; Nonpaying Service Users
26.03.16 Actions to Collect
26.03.17 Additional Powers and Duties of the Tax Administrator
26.03.18 Records
26.03.19 Refunds/Credits
26.03.20 Appeals
26.03.21 No Injunction/Writ of Mandate
26.03.22 Remedies Cumulative
26.03.23 Notice of Changes to this Article
26.03.24 Future Amendment to Cited Statute
26.03.25 No Increase in Tax Percentage or Change in Methodology without Voter Approval; Amendment, Suspension, or Repeal
26.03.26 Termination or Suspension of Utility User Tax

26.03.01 TITLE AND PURPOSE:

This Article shall be known as the Utility Tax Ordinance for the City. This Article is enacted solely to raise revenue for the general governmental purposes of the City. All of the proceeds from the tax imposed by this Article shall be placed in the City's general fund and used for the usual and current expenses of the City. The tax imposed by this Article shall include the Telecommunications User Tax, the Video User Tax, the Electricity User Tax, the Gas User Tax, and the Water User Tax.

26.03.02 DEFINITIONS:

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

Ancillary telecommunication services shall mean services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to the following services:

a. *Conference bridging service* shall mean an ancillary service that links two (2) or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

b. *Detailed telecommunications billing service* shall mean an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

c. *Directory assistance* shall mean an ancillary service of providing telephone number information, and/or address information.

d. *Vertical service* shall mean an ancillary service that is offered in connection with one (1) or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

e. *Voice mail service* shall mean an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

Ancillary video services means services that are associated with or incidental to the provision or delivery of video services, including but not limited to electronic program guide services, recording services, search functions, or other interactive services or communications that are associated with or incidental to the provision, use or enjoyment of video services.

Billing address shall mean the mailing address of the service user where the service supplier submits invoices or bills for payment by the service users.

City shall mean the City of San Marino.

City Manager shall mean the City Manager, or his or her authorized representative.

Gas shall mean natural or manufactured gas or any alternative hydrocarbon fuel which may be substituted therefore.

Mobile telecommunications service shall mean commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, and as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124) and the regulations there under.

Month shall mean a calendar month.

Non-utility service supplier shall mean:

a. A service supplier, other than a supplier of electric distribution services to all or a significant portion of the City , which generates electricity for the sale to others, and shall include but not be limited to any publicly-owned electric utility, investor-owned utility, cogenerator, distributed generation provider, exempt wholesale generator, (15 U.S.C. Section 79z-5a) municipal utility district, Federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity;

b. An electric service provider (ESP), electricity broker, marketer, aggregator (including a community choice aggregator), pool operator, or other electricity supplier other than a provider of electric distribution services to all or a significant portion of the City, which sells or supplies electricity or supplemental services to electricity users within the City ; and

c. A gas service supplier, aggregator, marketer or broker, other than a supplier of gas distribution services to all or a significant portion of the City, which sells or supplies gas or supplemental services to gas users within the City.

Paging service means a "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

Person shall mean, without limitation, any domestic, non-profit or foreign corporation; firm; association; syndicate; joint stock company; partnership of any kind; limited liability company; joint venture; club; trust: Massachusetts business or common law trust; estate; society; cooperative; receiver, trustee, guardian or other representative appointed by order of any court; any natural individual; joint power agency, municipal district or municipal corporation, other than the City.

Place of primary use shall mean the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer.

Post-paid telecommunication service shall mean the telecommunication service obtained by making a payment on a communication-by-communication basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.

Prepaid telecommunication service (including prepaid mobile telecommunication service) shall mean the right to access telecommunication services, which must be paid for in advance and which enables the origination of communications using an access number or authorization code, whether manually or electronically dialed.

Private telecommunication service shall mean a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. A communications channel is a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points (i.e., the location where the customer either inputs or receives the communications).

Service address shall mean the residential street address or the business street address of the service user. For a telecommunications service user, "service address" means either:

a. The location of the service user's telecommunication equipment from which the communication originates or terminates, regardless of where the communication is billed or paid; or,

b. If the location in paragraph a. of this definition is unknown (e.g., mobile telecommunications service or VoIP service), the service address shall mean the location of the service user's place of primary use.

c. For prepaid telecommunication service, "service address" means the point of sale of the services where the point of sale is within the City, or if unknown, the known address of the service user (e.g., billing address or location associated with the service number), which locations shall be presumed to be the place of primary use.

Service supplier shall mean any person, including the City, who provides or sells telecommunication, video, electricity, gas or water service to a user of such services within the City. The term shall include any person required to collect, or self-collect under Section 26.03.08 hereof, and remit a tax as imposed by this Article 03, including its billing agent in the case of electricity or gas suppliers.

Service user shall mean a person required to pay a tax imposed by this Article 03.

State shall mean the State of California.

Tax Administrator shall mean the Finance Director, or his or her authorized representative.

Telecommunications services shall mean the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used, and includes broadband service (e.g., digital subscriber line (DSL), fiber optic, coaxial cable, and wireless broadband, including Wi-Fi, WiMAX, and Wireless MESH) to the extent federal and/or state law permits taxation of such broadband services, now or in the future. The term "telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over internet protocol (VoIP) services or is classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data service that is functionally integrated with "telecommunication services". Telecommunications services include, but is not limited to the following services, regardless of the manner or basis on which such services are calculated or billed: ancillary telecommunication services; intrastate, interstate and international telecommunication services; all forms of VoIP service; mobile telecommunications service; prepaid telecommunication service; post-paid telecommunication service; private telecommunication service; paging service; 800 service (or any other toll-free numbers designated by the Federal Communications Commission); 900 service (or any other similar numbers designated by the Federal Communications Commission for services whereby subscribers who call in to prerecorded or live service).

Video programming means those programming services commonly provided to subscribers by a "video service supplier" including but not limited to basic services, premium services, audio services, video games, pay-per-view services, video on demand, origination programming, or any other similar services, regardless of the content of such video programming, or the technology used to deliver such services, and regardless of the manner or basis on which such services are calculated or billed.

Video services means "video programming" and any and all services related to the providing, recording, delivering, use or enjoyment of "video programming" (including origination programming and programming using Internet Protocol, e.g., IP-TV, IP-Video, and over the top TV or OTT) by a "video service supplier," regardless of the technology used to deliver, store or provide such services, and regardless of the manner or basis on which such services are calculated or billed, and includes ancillary video services, data services, "telecommunication services," or interactive communication services that are functionally integrated with "video services."

Video service supplier means any person, company, or service which provides or sells video programming, or provides or sells the capability to receive video programming, including any communications that are ancillary, necessary or common to the provision, use or enjoyment of the video programming, to or from a business or residential address in the City, where some fee is paid, whether directly or included in dues or rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or communications. A "video service supplier" includes, but is not limited to, multichannel video programming

distributors (as defined in 47 U.S.C.A. Section 522(13)); open video systems (OVS) suppliers; and suppliers of cable television; master antenna television; satellite master antenna television; multichannel multipoint distribution services (MMDS); video services using internet protocol (e.g., IP-TV and IP-Video, which provide, among other things, broadcasting and video on demand), direct broadcast satellite to the extent federal law permits taxation of its video services, now or in the future; and other suppliers of video services (including two-way communications), whatever their technology.

VoIP (Voice Over Internet Protocol) means the digital process of making and receiving real-time voice transmissions over any Internet Protocol network.

800 Service means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800," "855," "866," "877," and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

900 Service means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission.

26.03.03 CONSTITUTIONAL AND STATUTORY EXEMPTIONS:

A. The taxes imposed by this Article 03 shall not apply to:

1. Any person or service if imposition of such tax upon that person or service would be in violation of a Federal or State statute or the Constitution of the State of California, or the Constitution of the United States; or

2. The City, and the State of California and its subdivisions.

3. Accredited schools and churches.

B. Any service user that is exempt from the tax imposed by this Article 03 pursuant to subsection (a) of this Section shall file an application with the Tax Administrator for an exemption; provided, however, this requirement shall not apply to a service user that is a State or Federal agency or subdivision with a commonly recognized name for such service. Said application shall be made upon a form approved by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall include the names of all service suppliers serving that service user. If deemed exempt by the Tax Administrator, such service user shall give the Tax Administrator timely written notice of any change in service suppliers so that the Tax Administrator can properly notify the new service supplier of the service user's tax exempt status. A service user that fails to apply and obtain an

exemption pursuant to this Section 26.03.03 shall not be entitled to a refund of a users tax collected and remitted to the Tax Administrator from such service user as a result of such noncompliance.

C. The decision of the Tax Administrator may be appealed pursuant to Section 26.03.20 hereof. Filing an application with the Tax Administrator and appeal to the City Manager, or designee, pursuant to Section 26.03.20 hereof is a prerequisite to a suit thereon.

D. The City Council may, by resolution, establish one or more classes of persons or one or more classes of utility service otherwise subject to payment of a tax imposed by this Article 03 and provide that such classes of persons or service shall be exempt, in whole or in part from such tax for a specified period of time.

26.03.04 TELECOMMUNICATION USERS TAX:

A. There is hereby imposed a tax upon every person in the City using telecommunication services. The tax imposed by this section shall be at the rate of six (6%) percent of the charges made for such services and shall be collected from the service user by the telecommunication services supplier or its billing agent, or as otherwise provided by law. There is a rebuttable presumption that telecommunication services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this section. There is also a rebuttable presumption that prepaid telecommunication services sold within the city are primarily used, in whole or in part, within the City and are therefore subject to taxation under this Section. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telecommunication services.

B. "Mobile telecommunications service" shall be sourced in accordance with the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124). The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this section, sourcing rules for the taxation of other telecommunication services, including but not limited to post-paid telecommunication services, prepaid telecommunication services, and private telecommunication services, provided that such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation.

C. The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this section, an administrative ruling identifying those telecommunication services, or charges

therefore, that is subject to the tax of paragraph a. above. This administrative ruling shall not impose a new tax, revise an existing tax methodology as stated in this section, or increase an existing tax, except as allowed by California Government Code Section 53750(h)(2)(A).

D. As used in this Section, the term "telecommunication services" shall include, but is not limited to, charges for: connection, reconnection, termination or early termination charges; movement or change of telecommunication services; late payment fees; detailed billing; central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory or administrative fees, charges or surcharges, including charges or surcharges for programs imposed by state or federal law (whether such charges or surcharges are imposed on the service supplier or the customer); local number portability charges; and text and instant messaging. "Telecommunication services" shall not include digital downloads that are not "ancillary telecommunication services," such as music, ringtones, games, and similar digital products.

E. To prevent actual multi-jurisdictional taxation of telecommunication services subject to tax under this section, any service user, upon proof to the Tax Administrator that the service user has previously paid the same tax in another state or city on such telecommunication services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other State or City; provided, however, the amount of credit shall not exceed the tax owed to the City under this section.

F. The tax on telecommunication services imposed by this section shall be collected from the service user by the service supplier. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month.

G. The tax imposed by this section shall not apply to any payment received for any toll telephone service which originates within a combat zone from a member of the armed forces of the United States performing service in such combat zone, as determined under such section, provided a certificate, setting forth such facts as the tax administrator may by regulations prescribe, is furnished to the person receiving such payment.

26.03.05 VIDEO USERS TAX

A. There is hereby imposed a tax upon every person in the City using video services from a video provider. The tax imposed by this subsection shall be at the rate of six (6%) percent of the charges made for such services, and shall be collected from the service user by the video service supplier or its billing agent. There is a rebuttable presumption that video services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and

such services are subject to taxation under this Article. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax.

B. As used in this section, the term "charges" shall include, but is not limited to, charges for the following:

1. regulatory fees and surcharges, franchise fees and access fees (PEG) (whether such charges or surcharges are imposed on the service supplier or the customer);

2. initial installation of equipment necessary for provision and receipt of video services;

3. late fees, collection fees, bad debt recoveries, and return check fees;

4. activation fees, reactivation fees; termination or early termination charges; and reconnection fees;

5. video programming and video services;

6. ancillary video programming services (e.g., electronic program guide services, search functions, recording functions, or other interactive services or communications that are ancillary, necessary or common to the use or enjoyment of the video services);

7. equipment leases (e.g., remote, set box, recording and/or search devises; converters); and,

8. service calls, service protection plans, name changes, changes of services, and special services.

C. As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the video services.

D. The Tax Administrator may issue and disseminate to video service suppliers, which are subject to the tax collection requirements of this Article, an administrative ruling identifying those video services, or charges therefor, that are subject to or not subject to the tax of subsection (a) above.

E. The tax imposed by this section shall be collected from the service user by the video service supplier, its billing agent, or a reseller of such services. In the case of video service, the service user shall be deemed to be the purchaser of the bulk video service (e.g., an apartment owner), unless such service is resold to individual users, in which case the service user shall be the ultimate purchaser of the video service. The amount of tax collected in one (1) month shall be remitted

to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month.

26.03.06 ELECTRICITY USERS TAX:

A. There is hereby imposed a tax upon every person using electricity in the City. The tax imposed by this Section shall be at the rate of six (6%) percent of the charges made for such electricity, and for any supplemental services or other associated activities directly related to and/or necessary for the provision of electricity to the service user, which are provided by a service supplier or non-utility service supplier to a service user. The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent.

B. As used in this Section, the term "charges" shall apply to all services, components and items that are: (i) necessary or common to the receipt, use and enjoyment of electricity service; or, (ii) currently, or historically have been, included in a single or bundled rate for electricity service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges:

1. Energy charges;

2. Distribution or transmission charges;

3. Metering charges;

4. Standby, reserves, firming, voltage support, regulation, emergency or other similar charges for supplemental services to self-generation service users;

5. Customer charges, late charges, service establishment or reestablishment charges, termination or early termination charges, demand charges, fuel or other cost adjustments, power exchange charges, independent system operator (ISO) charges, stranded investment or competitive transition charges (CTC), public purpose program charges, nuclear decommissioning charges, trust transfer amounts (bond financing charges), franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees and surcharges which are necessary to or common for the receipt, use and enjoyment of electricity service; and

6. Charges, fees, or surcharges for electricity services or programs, which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, or by any state or federal law, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing, or whether they are imposed on the service supplier or the customer.

C. As used in this Section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the electricity or services related to the provision of such electricity.

D. The Tax Administrator, from time to time, may survey the electricity service suppliers to identify the various unbundled billing components of electric retail service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefor, including those items that are mandated by State or Federal regulatory agencies as a condition of providing such electricity service. The Tax Administrator, thereafter, may issue and disseminate to such electricity service suppliers an administrative ruling identifying those components and items which are: (i) necessary or common to the receipt, use or enjoyment of electricity service; or, (ii) currently, or historically have been, included in a single or bundled rate for electricity service by a local distribution company to a class of retail customers. Unbundled charges for such components and items shall be subject to the tax of paragraph a. above.

E. As used in this Section, the term "using electricity" shall not be construed to include the mere receiving of such electricity by an electric public utility or governmental agency at a point within the City for resale, or the use of such energy in the production or distribution of water by a public utility or a governmental agency.

F. The tax on electricity provided by self-production or by a non-utility service supplier not under the jurisdiction of this Article 03 shall be collected and remitted in the manner set forth in Section 26.03.08 hereof. All other taxes on charges for electricity imposed by this Section shall be collected from the service user by the electricity service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth (20th) day of following month, provided that the service user shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent tax bill that becomes due.

26.03.07 GAS USERS TAX:

A. There is hereby imposed a tax upon every person using gas in the City, which is delivered through a pipeline distribution system or by mobile transport. The tax imposed by this section shall be at the rate of six percent (6%) of the charges made for such gas, including all services related to the storage, transportation and delivery of such gas. The tax shall be collected from the service user by the

service supplier or non-utility service supplier, or its billing agent, and shall apply to all uses of gas, including but not limited to, heating, electricity generation by a non-public utility, and the use of gas as a component of a manufactured product.

B. As used in this Section, the term "charges" shall apply to all services, components and items for gas service that are: (i) necessary or common to the receipt, use and enjoyment of gas service; or, (ii) currently, or historically have been, included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges:

1. The commodity charges for purchased gas, or the cost of gas owned by the service user (including the actual costs attributed to drilling, production, lifting, storage, gathering, trunkline, pipeline, and other operating costs associated with the production and delivery of such gas), which is delivered through a gas pipeline distribution system;

2. Gas transportation charges (including interstate charges to the extent not included in commodity charges);

3. Storage charges; provided, however, that the service supplier shall not be required to apply the tax to any charges for gas storage services when the service suppliers cannot, as a practical matter, determine the jurisdiction where such stored gas is ultimately used; but it shall be the obligation of the service user to self-collect the amount of tax not applied to any charge for gas storage by the service supplier and to remit the tax to the appropriate jurisdiction;

4. Capacity or demand charges, late charges, service establishment or reestablishment charges, termination or early termination charges, marketing charges, administrative charges, transition charges, customer charges, minimum charges, annual and monthly charges, and any other charges which are necessary or common to the receipt, use and enjoyment of gas service; and,

5. Charges, fees, or surcharges for gas services or programs, which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing, or whether they are imposed on the service supplier or the customer.

C. As used in this Section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the gas or services related to the delivery of such gas.

D. The Tax Administrator, from time to time, may survey the gas service suppliers to identify the various unbundled billing components of gas retail service that they

commonly provide to residential and commercial/industrial customers in the City, and the charges therefor, including those items that are mandated by State or Federal regulatory agencies as a condition of providing such gas service. The Tax Administrator, thereafter, may issue and disseminate to such gas service suppliers an administrative ruling identifying those components and items which are: (i) necessary or common to the receipt, use or enjoyment of gas service; or, (ii) currently, or historically have been, included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of paragraph A. above.

E. There shall be excluded from the base on which the tax imposed by this section is computed charges made for gas sold for use in the generation of electrical energy or for the production or distribution of water by a public utility or government agency; and charges made by a gas public utility for gas used and consumed in the conduct of the business of gas public utilities.

F. The tax on gas provided by self-production or by a non-utility service supplier not under the jurisdiction of this Article 03 shall be collected and remitted in the manner set forth in Section 26.03.08 hereof. All other taxes on charges for gas imposed by this Section shall be collected from the service user by the gas service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (30th) day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth (20th) day of the following month, provided that the service user shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent tax bill that becomes due.

26.03.08 COLLECTION OF TAX FROM SERVICE USERS RECEIVING DIRECT PURCHASE OF GAS OR ELECTRICITY:

A. Any service user subject to the tax imposed by Sections 26.03.06 or 26.03.07 hereof, which produces gas or electricity for self-use; which receives gas or electricity, including any related supplemental services, directly from a non-utility service supplier not under the jurisdiction of this Article 03; or which, for any other reason, is not having the full tax collected and remitted by its service supplier, a non-utility service supplier, or its billing agent on the use of gas or electricity in the City, including any related supplemental services, shall report said fact to the Tax Administrator and shall remit the tax due directly to the Tax Administrator within thirty (30) days of such use. In lieu of paying said actual tax, the service user may, at its option, remit to the Tax Administrator within thirty (30) days for such use an estimated amount of tax measured by the tax billed in the previous month, or upon the payment pattern of similar customers of

the service supplier using similar amounts of gas or electricity, provided that the service user shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent tax bill that becomes due.

B. The Tax Administrator may require said service user to identify its nonutility service supplier and provide, subject to audit, invoices, books of account, or other satisfactory evidence documenting the quantity of gas or electricity used, including any related supplemental services, and the cost or price thereof. If the service user is unable to provide such satisfactory evidence, or, if the administrative cost of calculating the tax in the opinion of the Tax Administrator is excessive, the Tax Administrator may determine the tax by applying the tax rate to the equivalent charges the service user would have incurred if the gas or electricity used, including any related supplemental services, had been provided by the service supplier that is the primary supplier of gas or electricity within the City.

26.03.09 WATER USERS TAX:

A. There is imposed a tax upon every person using water in the City which is transported and delivered through a pipeline distribution system. The tax imposed by this section shall be at the rate of six percent (6%) of the charges made for such water.

B. As used in this section, the term "charges" shall apply to all services, components and items that are: i) necessary for or common to the receipt, use or enjoyment of water service; or, ii) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges: water commodity charges (potable and non-potable); distribution or transmission charges; metering charges; customer charges; fire protection services; late charges; service establishment or reestablishment charges; franchise fees; franchise surcharges; annual and monthly charges; and other charges, fees and surcharges which are necessary for or common to the receipt, use or enjoyment of water service; and, charges, fees, or surcharges for water services or programs, which are mandated by a water district or a state or federal agency, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing, or whether they are imposed on the service supplier or the customer.

C. As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the water services.

D. The Tax Administrator, from time to time, may survey the water service suppliers in the City to identify the various unbundled billing components of water retail

service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefor, including those items that are mandated by a water district or a state or federal agency as a condition of providing such water service. The Tax Administrator, thereafter, may issue and disseminate to such water service suppliers an administrative ruling identifying those components and items which are: (i) necessary for or common to the receipt, use or enjoyment of water service; or, (ii) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of paragraph A. above.

E. There shall be excluded from the base on which the tax imposed in this section is computed charges made for water which is to be resold and delivered through a pipeline distribution system.

F. The tax on water service imposed by this section shall be collected from the service user by the water service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month.

26.03.10 EFFECT OF COMMINGLING TAXABLE ITEMS WITH NONTAXABLE ITEMS:

If any nontaxable charges are combined with and not separately stated from taxable service charges on the customer bill or invoice of a service supplier, the combined charge is subject to tax unless the service supplier identifies, by reasonable and verifiable standards, the portions of the combined charge that are nontaxable and taxable through the service supplier's books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the values assigned the taxable and non-taxable services shall be based on its books and records kept in the regular course of business and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper valuation and apportionment of taxable and non-taxable charges.

26.03.11 SUBSTANTIAL NEXUS/MINIMUM CONTACTS:

For purposes of imposing a tax or establishing a duty to collect and remit a tax under this Article, "substantial nexus", "substantial economic presence", and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the utility users tax to the fullest extent permitted by State and Federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. Any telecommunication service (including VoIP) used by a person with a service address in the City, which service is capable of terminating a call to another person on the general telephone network, shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of

imposing a tax, or establishing a duty to collect and remit a tax, under this Article. A service supplier shall be deemed to have sufficient activity in the City for tax collection and remittance purposes if its activities include, but are not limited to, any of the following: maintains or has within the City, directly or through an agent, affiliate or subsidiary, a place of business of any nature; solicits business in the City by employees, independent contractors, resellers, agents, affiliates or other representatives; solicits business in the City on a continuous, regular, seasonal or systematic basis by means of advertising that is broadcast or relayed from a transmitter with the City or distributed from a location with the City; or advertises in newspapers or other periodicals printed and published within the City or through materials distributed in the City by means other than the United States mail; or if there are activities performed in the City on behalf of the service supplier that are significantly associated with the service supplier's ability to establish and maintain a market in the City for the provision of utility services that are subject to a tax under this Article (e.g., an affiliated person engaging in activities in the City that inure to the benefit of the service supplier in its development or maintenance of a market for its services in the City).

26.03.12 DUTY TO COLLECT; PROCEDURES:

A. *Collection by Service Suppliers.* The duty of service suppliers to collect and remit the taxes imposed by the provisions of this Article 03 shall be performed as follows:

1. The tax shall be collected by service suppliers insofar as practicable at the same time as, and along with, the collection of the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax that was accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a service user has notified the service supplier of refusal to pay the tax imposed on said charges, Section 26.03.15 shall apply.

2. The duty of a service supplier to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this Article 03. Where a person receives more than one (1) billing, one (1) or more being for different periods than another, the duty to collect shall arise separately for each billing period.

B. *Filing Return and Payment.* Each person required by this Article 03 to remit a tax shall file a return to the Tax Administrator, on forms approved by the Tax Administrator, on or before the due date. The full amount of the tax collected shall be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized to require such additional information as he or she deems necessary to determine if the tax is being levied, collected, and remitted in accordance with this Chapter 26.03. Returns are due immediately upon cessation

of business for any reason. Pursuant to Revenue and Tax Code Section 7284.6, the Tax Administrator, and its agents, shall maintain such filing returns as confidential information that is exempt from the disclosure provisions of the Public Records Act.

26.03.13 COLLECTION PENALTIES; SERVICE SUPPLIERS OR SELF-COLLECTORS:

A. Taxes collected from a service user, or owed by a service user subject to Section 26.03.08 hereof, are delinquent if not received by the Tax Administrator on or before the due date. Should the due date occur on a weekend or legal holiday, the return must be received by the Tax Administrator on the first regular working day following the weekend or legal holiday. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between financial accounts, made by a service supplier in satisfaction of its obligations under this Section shall be considered timely if the transfer is initiated on or before the due date, and the transfer settles into the City's account on the following business day.

B. If the person required to collect and/or remit the utility users tax fails to collect the tax (by failing to properly assess the tax on one (1) or more services or charges on the customer's billing) or fails to remit the tax collected on or before the due date, or, in the case of a service user that fails to properly self-collect and remit the tax under Section 26.03.08 hereof on or before the due date, the Tax Administrator shall attach a penalty for such delinquencies or deficiencies at the rate of fifteen (15%) percent of the total tax that is delinquent or deficient in the remittance, and shall pay interest at the rate of and 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first become delinquent, until paid.

C. The Tax Administrator shall have the power to impose additional penalties upon persons required to collect and remit taxes pursuant to the provisions of this Article 03 for fraud or gross negligence in reporting or remitting at the rate of fifteen (15%) percent of the amount of the tax collected and/or required to be remitted, or as recomputed by the Tax Administrator.

D. For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this section shall become a part of the tax herein required to be paid.

E. Notwithstanding the foregoing, the Tax Administrator may, in his or her discretion, modify the due dates and/or penalty and interest provisions of this section to be consistent with any uniform standards or procedures that are mutually agreed upon by UUT public agencies, or otherwise legally established, to create a UUT central payment location or mechanism.

26.03.14 DEFICIENCY DETERMINATION AND ASSESSMENT; TAX APPLICATION ERRORS:

A. The Tax Administrator shall make a deficiency determination if he or she determines that any person required to pay or collect taxes pursuant to the provisions of this Article 03 has failed to pay, collect, and/or remit the proper amount of tax by improperly or failing to apply the tax to one or more taxable services or charges. Nothing herein shall require that the Tax Administrator institute proceedings under this Section 26.03.14 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

B. The Tax Administrator shall mail a notice of such deficiency determination to the person required to pay or remit the tax, which notice shall refer briefly to the amount of the taxes owed, plus interest at the rate of seventy-five one-hundredths percent (0.75%) per month, or any fraction thereof, on the amount of the tax from the date on which the tax should have been received by the City. Within fourteen (14) calendar days after the date of service of such notice, the person may request in writing to the Tax Administrator for a hearing on the matter.

C. If the person fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City. If the person requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be scheduled within thirty (30) days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person at least ten (10) calendar days prior to the hearing, and, if the Tax Administrator desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced.

D. At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), thereafter, by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to person owing the tax. The decision of the Tax Administrator may be appealed pursuant to Section 26.03.20. Filing an application with the Tax Administrator and appeal to the City Manager, or designee, pursuant to Section 26.03.20 is a prerequisite to a suit thereon.

E. Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be fifteen percent (15%) on the total amount of the assessment, along with interest at the rate of seventy-five one-hundredths percent (0.75%) per month, or any

fraction thereof, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this Article 03 shall commence from the date of delinquency as provided in this subsection (E).

F. All notices under this Article 03 may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

26.03.15 ADMINISTRATIVE REMEDY; NON-PAYING SERVICE USERS:

A. Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by the service user from the amounts remitted to a person required to collect the tax, or whenever the Tax Administrator deems it in the best interest of the City, he or she may relieve the service supplier of the obligation to collect the taxes due under this Section 26.03.15 from certain named service users for specific billing periods. Whenever the service user has failed to pay the amount of tax owed for a period of two (2) or more billing periods, the service supplier shall be relieved of the obligation to collect taxes due. The service supplier shall provide the City with the names and addresses of such service users and the amounts of taxes owed under the provisions of this Section 26.03.15. Nothing herein shall require that the Tax Administrator institute proceedings under this Section 26.03.15 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

B. In addition to the tax owed, the service user shall pay a delinquency penalty at the rate of fifteen (15%) percent of the total tax that is owed, and shall pay interest at the rate of three-quarters of one (3/4%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the due date, until paid.

C. The Tax Administrator shall notify the nonpaying service user that the Tax Administrator has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes, including penalties and interest. The notice shall be served on the service user by personal delivery or by deposit of the notice in the United States mail, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have a change of address, to his or her last known address.

D. If the service user fails to remit the tax to the Tax Administrator within thirty (30) days from the date of the service of the notice upon him or her, the Tax Administrator may impose an additional penalty of fifteen (15%) percent of the amount of the total tax that is owed.

26.03.16 ACTIONS TO COLLECT:

Any tax required to be paid by a service user under the provisions of this Article 03 shall be deemed a debt owed by the service user to the City. Any such tax collected from a service

user which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit and shall no longer be a debt of the service user. Any person owing money to the City under the provisions of this Article 03 shall be liable to an action brought in the name of the City for the recovery of such amount, including penalties and interest as provided for in this Article 03, along with any collection costs incurred by the City as a result of the person's noncompliance with this Article 03, including, but not limited to, reasonable attorney's fees. In the event that a service user or service supplier owing a tax under this Article 03 files bankruptcy, then such debt to the City shall be deemed an unsecured priority excise tax obligation under 11 U.S.C.A. Section 507(a)(8)(C). Service suppliers who seek to collect charges for service in bankruptcy proceedings shall also include in any such claim the amount of taxes due the City for those services, unless the Tax Administrator determines that such duty is in conflict with any federal or state law, rule, or regulation or that such action would be administratively impractical.

26.03.17 ADDITIONAL POWERS AND DUTIES OF THE TAX ADMINISTRATOR:

A. The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each and all of the provisions of this Article 03.

B. The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this Article 03 for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. The administrative ruling shall not impose a new tax, revise an existing tax methodology as stated in this Article 03, or increase an existing tax, except as allowed by California Government Code Section 53750(h)(2). A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. To the extent that the Tax Administrator determines that the tax imposed under this Article 03 shall not be collected in full for any period of time from any particular service supplier or service user, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code Section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code Section 53750 and the City does not waive or abrogate its ability to impose the utility users tax in full as a result of promulgating administrative rulings or entering into agreements.

C. Upon a proper showing of good cause, the Tax Administrator may make administrative agreements, with appropriate conditions, to vary from the strict requirements of this Article 03 and thereby; (1) conform to the billing procedures of a particular service supplier (or service user subject to Section 26.03.08 hereof) so long as said agreements result in the collection of the tax in conformance with the general purpose and scope of this Article 03; or, (2) to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the tax benefit. A copy of each such agreement shall be on file in the Tax

Administrator's office, and are voidable by the Tax Administrator or the City at any time.

D. The Tax Administrator may conduct an audit, to ensure proper compliance with the requirements of this Article 03, of any person required to collect and/or remit a tax pursuant to this Article 03. The Tax Administrator shall notify said person of the initiation of an audit in writing. In the absence of fraud or other intentional misconduct, the audit period or review shall not exceed a period of three (3) years next preceding the date of receipt of the written notice by said person from the Tax Administrator. Upon completion of the audit, the Tax Administrator may make a deficiency determination pursuant to Section 26.03.14 for all taxes (and applicable penalties and interest) owed and not paid, as evidenced by information provided by such person to the Tax Administrator. If said person is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this Article 03, the Tax Administrator is authorized to make a reasonable estimate of the deficiency. Said reasonable estimate shall be entitled to be a rebuttable presumption of correctness.

E. Upon receipt of a written request of a taxpayer, and for good cause, the Tax Administrator may extend the time for filing any statement required pursuant to this Article 03 for a period of not to exceed forty-five (45) days, provided that the time for filing the required statement has not already passed when the request is received. No penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension at the rate of three-quarters of one (3/4%) percent per month, prorated for any portion thereof.

F. The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from, or a refund of, the tax imposed by this Article 03.

G. The Tax Administrator, with the written approval of the City Manager, may compromise a claim pursuant to this Article 03 where the portion of the claim proposed to be released is equal to or less than four thousand nine hundred ninety-nine ($4,999.00) dollars; and, with the approval of the City Attorney and the City Council, may compromise such a claim where the portion proposed to be released is greater than four thousand nine hundred ninety-nine ($4,999.00) dollars.

H. Notwithstanding any provision in this Article 03 to the contrary, the Tax Administrator may waive any penalty or interest imposed upon a person required to collect and/or remit for failure to collect the tax imposed by this Article 03 if the non-collection occurred in good faith. In determining whether the non-collection was in good faith, the Tax Administrator shall take into consideration the uniqueness of the product or service, industry practice or other precedence, or whether the person offers to voluntarily disclose its tax liability. The Tax Administrator may also participate with other utility users tax public agencies in conducting coordinated compliance reviews with the goal of achieving administrative efficiency and uniform tax application determinations, where possible. To encourage voluntary full disclosure and on-going cooperation on tax

collection and remittance, the Tax Administrator, and its agents, may enter into agreements with the tax-collecting service suppliers and grant prospective only effect on any changes regarding the taxation of services or charges that were previously deemed by the service suppliers, in good faith and without gross negligence, to be non-taxable. In determining whether the non-collection was in good faith and without gross negligence, the Tax Administrator shall take into consideration the uniqueness of the product or service, industry practice or other precedence, and whether the disclosure was voluntarily made by the service supplier or its agent.

26.03.18 RECORDS:

A. It shall be the duty of every person required to collect and/or remit to the City any tax imposed by this Article 03 to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax that such person may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at a reasonable time.

B. The Tax Administrator may issue an administrative subpoena to compel a person to deliver, to the Tax Administrator, copies of all records deemed necessary by the Tax Administrator to establish compliance with this Article 03, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the person in the usual and ordinary course of business. As an alternative to delivering the subpoenaed records to the Tax Administrator on or before the due date provided in the administrative subpoena, such person may provide access to such records outside the City on or before the due date, provided that such person shall reimburse the City for all reasonable travel expenses incurred by the City to inspect those records, including travel, lodging, meals, and other similar expenses, but excluding the normal salary or hourly wages of those persons designated by the City to conduct the inspection.

C. The Tax Administrator is authorized to execute a nondisclosure agreement approved by the City Attorney to protect the confidentiality of customer information pursuant to California Revenue and Tax Code Sections 7284.6 and 7284.7. The Tax Administrator may request from a person providing transportation or distribution services of gas or electricity to service users within the City, a list of the names, billing and service addresses, quantities of gas or electricity delivered, and other pertinent information, of its transportation customers within the City pursuant to Section 6354(e) of the California Public Utilities Code.

D. If a service supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the service supplier shall: (1) provide to the Tax Administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the service supplier to bill, collect, and/or remit the tax to the City; and, (2) upon request of the Tax Administrator,

deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such tax to the City.

E. If any person subject to record-keeping under this Article 03 unreasonably denies the Tax Administrator, or the Tax Administrator's designated representative, access to such records, or fails to produce the information requested in an administrative subpoena within the time specified, the Tax Administrator may impose a penalty of five hundred ($500.00) dollars on such person for each day following: (i) the initial date that the person refuses to provide such access; or, (ii) the due date for production of records as set forth in the administrative subpoena. This penalty shall be in addition to any other penalty imposed under this Article 03.

26.03.19 REFUNDS/CREDITS:

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Article 03, it may be refunded or credited as provided in this Section:

A. The Tax Administrator may refund any tax that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Article 03, provided that no refund shall be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor, or administrator has submitted a written claim to the Tax Administrator within one (1) year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto.

B. Notwithstanding the notice provisions of subsection (a) of this Section 26.03.19, the Tax Administrator may, at his or her discretion, give written permission to a service supplier, who has collected and remitted any amount of tax in excess of the amount of tax imposed by this Article 03, to claim credit for such overpayment against the amount of tax which is due the City upon a subsequent monthly return(s) to the Tax Administrator, provided that, prior to taking such credit by the service supplier: (1) such credit is claimed in a return dated no later than one year from the date of overpayment or erroneous collection of said tax; (2) the Tax Administrator is satisfied that the underlying basis and amount of such credit has been reasonably established; and (3) in the case of an overpayment by a service user to the service supplier that has been remitted to the City, the Tax Administrator has received proof, to his or her satisfaction, that the overpayment has been refunded by the service supplier to the service user in an amount equal to the requested credit.

26.03.20 APPEALS:

A. The provisions of this section apply to any decision (other than a decision relating to a refund pursuant to Section 26.03.19 hereof), deficiency determination, assessment, or administrative ruling of the Tax Administrator. Any person aggrieved by any decision (other than a decision relating to a refund pursuant to Section 26.03.19 hereof), deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this section. Compliance with this section shall be a prerequisite to a suit thereon. [See Government Code Section 935(b)]. To the extent allowed by law, nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers.

B. If any person is aggrieved by any decision (other than a decision relating to a refund pursuant to Section 26.03.19 hereof), deficiency determination, assessment, or administrative ruling of the Tax Administrator; he or she may appeal to the City Manager by filing a notice of appeal with the City Clerk within fourteen (14) days of the date of the decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved the service user or service supplier.

C. The matter shall be scheduled for hearing before an independent hearing officer selected by the City Manager, or designee, no more than thirty (30) days from the receipt of the appeal. The appellant shall be served with notice of the time and place of the hearing, as well as any relevant materials, at least five (5) calendar days prior to the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the Tax Administrator, the City Manager, and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

D. Based upon the submission of such evidence and the review of the City's files, the City Manager shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6.

E. All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

26.03.21 NO INJUNCTION/WRIT OF MANDATE:

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to

prevent or enjoin the collection under this Article 03 of any tax or any amount of tax required to be collected and/or remitted.

26.03.22 REMEDIES CUMULATIVE:

All remedies and penalties prescribed by this Article 03 or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one (1) 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 03.

26.03.23 NOTICE OF CHANGES TO THIS ARTICLE:

If a tax under this Article 03 is added, repealed, increased, reduced, or the tax base is changed, the Tax Administrator shall follow the notice requirements of Public Utilities Code Section 799.

26.03.24 FUTURE AMENDMENT TO CITED STATUTE:

Unless specifically provided otherwise, any reference to a State or Federal statute in this Article 03 shall mean such statute as it may be amended from time to time. To the extent that the City's authorization to collect or impose any tax imposed under this Article 03 is expanded or limited as a result of an amendment or new enactment of a State or Federal law, no amendment or modification of this Article 03 shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this Article 03.

26.03.25 NO INCREASE IN TAX PERCENTAGE OR CHANGE IN METHODOLOGY WITHOUT VOTER APPROVAL; AMENDMENT, SUSPENSION, OR REPEAL:

The City Council may repeal or amend this Article 03 of the San Marino Municipal Code and reduce the tax rate without a vote of the people, pursuant to California Elections Code Section 9217. However, as required by Chapter XIIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Article 03, provided however, the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this Article 03, if the City Council has previously acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as such interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Article 03;

C. The establishment a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Article 03); and

D. The collection of the tax imposed by this Article 03, even if the City had, for some period of time, failed to collect the tax.

26.03.26 TERMINATION OF UTILITY USER TAX:

The authority to levy the tax imposed by this Article 03 shall expire upon an action to terminate by majority vote of the qualified electors of the City of San Marino.

Section 2. Effective Date. This ordinance shall be deemed adopted upon the date that the City Council declares that a majority of the voters voting on the ordinance voted in its favor, and it shall go into effect ten (10) days after the date of adoption, pursuant to California Elections Code Section 9217.

Section 3. Interaction with Prior Tax.

A. Collection of Tax by Service Suppliers. Service suppliers shall begin to collect the tax imposed by this Ordinance as soon as feasible after the effective date of this Ordinance. Service suppliers shall begin to collect the tax imposed by this Ordinance no later than the first day of the month that is 60 days from the date the service supplier receives the written notification under California Public Utilities Code Section 799.

B. Satisfaction of Tax Obligation by Service Users. Prior to April 1, 2027, any person who pays the tax levied pursuant San Marino Municipal Code Chapter 26, Article 03, as it existed prior to its amendment as provided herein, with respect to any charge for a utility service shall be deemed to have satisfied his or her obligation to pay the tax levied pursuant to this code as amended herein, with respect to that charge. The intent of this paragraph is to prevent the imposition of multiple taxes upon a single utility charge during the transition period from the prior Utility Users Tax Ordinance to the amended Utility Users Tax Ordinance (which transition period ends April 1, 2027) and to permit service suppliers or other persons with an obligation to remit the tax hereunder, during that transition period, to satisfy their collection obligations by collecting either tax.

Section 4. if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be invalid, unlawful or unconstitutional, such decision, and the decision not to enforce such, shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid, unlawful or unconstitutional.

Section 5. CEQA. The City Council finds that this Ordinance is not subject to environmental review under the California Environmental Quality Act ("CEQA") because the Ordinance is an activity that is excluded from the definition of a project by Public Resources Code sections

21065 and 21080(b)(8) and California Code of Regulations Sections 15273 and 15378(b) (the "CEQA Guidelines"). The proposed Ordinance includes administrative activities of government which will not result in direct or indirect physical changes to the environment and are exempt from CEQA under CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3).

Section 6. Execution. Following a declaration by the City Council that this ordinance was approved by a majority of the voters, as set forth in California Elections Code Section 9217, the Mayor is hereby authorized to attest to the adoption of this Ordinance by signing where indicated below.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the voters of the City of San Marino on the ____ day of ____, 2026.

_____
TONY CHOU, Mayor

ATTEST:

_____
JANET MARTINEZ, Interim City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF SAN MARINO