ROLL CALL:
Mayor: Gustavo V. Camacho
Mayor Pro Tempore: Raul Elias
Councilmembers: Gregory Salcido, Dr. Monica Sanchez, Brent A. Tercero

INVOCATION:
PLEDGE OF ALLEGIANCE:

CERTAIN PROVISIONS OF THE BROWN ACT ARE TEMPORARILY WAIVED PURSUANT TO GOVERNOR NEWSOM’S EXECUTIVE ORDER N-25-20 AND N-29-20. IN THE INTEREST OF PUBLIC HEALTH AND SAFETY, CITY HALL FACILITIES ARE TEMPORARILY CLOSED TO THE PUBLIC UNTIL FURTHER NOTICE. CITY COUNCIL MEETINGS CAN BE VIEWED LIVE ON CTV3 AND THE CITY’S WEBSITE AT WWW.PICO-RIVERA.ORG. IF YOU WISH TO SUBMIT A PUBLIC COMMENT CARD ON ANY OF THE LISTED AGENDA ITEMS, YOU MAY DO SO IN ADVANCE BY EMAIL TO THE CITY CLERK’S OFFICE AT PUBLICCOMMENTS@PICO-RIVERA.ORG PRIOR TO 1:30 P.M. ON THE DAY OF THE MEETING. PLEASE PROVIDE YOUR FULL NAME AND SUBJECT.

PLEASE TURN OFF ALL PAGERS AND/OR PHONES WHILE MEETING IS IN SESSION AND PLEASE REFRAIN FROM TEXTING DURING THE MEETING

In compliance with the Americans with Disabilities Act of 1990, the City of Pico Rivera is committed to providing reasonable accommodations for a person with a disability. Please call the City Clerk’s office at (562) 801-4389, if special accommodations are necessary and/or if information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged (within 24 to 48 hours’ notice).

*Commissioners receive a $30.00 stipend per each meeting held and attended.
1. **Approve a Resolution Authorizing the City Manager to Submit a Ballot Measure in the November 3, 2020 General Municipal Election for Consideration of the Voters to Prohibit the Sale and Use of All Fireworks.**

   **Recommendation:**

   1. Approve resolution calling for and giving notice of an election on Tuesday, November 3, 2020 for a ballot measure banning fireworks;
   2. Request County Registrar to consolidate the November 3, 2020 General Municipal Election;
   3. Request that the County render full services for such election;
   4. Authorize the City Clerk to carry out necessary procedures for such election.

   Resolution No. ______ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, (1) CALLING FOR AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, TO PLACE A BALLOT MEASURE TO ADOPT AN ORDINANCE TO PROHIBIT THE MANUFACTURING, STORAGE, POSSESSION, SALE, AND USE OF ALL FIREWORKS; (2) REQUESTING CONSOLIDATION OF SUCH ELECTION WITH THE COUNTY OF LOS ANGELES WITH ANY AND ALL ELECTIONS HELD ON THAT DATE; (3) REQUESTING THAT THE COUNTY OF LOS ANGELES PROVIDE ADMINISTRATION OF ELECTION SERVICES FOR SUCH ELECTION; AND (4) AUTHORIZING THE CITY CLERK TO CARRY OUT ALL NECESSARY PROCEDURES FOR SAID ELECTION

2. **Approve by Two-Thirds Vote a Resolution Authorizing the City Manager to Submit a Ballot Measure in the November 3, 2020 General Municipal Election for Consideration of the Voters to Increase the Uniform Transient Occupancy Tax.**

   **Recommendation:**

   1. Approve resolution calling for and giving notice of an election on Tuesday, November 3, 2020 to increase the Uniform Transient Occupancy Tax, “Hotel Visitor Tax” from 10% to 13%;
   2. Request County Registrar to consolidate the November 3, 2020 General Municipal Election;
   3. Request that the County render full services for such election; and
   4. Authorize the City Clerk to carry out necessary procedures for such election.

   Resolution No. ______ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, (1) CALLING FOR AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, FOR THE SUBMISSION TO THE
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS AND REBUTTALS REGARDING A CITY MEASURE FOR THE NOVEMBER 3, 2020 PICO RIVERA GENERAL MUNICIPAL ELECTION AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

ADJOURNMENT:

AFFIDAVIT OF POSTING

I, Anna M. Jerome, City Clerk, for the City of Pico Rivera, DO HEREBY CERTIFY, under penalty of perjury under the laws of the State of California, that the foregoing notice was posted at the Pico Rivera City Hall bulletin board and Pico Rivera website www.pico-rivera.org, which are available for the public to view on this 4th, day of August 2020.

Dated this 4th, day of August 2020

Anna M. Jerome, CMC
City Clerk

SB343 NOTICE

In compliance with and pursuant to the provisions of SB343 any public writing distributed by the City Clerk to at least a majority of the City Council Members regarding any item on this special meeting agenda will be available on the City’s website.
STATEMENT REGARDING DECORUM AT CITY COUNCIL MEETINGS

If you wish to speak at the time set aside for public comments, the City Council has established the following standards and Rules of Decorum as allowed by State law.

- Public comment is limited to those portions of the meeting referred to as Public Comments. These portions are intended for members of the public to address the City Council, Successor Agency, Housing Assistance Agency or Water Authority on matters related to agendas or any other items under the subject matter jurisdiction of the City Council or Agencies. Please fill out the desired color-coded card prior to the start of the meeting at 6:00 p.m. Once the meeting has begun, no further cards will be accepted.

- A yellow Public Hearing Comment Request card must be completed to speak during a Public Hearing.

- A green Public Comment Request – Card is for those wishing to address the Council/Agency on agenda items or any other items under the subject jurisdiction of the City Council/Agency.

- Citizens may address the Council, Successor Agency or Housing Assistance Agency once for a maximum of three minutes. After each speaker returns to his/her seat, the Mayor shall determine the time and manner of response, but typically if answers are available, they will be given after all speakers have had an opportunity to address the City Council.

- Members of the audience are asked to refrain from clapping or otherwise speaking from their seats. Those not meeting the standards for decorum may be escorted from the meeting.

RULES OF DECORUM CAN BE FOUND IN THE PICO RIVERA MUNICIPAL CODE SECTION 2.08.050 AS ESTABLISHED BY ORDINANCE 783 ADOPTED ON AUGUST 20, 1990 AND AMENDED BY ORDINANCES 822 (SEPTEMBER 21, 1992) AND 1020 (MARCH 21, 2006).
To: Mayor and City Council

From: City Manager

Meeting Date: August 5, 2020

Subject: APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A BALLOT MEASURE IN THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION FOR CONSIDERATION OF THE VOTERS TO PROHIBIT THE SALE AND USE OF ALL FIREWORKS

Recommendation:

1) Approve resolution calling for and giving notice of an election on Tuesday November 3, 2020 for a ballot measure banning fireworks;

2) Request County Registrar to consolidate the November 3, 2020 General Municipal Election;

3) Request that the County render full services for such election; and

4) Authorize the City Clerk to carry out necessary procedures for such election.

Fiscal Impact:

In order to add one or more ballot measure to the November 3, 2020 General Municipal Election, it is estimated that the City will incur approximately $20,000 in election costs, which is included in the fiscal year (FY) 2020-21 budget.

Discussion:

Chapter 8.36, Fireworks, of the Pico Rivera Municipal Code governs the purchase and usage of fireworks and regulates the organizations that sell fireworks. On May 28, 2019, the City Council adopted Ordinance No. 1132, amending Chapter 8.36, Fireworks addressing several items of the existing code as recommended by the Public Safety Ad Hoc Committee to deter the use of illegal fireworks. A few of the main amendments included imposing penalties upon the residence or private property owner for allowing or participating in the display or discharge of illegal fireworks and increasing fines that ranged from $1,000 for a first violation up to $3,000 for a third or more violations. In 2019, three (3) $1,000 fines were issued and four (4) arrests were made. In 2020, no citations were issued but seven (7) arrests were made and 800 pounds of illegal
fireworks were confiscated. During the 2020 July 4th weekend, the use of illegal fireworks sparked fires, injured children and contributed to poor air quality. The South Coast Air Quality Management District reported that air quality reached very unhealthy and hazardous levels in parts of Los Angeles County. Trauma centers and burn units in Los Angeles County reported an increase in injuries, mostly among children. Fourth of July is also one of the holidays with the most number of days, along with New Year’s Eve that dogs run away from their households due to booming fireworks. Several shelters and rescue organizations have to work overtime to reunite animals with their families.

There may be negative effects with completely banning all types of fireworks. Specifically, Safe and Sane fireworks are a source of fundraising revenue for Pico Rivera non-profit organizations. Banning Safe and Sane fireworks would require non-profit organizations to find alternative ways to fundraise.

There are several benefits to banning all types of fireworks. One of the benefits of banning fireworks would allow the Sheriff’s Department to better identify the location of an offender to quickly respond to that location. With a strong educational campaign educating the public of the prohibition, it is anticipated that over a few years, noise impacts, injuries to children, impacts of trash and debris, improved air quality and impacts to household pets will decrease due to the proposed ban on fireworks.

To be passed by the electorate, the proposed measure must be approved by a simple majority of the voters. A simple majority is 50 percent of voters plus one additional voter.

If the measure is approved, the City’s Fireworks Ordinance cannot be amended again without a voter approval pursuant to Election Code 9217. Whether the measure is approved or not approved, it cannot be resubmitted to the voters at any kind of election (including special elections) for at least one (1) year after the measure is voted upon (Election Code 9218).

**Environmental Review:**

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environmental) and 15060 (c) (3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.
CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 5, 2020
APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A
BALLOT MEASURE IN THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION
FOR CONSIDERATION OF THE VOTERS TO PROHIBIT THE SALE AND USE OF
ALL FIREWORKS
Page 3 of 3

Conclusion:

Staff recommends that the City Council place the ballot measure on the November 3, 2020 General Municipal Election. If the voters vote in favor of the measure, City staff will bring forth the ordinance for City Council final approval.

Steve Carmona
SC: MG: JG

Enclosures: 1) Resolution for Proposed Ban of Fireworks
2) Resolution for Filing Written Arguments and Rebuttals to the Fireworks Ban
3) Ordinance amending Municipal Code Section 8.36 Prohibiting Fireworks
RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA (1) CALLING FOR AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, TO PLACE A BALLOT MEASURE TO ADOPT AN ORDINANCE TO PROHIBIT THE MANUFACTURING, STORAGE, POSSESSION, SALE, AND USE OF ALL FIREWORKS; (2) REQUESTING CONSOLIDATION OF SUCH ELECTION WITH THE COUNTY OF LOS ANGELES WITH ANY AND ALL ELECTIONS HELD ON THAT DATE; (3) REQUESTING THAT THE COUNTY OF LOS ANGELES PROVIDE ADMINISTRATION OF ELECTION SERVICES FOR SUCH ELECTION; AND (4) AUTHORIZING THE CITY CLERK TO CARRY OUT ALL NECESSARY PROCEDURES FOR SAID ELECTION

WHEREAS, under the provision of the laws relating to general law cities in the State of California, a General Municipal Election of the City of Pico Rivera (“City”) shall be conducted on Tuesday, November 3, 2020, to place a ballot measure to prohibit the manufacturing, storage, sale, and use of all fireworks, unless the fireworks are part of a public display allowed by City permit; and

WHEREAS, on May 26, 2020, the City Council of the City of Pico Rivera (“City Council”) adopted Resolution No. 7065 calling for a General Municipal Election for three (3) members of the City Council; and

WHEREAS, it is desirable that the City’s November 3, 2020 General Municipal Election be consolidated with any and all elections to be administered by the Los Angeles County (the “County”) on the same date and that the City have the same precincts, polling stations, and election officers within the City for such election; and

WHEREAS, the City Council wishes for the County, through the Registrar-Recorder/County Clerk (the “Registrar”), canvass the returns of the City’s November 3, 2020 General Municipal Election; and

WHEREAS, the City seeks the provision of election services from the Registrar relating to the conduct of the City’s November 3, 2020 General Municipal Election; and

WHEREAS, the City shall compensate the County for all necessary expenses incurred by the Registrar in performing election services for the City; and

WHEREAS, the City Council of the City of Pico Rivera (“City Council”) governs the City, and has the interest of implementing measures that maintain the health and safety of the City; and
WHEREAS, the novel Coronavirus Disease ("COVID-19") has created a global emergency that is contributing to an economic downturn, which leading economists indicate could continue through the summer of 2021; and

WHEREAS, revenue to fund necessary services to residents and businesses is expected to decline due to COVID-19, so decreasing calls for service is important for the fiscal health of the City; and

WHEREAS, calls for service related to the discharge of fireworks during holiday celebrations could be decreased through the submission of a ballot measure for consideration by voters to prohibit the sale and discharge of all fireworks, including the ban of safe and sane fireworks (Cal. Health & Saf. Code § 12574) in the City; and

WHEREAS, the City Council is considering this ballot measure for the public safety of children, seniors, mental health of veterans and the general public, impacts to household pets, impacts of trash and debris, and to protect property from fires, and decrease calls for service; and

WHEREAS, the City Council has the authority to regulate the sale of fireworks within the City pursuant its police powers under California Constitution Article XI, Section 7 and California Health & Safety Code (Cal. Health & Saf. Code) § 12541.

NOW, THEREFORE, the City of Pico Rivera City Council does hereby resolve, declare, determine and order as follows:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Pico Rivera, California, on Tuesday, November 3, 2020, a General Municipal Election for the purpose of considering the prohibition of the sale and use of all fireworks in the City of Pico Rivera.

SECTION 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question approval of which requires a majority vote:

<table>
<thead>
<tr>
<th>Prohibit All Fireworks to Keep Pico Rivera Safe</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure the public safety of children, seniors, mental health of veterans and the general public, impacts to household pets, impacts of trash and debris and to protect property from fires; Shall Pico Rivera prohibit all fireworks (excluding public displays allowed by City permit), including the manufacture, storage, possession, sale and use of fireworks?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SECTION 3. That the proposed complete text of the Ordinance submitted to the voters at the November 3, 2020 election is attached hereto as Attachment No. 1 and is incorporated herein by this reference.

SECTION 4. The City Council has approved the form of the Ordinance attached hereto as Attachment No. 1 to be submitted to the voters of the City of Pico Rivera.

SECTION 5. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 6. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 7. That the polls for the election shall be open at 7 a.m. of the day of the election and shall remain open continuously from that time until 8 p.m. of the same day when the polls shall be closed, pursuant to Elections Code § 10242, except as provided in § 14401 of the Elections Code of the State of California.

SECTION 8. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding of municipal elections.

SECTION 9. That notice of the time and place of holding of election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 10. That the City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill. The City Finance Director is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the Measure on the election ballot.

SECTION 11. The City Council finds that this Resolution is not a project for purposes of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines § 15378(b)(4) because this Resolution pertains to the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

SECTION 12. This Resolution shall take effect immediately upon adoption.

SECTION 13. That the City Clerk shall attest and certify to the passage and adoption of this Resolution, and shall enter it into the book of original Resolutions
RESOLUTION NO. _____
Page 4 of 4

APPROVED this 11th day of August 2020

________________________________
Gustavo V. Camacho, Mayor

ATTEST:

________________________________
Anna M. Jerome, City Clerk

APPROVED AS TO FORM:

________________________________
Arnold M. Alvarez-Glasman,
City Attorney

AYES:
NOES:
ABSENT:
ABSTAIN:
ORDINANCE NO. ______

ORDINANCE OF THE CITY OF PICO RIVERA, CALIFORNIA, AMENDING PICO RIVERA MUNICIPAL CODE 8.36 TO PROHIBIT THE MANUFACTURING, STORAGE, POSSESSION, SALE, AND USE OF ALL FIREWORKS

WHEREAS, pursuant to the City of Pico Rivera’s (the “City”) police powers set forth under California Constitution Article XI, Section 7 and Health & Safety Code Section 12541, the City has authority to enact regulations prohibiting the sale of fireworks within the City; and

WHEREAS, the City has long prohibited the personal possession, use, discharge of dangerous fireworks, which are defined as all fireworks other than those fireworks defined as safe and sane fireworks under the Health & Safety Code; and

WHEREAS, the City currently permits the limited sale of legal, safe and sane fireworks within the City during the July 4th holiday season; and

WHEREAS, the sale, storage, and use of legal and illegal fireworks within the City increases the risks of fire and the associated dangers to public safety and public and private property; and

WHEREAS, in the past five years, the use of illegal dangerous fireworks and safe and sane fireworks have increased within the City, which have substantially increased the calls for service by the County of Los Angeles Sheriff’s Department (“Sheriff’s Department”) and City Code Enforcement; and

WHEREAS, the proliferation of illegal and legal fireworks use within the City makes it more difficult for law enforcement to identify and discern between legal and illegal fireworks; and

WHEREAS, the calls for service during the July 4th holiday season have a direct, negative impact on service levels for the City by redirecting vital public safety resources for the response of fireworks related calls for service; and

WHEREAS, according to the National Fire Protection Association, fireworks start an average of 18,200 fires per year, including 1,600 structure fires, 400 vehicle fires, and 16,200 outside and other fires; and

WHEREAS, in its 2020 Fireworks Annual Report, the Consumer Product Safety Commission found that in 2019, U.S. hospital emergency rooms treated an estimated
10,000 people for fireworks related injuries; 63% of those injuries were to the extremities and 16% were to the head; and

WHEREAS, children younger than 15 years of age accounted for more than one-third (36%) of the estimated injuries within the 2020 Fireworks Annual Report; and

WHEREAS, according to the Human Society of the United States, fireworks cause pets to become disoriented and frightened by the lights and noise associated with the fireworks and as a result runaway to the point that animal shelters around the nation report a dramatic increase in lost pets during the Fourth of July; and

WHEREAS, the Pico Rivera Municipal Code Section 8.36.040 currently permits the sale of safe and sane fireworks within the City during the period of 12:00 p.m. on July 1st through 12:00 a.m. on July 5th with a City issued fireworks sales permit; and

WHEREAS, the City desires to enact this Ordinance to prohibit the manufacturing, storage, sale, and use of all fireworks in the City; and

WHEREAS, this Ordinance is necessary for the preservation of the public peace, health, and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PICO RIVERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City of Pico Rivera finds and determines that the adoption of this Ordinance is based upon the following:

A. The above recitals are true and correct and are hereby incorporated herein as part of the findings.

B. The manufacture, sale, storage, and use of dangerous and safe and sane fireworks within the City limits increases the risks of fire and the associated dangers to public safety and to public and private property. In the past five years, the use of fireworks within the City have increased resulting in numerous calls for service to the County of Los Angeles Sheriff's Department and City Code Enforcement;

C. The calls for service have a negative impact on public safety. The proliferation of fireworks use within the City makes it more difficult for City law enforcement to identify and discern between legal and illegal fireworks;

D. According to the National Fire Protection Association, fireworks start an average of 18,200 fires per year, including 1,600 structure fires, 400 vehicle fires, and 16,200 outside and other fires;

E. In its 2020 Fireworks Annual Report, the Consumer Product Safety Commission found that U.S. hospital emergency rooms treated an estimated 10,000
people for fireworks related injuries; 63% of those injuries were to the extremities and 16% were to the head. Children younger than 15 years of age accounted for more than one-third (36%) of the estimated 2019 injuries;

F. The use of fireworks within the City during the July 4th holiday season generates significant amounts of trash requiring Public Works staff to dedicate an excessive amount of time and resources to clean trash from City streets and property.

G. The use of fireworks on City streets leave unsafe chemical residue on roads and sidewalks, which can ultimately run off into streams and the ocean.

H. According to the Human Society of the United States, fireworks have negative impacts on animals and domestic pets, which may become disoriented and frightened by the lights and noise associated with the fireworks and may run away resulting in animal shelters around the nation reporting a dramatic increase in lost pets during the July 4th holiday season;

I. The Pico Rivera Municipal Code Section 8.36.040 currently permits the sale of safe and sane fireworks within the City during the period of 12:00 p.m. on July 1st through 12:00 a.m. on July 5th with a City issued fireworks sales permit. Fireworks permit applicants are currently required to submit applications annually the second Tuesday in February.

J. Based on the above, City of Pico Rivera determines that the provisions contained herein are necessary for the preservation of the public peace, health, and safety.

SECTION 2. Subject to the approval of a majority of the voters of the City of Pico Rivera at the scheduled election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 8.36 entitled “FIREWORKS” of Chapter 8 of the Pico Rivera Municipal Code is hereby replaced and amended in its entirety as follows:

8.36
FIREWORKS PROHIBITED

8.36.010 Purpose.

This chapter shall govern the manufacturing, storage, sale, offer for sale, the use, ignition, discharge of, firing or possession of fireworks within the City of Pico Rivera.

8.36.020 Definitions.

“Fireworks” shall mean any device, container, or vessel containing chemical elements and chemical compounds capable of burning independently of the
oxygen in the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The fireworks also include, but is not limited to, devices designated by the manufacturer as fireworks, firecrackers, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits, including those described as "safe and sane fireworks" as defined in section 12529 of the California Health and Safety Code and have been classified and registered as safe and sane by the California State Fire Marshal.

8.36.030 Prohibition of Fireworks.

The manufacturing, storage, use, possession, and sale of all fireworks, including those fireworks described as safe and sane by the California State Fire Marshal, is prohibited throughout the City of Pico Rivera.

8.36.040 Exemption.

A. Notwithstanding any other provisions of this chapter, the City Manager or designee may conditionally grant a permit for the supervised public display of fireworks in the City at an approved site to any association, organization, or public entity that desires to conduct a public display of fireworks for the general public.

B. Such display of fireworks within the city shall be allowed only upon a permit being granted by the City Manager or designee, which permit shall be issued subject to such rules, regulations, and conditions as the director may impose, including but not limited to, the competency of the persons operating the display of fireworks, proof of insurance and bonds, the location of such display, the type of fireworks to be used and the time for such fireworks display. A public display of fireworks shall only be handled by a licensed pyrotechnic operator (as defined by section 12527 of the California Health and Safety Code).

C. Every applicant for a permit to conduct a public display of fireworks permitted by under this Section shall agree to defend, indemnify and hold the City of Pico Rivera, its officers and employees, harmless from any and all claims for damages or other costs arising out of the activity authorized by the permit.

8.36.050 Violations; Penalties.

A. Any person who violates any provision of this section shall be deemed guilty of a misdemeanor or infraction at the discretion of the city attorney or city prosecutor, and upon conviction thereof shall be punishable
by the penalties and/or fines as provided for in section 1.20 of this code, unless a specific fine for the violation is specified in this subsection. The person shall also be responsible for all expenses, costs, and fees associated with the safe disposal of all confiscated fireworks.

In addition, violation of any provisions of this section or conditions contained in a permit issued under Section 8.36.040 shall result in revocation of the permit and render the violating organization ineligible for a permit for five (5) years from the date of such violation.

B. Administrative Fines and Penalties

1. Excluding violations of subsection (B)(2) of this section, any person or entity who is in violation of this chapter shall be subject to an administrative fine or fines in the amounts as follows:
   a. One thousand dollars ($1,000) for the first violation;
   b. One thousand two hundred fifty dollars ($1,250) for the second violation; and
   c. One thousand five hundred dollars ($1,500) for the third or any additional violation of the same provision.

2. Any person or entity that possesses, uses, stores, sells, or displays for sale less than twenty-five (25) pounds of fireworks shall be subject to administrative fine or fines in the amounts as follows:
   a. One thousand dollars ($1,000) for the first violation;
   b. Two thousand dollars ($2,000) for the second violation; and
   c. Three thousand dollars ($3,000) for the third or any additional violation of the same provision.

Any person or entity that possesses, uses, stores, sells or displays more than twenty-five (25) pounds of fireworks is subject to fines and penalties under California Health and Safety Code Sections 12700 et seq.

3. Any person or entity that allows, permits, aids, or abets, any violation of this chapter by another person, shall be subject to an administrative fine or fines in the amounts as follows:
   a. One thousand dollars ($1,000) for the first violation;
   b. One thousand two hundred fifty dollars ($1,250) for the second; and
   c. One thousand five hundred dollars ($1,500) for the third or any additional violation of the same provision.

4. Any violation of this chapter may be summarily abated by law enforcement by all reasonable means. A person who has been issued a second administrative citation and/or written notice of violation of this chapter may be liable for response costs incurred in responding to the illegal
5. Administrative fines shall be subject to the procedures established in Chapter 8.16 of this code.

6. The remedies set forth in this chapter are in addition to all other legal and equitable remedies, administrative, criminal or civil, that may be pursued by the city to address violations of this chapter including, as an alternative to the issuance of an administrative fine pursuant to this section, and in his or her sole discretion, the city attorney may criminally prosecute a violation of this chapter.

C. Every parent, guardian, or other person having the legal care, custody or control of any person under the age of eighteen years, who knows or reasonably should know that a minor is in violation of this chapter may be issued an administrative fine in accordance with the provisions of this section.

SECTION 3. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision 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 unconstitutional.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days after passage.
APPROVED this ___ day of ____ 20__

________________________________________________________
Gustavo V. Camacho, Mayor

ATTEST:                        APPROVED AS TO FORM:

________________________________________________________
Anna M. Jerome, City Clerk    Arnold M. Alvarez-Glasman, City Attorney

I, Anna M. Jerome, City Clerk of the City of Pico Rivera, do hereby certify that the foregoing Ordinance, Ordinance No. _____ was adopted at a regular meeting of the City Council of the City of Pico Rivera, held on ______________________ 2020, with the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS AND REBUTTALS REGARDING A CITY MEASURE FOR THE NOVEMBER 3, 2020 PICO RIVERA GENERAL MUNICIPAL ELECTION AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a General Municipal Election is to be held in the City of Pico Rivera, California, on November 3, 2020, at which there will be submitted to the voters the following measure:

<table>
<thead>
<tr>
<th>Prohibit All Fireworks to Keep Pico Rivera Safe</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure the public safety of children, seniors, mental health of veterans and the general public, impacts to household pets, impacts of trash and debris and to protect property from fires; Shall Pico Rivera prohibit all fireworks (excluding public displays allowed by City permit), including the manufacture, storage, possession, sale and use of fireworks?</td>
<td>NO</td>
</tr>
</tbody>
</table>

NOW, THEREFORE, the City of Pico Rivera City Council does hereby resolve, declare, determine and order as follows:

SECTION 1. That the City Council authorizes the following member(s) of its body

Mayor Gustavo Camacho
Mayor Pro Tem Raul Elias
Councilmember Gregory Salcido
Councilmember Dr. Monica Sanchez
Councilmember Brent A. Tercero

to file (a) written argument(s) not exceeding 300 words regarding the City measure specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

SECTION 2. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The Form of
Statement to be Filed by Author(s) of Argument(s) shall accompany the argument(s), as required by Section 9600 of the Elections Code of the State of California.

**SECTION 3.** Pursuant to Elections Code Section 9287, in the event that more than one argument for or against the City measure described above is submitted to the City Clerk within the time prescribed, the City Clerk shall select one of the arguments in favor and one of the arguments against the proposed measure for printing and distribution to the voters. In selecting the argument, the City Clerk shall give preference and priority, in the order named, to the arguments of the following:

(a) The mayor and/or members of the City Council;
(b) The individual voters, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsor or proponents of the measure;
(c) Bona fide association of citizens; and
(d) Individual voters who are eligible to vote on the measure.

If more than one argument in favor of or more than one argument against a City measure are timely submitted to the City Clerk and such arguments for or against the proposed measure, respectively, are authored by individuals and/or associations within the same priority group identified in items (a) through (d) above, then the City Clerk shall give preference to the arguments initially filed with the City Clerk first in time.

**SECTION 4.** The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

**SECTION 5.** The deadline to submit arguments to the City Clerk for or against the City Measure pursuant to this Resolution is declared by the City Clerk to be Friday, August 14, 2020, at 5:00 p.m. Each argument shall not exceed three hundred (300) words and shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

**SECTION 6.** Rebuttal Arguments. When the City Clerk has selected the primary arguments for and against each of the City Measures which will be printed and distributed to the voters, the Clerk shall send copies of the primary argument in favor of each Measure to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding two hundred fifty (250) words. The rebuttal arguments shall be filed with the City Clerk not later than Monday, August 24, 2020 at 5:00 p.m. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately
follow the primary argument which it seeks to rebut.

**SECTION 7.** That this Resolution shall take effect immediately upon adoption.

**SECTION 8.** In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 9.** Notice of the election is hereby given. Additionally, the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**SECTION 10.** The City Clerk shall certify to the passage and adoption of this City Council Resolution and enter it into the book of original Resolutions.

[Signatures on the following page]
PASSED, APPROVED AND ADOPTED THIS _____ DAY OF AUGUST, 2020.

ATTEST:

___________________________
Gustavo Camacho, Mayor

Anna Jerome, City Clerk

APPROVED AS TO FORM:

___________________________
Arnold M. Alvarez-Glasman
City Attorney

APPROVED AS TO CONTENT:

___________________________
Steven Carmona, City Manager
ORDINANCE OF THE CITY OF PICO RIVERA, CALIFORNIA,
AMENDING PICO RIVERA MUNICIPAL CODE 8.36 TO PROHIBIT THE
MANUFACTURING, STORAGE, POSSESSION, SALE, AND USE OF
ALL FIREWORKS

WHEREAS, pursuant to the City of Pico Rivera’s (the “City”) police powers set
forth under California Constitution Article XI, Section 7 and Health & Safety Code Section
12541, the City has authority to enact regulations prohibiting the sale of fireworks within
the City; and

WHEREAS, the City has long prohibited the personal possession, use, discharge
of dangerous fireworks, which are defined as all fireworks other than those fireworks
defined as safe and sane fireworks under the Health & Safety Code; and

WHEREAS, the City currently permits the limited sale of legal, safe and sane
fireworks within the City during the July 4th holiday season; and

WHEREAS, the sale, storage, and use of legal and illegal fireworks within the City
increases the risks of fire and the associated dangers to public safety and public and
private property; and

WHEREAS, in the past five years, the use of illegal dangerous fireworks and safe
and sane fireworks have increased within the City, which have substantially increased the
calls for service by the County of Los Angeles Sheriff’s Department (“Sheriff’s
Department”) and City Code Enforcement; and

WHEREAS, the proliferation of illegal and legal fireworks use within the City makes
it more difficult for law enforcement to identify and discern between legal and illegal
fireworks; and

WHEREAS, the calls for service during the July 4th holiday season have a direct,
negative impact on service levels for the City by redirecting vital public safety resources
for the response of fireworks related calls for service; and

WHEREAS, according to the National Fire Protection Association, fireworks start
an average of 18,200 fires per year, including 1,600 structure fires, 400 vehicle fires, and
16,200 outside and other fires; and

WHEREAS, in its 2020 Fireworks Annual Report, the Consumer Product Safety
Commission found that in 2019, U.S. hospital emergency rooms treated an estimated
10,000 people for fireworks related injuries; 63% of those injuries were to the extremities
and 16% were to the head; and
WHEREAS, children younger than 15 years of age accounted for more than one-third (36%) of the estimated injuries within the 2020 Fireworks Annual Report; and

WHEREAS, according to the Human Society of the United States, fireworks cause pets to become disoriented and frightened by the lights and noise associated with the fireworks and as a result runaway to the point that animal shelters around the nation report a dramatic increase in lost pets during the Fourth of July; and

WHEREAS, the Pico Rivera Municipal Code Section 8.36.040 currently permits the sale of safe and sane fireworks within the City during the period of 12:00 p.m. on July 1st through 12:00 a.m. on July 5th with a City issued fireworks sales permit; and

WHEREAS, the City desires to enact this Ordinance to prohibit the manufacturing, storage, sale, and use of all fireworks in the City; and

WHEREAS, this Ordinance is necessary for the preservation of the public peace, health, and safety.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pico Rivera as follows:

SECTION 1. Findings. The City of Pico Rivera finds and determines that the adoption of this Ordinance is based upon the following:

A. The above recitals are true and correct and are hereby incorporated herein as part of the findings.

B. The manufacture, sale, storage, and use of dangerous and safe and sane fireworks within the City limits increases the risks of fire and the associated dangers to public safety and to public and private property. In the past five years, the use of fireworks within the City have increased resulting in numerous calls for service to the County of Los Angeles Sheriff’s Department and City Code Enforcement;

C. The calls for service have a negative impact on public safety. The proliferation of fireworks use within the City makes it more difficult for City law enforcement to identify and discern between legal and illegal fireworks;

D. According to the National Fire Protection Association, fireworks start an average of 18,200 fires per year, including 1,600 structure fires, 400 vehicle fires, and 16,200 outside and other fires;

E. In its 2020 Fireworks Annual Report, the Consumer Product Safety Commission found that U.S. hospital emergency rooms treated an estimated 10,000 people for fireworks related injuries; 63% of those injuries were to the extremities and 16% were to the head. Children younger than 15 years of age accounted for more than one-third (36%) of the estimated 2019 injuries;
F. The use of fireworks within the City during the July 4th holiday season generates significant amounts of trash requiring Public Works staff to dedicate an excessive amount of time and resources to clean trash from City streets and property.

G. The use of fireworks on City streets leave unsafe chemical residue on roads and sidewalks, which can ultimately run off into streams and the ocean.

H. According to the Human Society of the United States, fireworks have negative impacts on animals and domestic pets, which may become disoriented and frightened by the lights and noise associated with the fireworks and may run away resulting in animal shelters around the nation reporting a dramatic increase in lost pets during the July 4th holiday season;

I. The Pico Rivera Municipal Code Section 8.36.040 currently permits the sale of safe and sane fireworks within the City during the period of 12:00 p.m. on July 1st through 12:00 a.m. on July 5th with a City issued fireworks sales permit. Fireworks permit applicants are currently required to submit applications annually the second Tuesday in February.

J. Based on the above, City of Pico Rivera determines that the provisions contained herein are necessary for the preservation of the public peace, health, and safety.

SECTION 2. Subject to the approval of a majority of the voters of the City of Pico Rivera at the scheduled election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 8.36 entitled “FIREWORKS” of Chapter 8 of the Pico Rivera Municipal Code is hereby replaced and amended in its entirety as follows:

8.36
FIREWORKS PROHIBITED

8.36.010 Purpose.

This chapter shall govern the manufacturing, storage, sale, offer for sale, the use, ignition, discharge of, firing or possession of fireworks within the City of Pico Rivera.

8.36.020 Definitions.

“Fireworks” shall mean any device, container, or vessel containing chemical elements and chemical compounds capable of burning independently of the oxygen in the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The fireworks also include, but is not limited to, devices
designated by the manufacturer as fireworks, firecrackers, torpedoes, skyrocket, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits, including those described as "safe and sane fireworks" as defined in section 12529 of the California Health and Safety Code and have been classified and registered as safe and sane by the California State Fire Marshal.

8.36.030 Prohibition of Fireworks.

The manufacturing, storage, use, possession, and sale of all fireworks, including those fireworks described as safe and sane by the California State Fire Marshal, is prohibited throughout the City of Pico Rivera.

8.36.040 Exemption.

A. Notwithstanding any other provisions of this chapter, the City Manager or designee may conditionally grant a permit for the supervised public display of fireworks in the City at an approved site to any association, organization, or public entity that desires to conduct a public display of fireworks for the general public.

B. Such display of fireworks within the city shall be allowed only upon a permit being granted by the City Manager or designee, which permit shall be issued subject to such rules, regulations, and conditions as the director may impose, including but not limited to, the competency of the persons operating the display of fireworks, proof of insurance and bonds, the location of such display, the type of fireworks to be used and the time for such fireworks display. A public display of fireworks shall only be handled by a licensed pyrotechnic operator (as defined by section 12527 of the California Health and Safety Code).

C. Every applicant for a permit to conduct a public display of fireworks permitted by under this Section shall agree to defend, indemnify and hold the City of Pico Rivera, its officers and employees, harmless from any and all claims for damages or other costs arising out of the activity authorized by the permit.

8.36.050 Violations; Penalties.

A. Any person who violates any provision of this section shall be deemed guilty of a misdemeanor or infraction at the discretion of the city attorney or city prosecutor, and upon conviction thereof shall be punishable by the penalties and/or fines as provided for in section 1.20 of this code, unless a specific fine for the violation is specified in this subsection. The
person shall also be responsible for all expenses, costs, and fees associated with the safe disposal of all confiscated fireworks.

In addition, violation of any provisions of this section or conditions contained in a permit issued under Section 8.36.040 shall result in revocation of the permit and render the violating organization ineligible for a permit for five (5) years from the date of such violation.

B. Administrative Fines and Penalties

1. Excluding violations of subsection (B)(2) of this section, any person or entity who is in violation of this chapter shall be subject to an administrative fine or fines in the amounts as follows:
   a. One thousand dollars ($1,000) for the first violation;
   b. One thousand two hundred fifty dollars ($1,250) for the second violation; and
   c. One thousand five hundred dollars ($1,500) for the third or any additional violation of the same provision.

2. Any person or entity that possesses, uses, stores, sells, or displays for sale less than twenty-five (25) pounds of fireworks shall be subject to administrative fine or fines in the amounts as follows:
   a. One thousand dollars ($1,000) for the first violation;
   b. Two thousand dollars ($2,000) for the second violation; and
   c. Three thousand dollars ($3,000) for the third or any additional violation of the same provision.

3. Any person or entity that allows, permits, aids, or abets, any violation of this chapter by another person, shall be subject to an administrative fine or fines in the amounts as follows:
   a. One thousand dollars ($1,000) for the first violation;
   b. One thousand two hundred fifty dollars ($1,250) for the second; and
   c. One thousand five hundred dollars ($1,500) for the third or any additional violation of the same provision.

4. Any violation of this chapter may be summarily abated by law enforcement by all reasonable means. A person who has been issued a second administrative citation and/or written notice of violation of this chapter may be liable for response costs incurred in responding to the illegal discharge or illegal storage of fireworks. All such persons shall be jointly and severally liable for response costs incurred in the response and all
subsequent responses. If a person is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this chapter. To incur liability for response costs imposed by this chapter, a person need not be present at the event that causes the response giving rise to the imposition of response costs. This chapter therefore imposes vicarious as well as direct liability upon a person.

5. Administrative fines shall be subject to the procedures established in Chapter 8.16 of this code.

6. The remedies set forth in this chapter are in addition to all other legal and equitable remedies, administrative, criminal or civil, that may be pursued by the city to address violations of this chapter including, as an alternative to the issuance of an administrative fine pursuant to this section, and in his or her sole discretion, the city attorney may criminally prosecute a violation of this chapter.

C. Every parent, guardian, or other person having the legal care, custody or control of any person under the age of eighteen years, who knows or reasonably should know that a minor is in violation of this chapter may be issued an administrative fine in accordance with the provisions of this section.

SECTION 3. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision 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 unconstitutional.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days after passage.

[Signatures on the following page]
APPROVED AND ADOPTED this ___ day of ____________, 2020.

_____________________________
Gustavo V. Camacho, Mayor

ATTEST:

_____________________________  _______________________________
Anna M. Jerome, City Clerk      Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA  )
) §
COUNTY OF LOS ANGELES  )

I, Anna M. Jerome, City Clerk of the City of Pico Rivera, do hereby certify that the foregoing Ordinance No. ___ was adopted at a regular meeting of the City Council of the City of Pico Rivera, held on ____________________, with the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
Anna M. Jerome, City Clerk
To: Mayor and City Council
From: City Manager
Meeting Date: August 5, 2020
Subject: APPROVE BY TWO-THIRDS VOTE A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A BALLOT MEASURE IN THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION FOR CONSIDERATION OF THE VOTERS TO INCREASE THE UNIFORM TRANSIENT OCCUPANCY TAX

Recommendation:

1) Approve resolution calling for and giving notice of an election on Tuesday, November 3, 2020 to increase the Uniform Transient Occupancy Tax, “Hotel Visitor Tax” from 10% to 13%;

2) Request County Registrar to consolidate the November 3, 2020 General Municipal Election;

3) Request that the County render full services for such election; and

4) Authorize the City Clerk to carry out necessary procedures for such election.

Fiscal Impact:

In order to add one or more ballot measure to the November 3, 2020 General Municipal Election, it is estimated that the City will incur approximately $20,000 in election costs. It is estimated that the increase will generate approximately $100,000 to $120,000 per year.

Discussion:

Due to the COVID-19 pandemic, City staff is exploring ways to generate revenue to lessen the budget deficit due to the loss of sales and property tax. As such staff is recommending that the City Council consider a ballot measure to increase the Uniform Transient Occupancy Tax be placed on the November 3, 2020 General Municipal Election for voter decision. The increase in revenue will help to the City to enhance and maintain the level of service, invest in public safety, infrastructure upgrades or other City services.
Chapter 3.36, *Uniform Transient Occupancy Tax (TOT)*, of the Pico Rivera Municipal Code establishes a tax rate of 10% that must be paid by a transient to the operator of a hotel, inn, motel, or other similar structure. The TOT, is also commonly known as “hotel visitor tax”. A transient is defined as any person who exercises occupancy at a hotel, motel or similar structure for a period of thirty consecutive calendar days or less.

The amount of the tax is set at the discretion of the City Council and may include a specific amount as well as a percentage. However, only voters may approve a tax measure. TOT tax rates range between 4% to 15% and the average rate of a TOT is 10%. Staff is recommending to increase the TOT rate by 3% and place on the November 3, 2020 ballot for voter approval.

An increase from 10% to 13% would generate an estimated $100,000 to $120,000 in annual revenue for the City. Revenue generated by the TOT is expended at the discretion of the City Council, on any City programs or services.

A two-thirds vote of the City Council is required to pass the resolution ordering the submission of the proposed tax measure to the voters. As a general tax, the TOT measure requires approval by a simple majority of voters to pass. A simple majority is 50 percent of voters plus one additional voter.

Surrounding hotel tax are the following:

<table>
<thead>
<tr>
<th>CITY</th>
<th>TAX RATE</th>
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<tbody>
<tr>
<td>Downey</td>
<td>9%</td>
</tr>
<tr>
<td>Whittier</td>
<td>10%</td>
</tr>
<tr>
<td>Montebello</td>
<td>10%</td>
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<tr>
<td>Monterey Park</td>
<td>12%</td>
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<tr>
<td>Alhambra</td>
<td>12%</td>
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<tr>
<td>Artesia</td>
<td>12.5%</td>
</tr>
<tr>
<td>Commerce</td>
<td>12%</td>
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<tr>
<td>Santa Fe Springs</td>
<td>10%</td>
</tr>
<tr>
<td>Norwalk</td>
<td>10%</td>
</tr>
<tr>
<td>Baldwin Park</td>
<td>10%</td>
</tr>
<tr>
<td>Bell</td>
<td>12%</td>
</tr>
</tbody>
</table>
Environmental Review:

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060 (c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Conclusion:

If the voters vote in favor of the measures, City staff will bring forth the ordinance for City Council final approval.

Steve Carmona

SC: MG: JG

Enclosures:

1) Resolution for Proposed Transient Occupancy Tax Increase
2) Resolution for Filing Written Arguments and Rebuttals
3) Ordinance Amending Municipal Code Chapter 3.36
RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA (1) CALLING FOR AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, FOR THE SUBMISSION TO THE VOTERS A QUESTION PROPOSING A 3% INCREASE TO THE UNIFORM TRANSIENT OCCUPANCY TAX RATE FROM 10% TO 13%; (2) REQUESTING CONSOLIDATION OF SUCH ELECTION WITH THE COUNTY OF LOS ANGELES WITH ANY AND ALL ELECTIONS HELD ON THAT DATE; (3) REQUESTING THAT THE COUNTY OF LOS ANGELES PROVIDE ADMINISTRATION ELECTION SERVICES FOR SUCH ELECTION; AND (4) AUTHORIZING THE CITY CLERK TO CARRY OUT ALL NECESSARY PROCEDURES FOR SAID ELECTION

WHEREAS, under the provision of the laws relating to general law cities in the State of California, a General Municipal Election of the City of Pico Rivera (the “City”) shall be conducted on Tuesday, November 3, 2020, to place a ballot measure to prohibit the sale and discharge of all fireworks; and

WHEREAS, on May 26, 2020, the City Council of the City of Pico Rivera (“City Council”) adopted Resolution No. 7065 calling for a General Municipal Election for three (3) members of the City Council; and

WHEREAS, it is desirable that the City’s November 3, 2020 General Municipal Election be consolidated with any and all elections to be administered by the Los Angeles County (the “County”) on the same date and that the City have the same precincts, polling stations, and election officers within the City for such election; and

WHEREAS, the City Council wishes for the County through the Registrar-Recorder/County Clerk (the “Registrar”), canvass the returns of the City’s November 3, 2020 General Municipal Election; and

WHEREAS, the City seeks the provision of election services from the Registrar relating to the conduct of the City’s November 3, 2020 General Municipal Election; and

WHEREAS, the City shall compensate the County for all necessary expenses incurred by the Registrar in performing election services for the City; and

WHEREAS, the City Council of the City of Pico Rivera (“City Council”) governs the City, and has the interest of implementing measures that maintain the health and safety of the City; and

WHEREAS, the novel Coronavirus Disease (“COVID-19”) has created a global emergency that is contributing to an economic downturn, which leading economists indicate could continue through the summer of 2021; and
WHEREAS, revenue to fund necessary services to residents and businesses is expected to decline, so generating revenue to maintain the health and safety of the City, and maintain service levels is important; and

WHEREAS, the Uniform Transient Occupancy Tax, also commonly known as a hotel visitors tax, is imposed on occupants of hotels, inns and other short-term lodging facilities for stays of 30 days or less; and

WHEREAS, the Uniform Transient Occupancy Tax is a general tax which is deposited into the City's General Fund and is expended at the discretion of the City Council on any City programs or services; and

WHEREAS, the City Council desires to submit to the voters at the election a question for consideration to increase the Uniform Transient Occupancy Tax from 10% to 13%; and

WHEREAS, the City Council desires to submit to the voters this ballot measure to increase revenue in order to maintain service levels; and

WHEREAS, the City Council proposes the adoption of an Ordinance amendment the Pico Rivera Municipal Code Chapter 3.36 entitled “Uniform Transient Occupancy Tax; and

NOW, THEREFORE, the City of Pico Rivera City Council does hereby resolve, declare, and order as follows:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Pico Rivera, California, on Tuesday, November 3, 2020, a General Municipal Election for the purpose of considering the prohibition of the sale and use of fireworks in the City of Pico Rivera.

SECTION 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question approval of which requires a majority vote:
SECTION 3. That the proposed complete text of the Ordinance submitted to the voters at the November 3, 2020 election is attached hereto as Attachment No. 1 and is incorporated herein by this reference.

SECTION 4. The City Council has approved the form of the Ordinance attached hereto as Attachment No. 1 to be submitted to the voters of the City of Pico Rivera.

SECTION 5. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 6. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 7. That the polls for the election shall be open at 7 a.m. of the day of the election and shall remain open continuously from that time until 8 p.m. of the same day when the polls shall be closed, pursuant to Elections Code § 10242, except as provided in § 14401 of the Elections Code of the State of California.

SECTION 8. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding of municipal elections.

SECTION 9. That notice of the time and place of holding of election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 10. That the City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill. The City Finance Director is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the Measure on the election ballot.

Increase Transit Occupancy Tax for hotel visitors from 10% to 13%

To provide additional funding for general city services such as maintaining streets, roads, sidewalks, public safety services, pedestrian and bicyclist safety, safe routes to schools, and for other critical purposes; Shall the City of Pico Rivera increase the Transit Occupancy Tax that applies only to the guests of hotels, motels, and short-term rentals, and other lodging from 10% to 13%?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tr>
<th>YES</th>
<th>NO</th>
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**RESOLUTION NO. _____**
Page 3 of 4
SECTION 11. The City Council finds that this Resolution is not a project for purposes of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines § 15378(b)(4) because this Resolution pertains to the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

SECTION 12. This Resolution shall take effect immediately upon adoption.

SECTION 13. That the City Clerk shall attest and certify to the passage and adoption of this Resolution, and shall enter it into the book of original Resolutions

APPROVED AND ADOPTED this ____th day of August 2020.

________________________________
Gustavo Camacho, Mayor

ATTEST:    

________________________________
Anna Jerome, City Clerk

APPROVED AS TO FORM:    

________________________________
Arnold M. Alvarez-Glasman,
City Attorney

AYES:
NOES:
ABSENT:
ABSTAIN:
ORDINANCE OF THE CITY OF PICO RIVERA, CALIFORNIA AMENDING PICO RIVERA MUNICIPAL CODE CHAPTER 3.36 RELATING TO THE UNIFORM TRANSIENT OCCUPANCY TAX

WHEREAS, any increase in the transient occupancy tax of a city in the State of California requires a vote of the electorate of the city pursuant to the California Constitution Article XIII C Sections 1(a) and 2(b); and

WHEREAS, the City of Pico Rivera wishes to authorize the amendment of the Pico Rivera Municipal Code, Chapter 3.36, to increase the Transient Occupancy Tax from ten percent to thirteen percent; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PICO RIVERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.36 of the Pico Rivera Municipal Code is hereby amended by as follows:

Chapter 3.36

UNIFORM TRANSIENT OCCUPANCY TAX

3.36.010 Title for citation.
3.36.020 Definitions.
3.36.030 Imposed—Rate.
3.36.040 Exemptions.
3.36.050 Operator—Registration requirements.
3.36.060 Operator—Collection duties.
3.36.070 Reporting and remitting.
3.36.080 Recordkeeping requirements.
3.36.090 Refunds.
3.36.100 Failure to collect and report.
3.36.110 Late payment or fraud—Penalties.
3.36.120 Actions to collect.
3.36.130 Appeal procedure.
3.36.140 Violation—Misdemeanor—Penalty.

Chapter 3.36 UNIFORM TRANSIENT OCCUPANCY TAX
3.36.010 Title for citation.
This chapter shall be known as the “Uniform Transient Occupancy Tax Ordinance of the City of Pico Rivera.”

3.36.020 Definitions.
Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

A. “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

B. “Occupancy” means the use or possession, or the right to the use or possession, of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

C. “Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

D. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

E. “Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. “Tax administrator” means the director of finance.
G. “Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance amending this section may be considered.

3.36.030 Imposed—Rate.
For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten thirteen (13) percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient’s ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

3.36.040 Exemptions.

A. No tax shall be imposed upon:
   1. Any person as to whom, or any occupancy as to which it is beyond the power of the city to impose the tax provided in this chapter;
   2. Any federal or state officer or employee, when on official business;
   3. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. No exemption shall be granted, except upon a claim therefor made at the time rent is collected and under penalty of perjury, upon a form prescribed by the tax administrator.

3.36.050 Operator—Registration requirements.
Within thirty days after the effective date of the ordinance adopting the provisions set out in this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the tax administrator and obtain from him or her a “Transient Occupancy Registration Certificate” to be at all
times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

A. The name of the operator;

B. The address of the hotel;

C. The date upon which the certificate was issued;

D. “This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including the zoning laws and including, but not limited to, those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit.”

3.36.060 Operator—Collection duties.
Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided in this chapter.

3.36.070 Reporting and remitting.
Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received, and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax, and he or she may require further information on the return. Returns and payments are due
immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator.

3.36.080 Recordkeeping requirements.
It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times.

3.36.090 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received, when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once, or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.
3.36.100 Failure to collect and report.

A. If any operator shall fail or refuse to collect the tax, and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same, and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter.

B. In case such determination is made, the tax administrator shall give a notice of the amount to be assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the tax administrator shall determine the proper tax to be remitted, and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days, unless an appeal is taken as provided in Section 3.36.130.

3.36.110 Late payment or fraud—Penalties.

A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.
B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten-percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

3.36.120 Actions to collect.
Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.

3.36.130 Appeal procedure.
Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The city council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the city council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.
3.36.140 Violation—Misdemeanor—Penalty.

A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and shall be punishable as provided in this code.

B. Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid.

C. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim, with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor, and is punishable as aforesaid.

[Signatures on the following page]
APPROVED this __ day of _____________, 20__.  

______________________________  
Gustavo V. Camacho, Mayor

ATTEST:  

________________________________  
Anna M. Jerome, City Clerk  

APPROVED AS TO FORM:  

________________________________  
Arnold M. Alvarez-Glasman, City Attorney

I, Anna M. Jerome, City Clerk of the City of Pico Rivera, do hereby certify that the foregoing Ordinance, Ordinance No. ______ was adopted at a regular meeting of the City Council of the City of Pico Rivera, held on ______________________ 2020, with the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS AND REBUTTALS REGARDING A CITY MEASURE FOR THE NOVEMBER 3, 2020 PICO RIVERA GENERAL MUNICIPAL ELECTION AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a General Municipal Election is to be held in the City of Pico Rivera, California, on November 3, 2020, at which there will be submitted to the voters the following measure:

<table>
<thead>
<tr>
<th>Increase Transit Occupancy Tax for hotel visitors from 10% to 13%</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide additional funding for general city services such as maintaining streets, roads, sidewalks, public safety services, pedestrian and bicyclist safety, safe routes to schools, and for other critical purposes; Shall the City of Pico Rivera increase the Transit Occupancy Tax that applies only to the guests of hotels, motels, and short-term rentals, and other lodging from 10% to 13%?</td>
<td>NO</td>
</tr>
</tbody>
</table>

NOW, THEREFORE, the City of Pico Rivera City Council does hereby resolve, declare, and order as follows:

SECTION 1. That the City Council authorizes the following member(s) of its body to file (a) written argument(s) not exceeding 300 words regarding the City measure specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

SECTION 2. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The Form of
Statement to be Filed by Author(s) of Argument(s) shall accompany the argument(s), as required by Section 9600 of the Elections Code of the State of California.

**SECTION 3.** Pursuant to Elections Code Section 9287, in the event that more than one argument for or against the City measure described above is submitted to the City Clerk within the time prescribed, the City Clerk shall select one of the arguments in favor and one of the arguments against the proposed measure for printing and distribution to the voters. In selecting the argument, the City Clerk shall give preference and priority, in the order named, to the arguments of the following:

(a) The mayor and/or members of the City Council;
(b) The individual voters, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsor or proponents of the measure;
(c) Bona fide association of citizens; and
(d) Individual voters who are eligible to vote on the measure.

If more than one argument in favor of or more than one argument against a City measure are timely submitted to the City Clerk and such arguments for or against the proposed measure, respectively, are authored by individuals and/or associations within the same priority group identified in items (a) through (d) above, then the City Clerk shall give preference to the arguments initially filed with the City Clerk first in time.

**SECTION 4.** The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

**SECTION 5.** The deadline to submit arguments to the City Clerk for or against the City Measure pursuant to this Resolution is declared by the City Clerk to be Friday, August 14, 2020, at 5:00 p.m. Each argument shall not exceed three hundred (300) words and shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

**SECTION 6.** Rebuttal Arguments. When the City Clerk has selected the primary arguments for and against each of the City Measures which will be printed and distributed to the voters, the Clerk shall send copies of the primary argument in favor of each Measure to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding two hundred fifty (250) words. The rebuttal arguments shall be filed with the City Clerk not later than Monday, August 24, 2020 at 5:00 p.m. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately
follow the primary argument which it seeks to rebut.

**SECTION 7.** That this Resolution shall take effect immediately upon adoption.

**SECTION 8.** In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 9.** Notice of the election is hereby given. Additionally, the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**SECTION 10.** The City Clerk shall certify to the passage and adoption of this City Council Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED THIS _____ DAY OF AUGUST 2020.

________________________________
Gustavo Camacho, Mayor

ATTEST:  

________________________________  ______________________________
Anna Jerome, City Clerk    Arnold M. Alvarez-Glasman,  
City Attorney

AYES:  
NOES:  
ABSENT:  
ABSTAIN:
ORDINANCE NO. ______
ORDINANCE OF THE CITY OF PICO RIVERA,
CALIFORNIA AMENDING PICO RIVERA MUNICIPAL
CODE CHAPTER 3.36 RELATING TO THE UNIFORM
TRANSIENT OCCUPANCY TAX

WHEREAS, any increase in the transient occupancy tax of a city in the State of California requires a vote of the electorate of the city pursuant to the California Constitution Article XIII C Sections 1(a) and 2(b); and

WHEREAS, the City of Pico Rivera wishes to authorize the amendment of the Pico Rivera Municipal Code, Chapter 3.36, to increase the Transient Occupancy Tax from ten percent to thirteen percent; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PICO RIVERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.36 of the Pico Rivera Municipal Code is hereby amended by as follows:

Chapter 3.36
UNIFORM TRANSIENT OCCUPANCY TAX

3.36.010 Title for citation.
3.36.020 Definitions.
3.36.030 Imposed—Rate.
3.36.040 Exemptions.
3.36.050 Operator—Registration requirements.
3.36.060 Operator—Collection duties.
3.36.070 Reporting and remitting.
3.36.080 Recordkeeping requirements.
3.36.090 Refunds.
3.36.100 Failure to collect and report.
3.36.110 Late payment or fraud—Penalties.
3.36.120 Actions to collect.
3.36.130 Appeal procedure.
3.36.140 Violation—Misdemeanor—Penalty.

Chapter 3.36 UNIFORM TRANSIENT OCCUPANCY TAX

3.36.010 Title for citation.
This chapter shall be known as the “Uniform Transient Occupancy Tax Ordinance of the City of Pico Rivera.”
3.36.020 Definitions.
Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

A. “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

B. “Occupancy” means the use or possession, or the right to the use or possession, of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

C. “Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

D. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

E. “Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. “Tax administrator” means the director of finance.

G. “Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance amending this section may be considered.
3.36.030 Imposed—Rate.
For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten thirteen (13) percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient’s ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

3.36.040 Exemptions.
A. No tax shall be imposed upon:
   1. Any person as to whom, or any occupancy as to which it is beyond the power of the city to impose the tax provided in this chapter;
   2. Any federal or state officer or employee, when on official business;
   3. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. No exemption shall be granted, except upon a claim therefor made at the time rent is collected and under penalty of perjury, upon a form prescribed by the tax administrator.

3.36.050 Operator—Registration requirements.
Within thirty days after the effective date of the ordinance adopting the provisions set out in this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the tax administrator and obtain from him or her a “Transient Occupancy Registration Certificate” to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:
A. The name of the operator;

B. The address of the hotel;

C. The date upon which the certificate was issued;

D. “This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax
Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including the zoning laws and including, but not limited to, those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit.”

3.36.060 Operator—Collection duties.
Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided in this chapter.

3.36.070 Reporting and remitting.
Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received, and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax, and he or she may require further information on the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator.

3.36.080 Recordkeeping requirements.
It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times.

3.36.090 Refunds.
A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received, when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once, or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

3.36.100 Failure to collect and report.
A. If any operator shall fail or refuse to collect the tax, and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same, and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter.
B. In case such determination is made, the tax administrator shall give a notice of the amount to be assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days’ written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the tax administrator shall determine the proper tax to be remitted, and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days, unless an appeal is taken as provided in Section 3.36.130.

3.36.110 Late payment or fraud—Penalties.
A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten-percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
E. Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

3.36.120 Actions to collect.
Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.

3.36.130 Appeal procedure.
Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The city council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the city council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

3.36.140 Violation—Misdemeanor—Penalty.
A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and shall be punishable as provided in this code.

B. Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid.

C. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim, with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor, and is punishable as aforesaid.

[Signatures on the following page]
APPROVED this __ day of _____________, 20__. 

Gustavo V. Camacho, Mayor

ATTEST: 

Anna M. Jerome, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

I, Anna M. Jerome, City Clerk of the City of Pico Rivera, do hereby certify that the foregoing Ordinance, Ordinance No. ______ was adopted at a regular meeting of the City Council of the City of Pico Rivera, held on ______________________ 2020, with the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN: