

Measure GG
Fire and Disaster Tax

CITY OF BERKELEY MEASURE GG	
<p>To enable the City to keep fire stations open and improve emergency medical response and disaster preparedness, shall a special tax be authorized of \$.04083 per square foot of improvements in dwelling units and \$.06179 per square foot on all other improvements?</p>	YES
<p><u>Financial Implications:</u> This tax would raise \$3.6 million in the first full year. The annual cost for a 1,900 square foot home would be \$78 and for a nonresidential building would be \$118.</p>	NO

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE GG

ORDINANCE AUTHORIZING AND ADOPTING A SPECIAL TAX TO FUND FIRE PROTECTION AND EMERGENCY RESPONSE AND PREPAREDNESS

The City's Fire Department, including its capital and operating costs, is supported almost entirely from the City's general fund. This ordinance would authorize a special tax of 4.083¢ per square foot of improvements in dwelling units and 6.179¢ per square foot on all other improvements. Each year Council may adjust the tax rate over the previous year's rate by the greater of the increase in the cost of living in the immediate San Francisco Bay Area, or *per capita* personal income growth in California. Property owned or held by nonprofit corporations and used for charitable purposes would be exempt from this tax, as provided by the California Constitution.

Tax proceeds would be used first to eliminate rotating closures of operating fire stations. Remaining tax proceeds would be used to provide advanced life support ("ALS") personnel (paramedics) and equipment on all first responder vehicles (ambulances, fire engines and ladder trucks) and hire a training officer to provide Emergency Medical Service training for first responders; provide funding to hire staff to conduct Community Emergency Response Training and other similar public disaster training and preparedness efforts and for neighborhood emergency preparedness caches; and to acquire and maintain equipment to enhance emergency preparedness, including equipment to allow compatible radio communications throughout the City and with outside public safety agencies. The Council could alter these spending priorities if it were to declare a fiscal emergency by a two-thirds vote. In such cases the Council would still be required to spend the tax proceeds exclusively for the enumerated purposes. Expenditure reports will be provided to the Disaster and Fire Safety Commission. The Disaster and Fire Safety Commission shall provide recommendations

and feedback on the scope of the Emergency Response and Preparedness tax to the City Council.

Financial Implications

The proposed City special tax rate of 4.083¢ per square foot for dwelling units would limit the annual cost for an average 1,900 square foot home to approximately \$78. If the tax is not passed, the Council may have to cut funding of other general fund programs, to free up the necessary funds for fire department staffing, or reduce that staffing. Non-residential properties would pay at the higher rate of 6.179¢ per square foot. In FY 2009 the tax would raise \$3,600,000.

It is estimated that the tax will cost residential and non-residential taxpayers no more than the following average amounts during FY 2009.

	Square Feet	Annual Tax	Rate
Residential	1900	\$78	4.083¢
Non-residential	1900	\$118	6.179¢

ARGUMENT IN FAVOR OF MEASURE GG

Vote Yes on Measure GG, Our Lifeline Emergency Services

Like all City services, Berkeley's Fire Department, disaster preparedness, and emergency medical services have been cut back. In the past, ten stations served the citizens of Berkeley. Today we have only seven stations, and continued rotating station closures are planned.

But Measure GG will hold the line, and prevent additional station closures and cuts to Berkeley's fire and emergency services. Measure GG will also ensure that paramedics are available and ready to respond at every fire station.

Here's how Measure GG will hold the line on Berkeley's fire and emergency services:

- Keep our neighborhood fire stations open and eliminate rotating station closures.
- Equip paramedics at each fire station to provide emergency medical care.
- Fund neighborhood disaster preparedness so trained citizens can aid the first responders
- Upgrade radio communications equipment for local public safety agencies.

Last year, our fire fighters were called to 12,000 emergencies. Seventy percent of those calls were for medical emergencies, yet only three fire stations have a designated paramedic.

Measure GG requires a two-thirds vote of the community so that these funds can only be used for our fire and emergency medical services. Measure GG also empowers a citizens' oversight committee to monitor all Measure GG expenditures.

Yes, commercial property owners will pay more and low-income residents will pay less. Not only is Measure GG fair, but it's essential if we are to restore the level of emergency services that we already take for granted.

Join Berkeley residents, the Fire Fighters Association, the Police Officers Association, and local emergency room physicians in protecting those services that protect our families, our homes, and our businesses.

Please join us in voting YES on Measure GG.

s/TOM BATES

Mayor

s/ZACHARY WEINER

Chair, City of Berkeley Disaster & Fire Safety Commission

s/DOROTHY BRYANT

Grateful Recipient of Excellent Paramedic Services

s/SHIRLEY DEAN

Former Berkeley Mayor

s/BENJAMIN LERMAN, MD

Medical Director, Emergency Dept., Alta Bates Campus

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE GG

Unconscionable! Playing on our needs and fears by threatening us with rotating fire station closures and untimely medical help UNLESS WE PAY EXTRA FOR THESE BASIC SERVICES!

Measure GG proponents don't tell you that we haven't had ten stations since the 1950s! Or that the annual 8,400 medical emergency calls could be more effectively and efficiently handled with a proper medical dispatcher and trained paramedics who cost less than firefighters. Or that BEFORE THEIR LATEST 14% RAISE, **virtually all of Berkeley's firefighters were in Berkeley's top earner category** (over \$100,000 in salary alone) and 20% were compensated more than \$200,000.

THERE IS NO SHORTAGE OF MONEY. A SIMPLE MAJORITY VOTE BY COUNCIL WOULD FULLY FUND THESE SERVICES AND IMPLEMENT BETTER DEPARTMENTAL MANAGEMENT.

Here is where the money is:

DOUBLING OF REAL PROPERTY TAX REVENUE IN LAST EIGHT YEARS.

\$20,000,000 more annually, with \$5,000,000 - \$10,000,000 more expected each year. Additional \$12,000,000 comes in annually in Transfer Taxes.

EXCESSIVE LABOR EXPENDITURE. Average employee compensation of \$159,000, to go up 14% over the next 3 years. More City employees per capita (1:60) than virtually all other California cities. Firefighters are very highly compensated due to excess overtime.

RIDICULOUS MULTIMILLION DOLLAR GIVEAWAYS. To developers, outside contractors, and for pet projects—none of which would pass muster at the ballot box.

Join your Neighbors and VOTE NO on Measure GG. Tell our government to fully fund our essential services, rather than diverting our money to non-essential and wasteful projects.

s/MARIE BOWMAN

individually and on behalf of, President, Berkeley Alliance of Neighborhood Associations (BANA), individually and on behalf of, Steering Committee Chair, Berkeleyan's Against Soaring Taxes (BASTA!), Former Chair and Commissioner, City of Berkeley Housing Advisory Commission (HAC)

s/DAVID KRASNOR

individually and on behalf of, Co-Treasurer, Tyler and King Neighborhood Association, Vice-President, Council of Neighborhood Assoc. (CNA), Member and Former Delegate Alameda Central Labor Council and Parent of Two Children in Berkeley Schools (K-12)

s/BETTY J. HICKS

individually and on behalf of, Oregon Street Neighborhood Watch, Former Treasurer, San Pablo Neighborhood Council and Former City of Berkeley Planning Commissioner

s/GREGORY HARPER

individually and on behalf of, Neighbors of Staton Street Block Captain, Former Commissioner and Chair, Housing Advisory Commission

s/JAMES KILPATRICK

individually and on behalf of, President, Berkeley Property Owners Association (BPOA)

ARGUMENT AGAINST MEASURE GG

We believe in emergency services as much as anyone, but we aren't taking the City's kool-aid prescription -- and neither should you. Property taxes for young families are obscenely high.

Fire protection is an essential City service and should be a top priority in the City's core budget. Public safety should always come before politics, but the City consistently treats it as a political football.

Measure GG is all posture and no substance. **You could drive a truck through these holes:**

- ✓ No guarantee the fire department will be adequately staffed
- ✓ No protection against the City reducing non-Measure GG support for fire, paramedic and related services
- ✓ No protection against Measure GG funds being used for other purposes

It's another bait-and-switch job like the City has used over and over.

Why put public safety on the block? So the City can retain its core budget as a slush fund for things the public might not approve of:

- ✓ Developer cost overruns and fraud bailouts
- ✓ Staff raises far beyond cost of living increases
- ✓ Outside contractors providing ineffective services

Council has ignored the critical need to identify and adequately fund essential services, before making hard decisions about the many nice-to-have services.

Deficit, what deficit?

In 2004 while crying wolf, the City experienced windfall revenues of \$15,000,000+. We didn't have a financial crisis in 2004. We don't have a financial crisis now.

Today, with a simple majority vote, Council could provide adequately for the Fire Department from the General Fund. Firefighters obviously don't believe Council will do the right thing, so they are reluctantly supporting any means in which they can be funded.

Join your Neighbors. Do what we did in 2004. SAY NO to this tax and demand that the Council start putting public safety above politics.

s/MARIE BOWMAN

individually and on behalf of, President, Berkeley Alliance of Neighborhood Associations (BANA), individually and on behalf of, Steering-Committee Chair, Berkeleyan's Against Soaring Taxes (BASTA!), Former Chair, City of Berkeley, Housing Advisory Commission (HAC)

s/LAURIE BRIGHT

individually and on behalf of, President, Council of Neighborhood Associations (CNA)

s/DEAN METZGER

individually and on behalf of, President, Claremont Elmwood Neighborhood Association (CENA), Former Commissioner City of Berkeley Transportation and Zoning Advisory Board

s/KARL J. REEH

individually and on behalf of, President, Le Conte Neighborhood Assn.

s/SHARON EIGE

individually and on behalf of, President, North East Berkeley Association Board (NEBA)

REBUTTAL TO ARGUMENT AGAINST MEASURE GG

VOTE YES FOR EMERGENCY SERVICES

The small group that opposes Measure GG claims to support public safety and wants public safety to “*come before politics.*” But by misleading the voters about the real needs of our Fire Department and our emergency services, the opponents are sacrificing public safety for politics.

Legally, Measure GG funds can only be used for Berkeley’s Fire Department; paramedic services; and disaster preparedness. That’s why Measure GG requires a two-thirds vote from the community.

- Measure GG will stop neighborhood fire station closures.
- Measure GG will equip paramedics at every fire station in Berkeley.
- Measure GG will fund neighborhood disaster preparedness

While opponents are using Measure GG as a means to attack their political adversaries, Berkeley’s families are put at risk as fire stations are closed, and emergency services weakened. Using emergency services as a political wedge issue puts the safety of fire fighters and families at risk.

As fire fighters and community members we support Measure GG because the continued degradation of local emergency resources undermines our ability to save lives and protect the community.

Measure GG puts the readiness of Berkeley’s Fire Department and our community’s emergency services in the hands of voters. Today, you have an opportunity to prevent station closures; support emergency medical response; and restore disaster preparedness.

Teachers, neighborhood leaders, and Congressman Barbara Lee are supporting Measure GG because it guarantees funding for neighborhood fire stations and Berkeley’s emergency services.

Vote YES on Measure GG.

s/LONI HANCOCK

State Assemblywoman, 14th District

s/ALLEN STROSS

Senior, Commission on Aging

s/CATHRYN A. CAMPELL

President, Berkeley Federation of Teachers

s/DAVID STARK

Block Captain Santa Fe Ave, Westbrae Neighborhood, CERT (Community Emergency Response Team) Leader

s/BENJAMIN LERMAN, MD

Medical Director, Emergency Dept. Alta Bates Campus

FULL TEXT OF MEASURE GG

ORDINANCE NO.

-N.S.

AUTHORIZING AND ADOPTING SPECIAL TAX TO FUND FIRE PROTECTION AND EMERGENCY RESPONSE AND PREPAREDNESS

BE IT ORDAINED by the by the people of the City of Berkeley as follows:

That Berkeley Municipal Code Chapter 7.81 is hereby added to read as follows:

Chapter 7.81 Special Tax to Fund Fire Protection and Emergency Response and Preparedness

- 7.81.010 Imposition of special tax for fire protection and emergency response and preparedness.**
- 7.81.020 Tax Rate and inflation adjustments.**
- 7.81.030 Definitions.**
- 7.81.040 Exemptions.**
- 7.81.050 Authority of the City Manager**
- 7.81.060 Planning and oversight.**
- 7.81.070 Interest and penalties.**
- 7.81.080 Refunds.**
- 7.81.090 Collection.**
- 7.81.100 Appropriations limit.**
- 7.81.110 Effective date.**
- 7.81.120 Severability.**

7.81.010 Imposition of special tax for fire protection and emergency response and preparedness.

A. A special tax for the purpose of funding fire protection and emergency response and preparedness is hereby authorized to be imposed on all improvements in the City of Berkeley ("City") as more fully set forth in this Chapter.

B. The City Council may impose the tax authorized by this Chapter at the rates, and subject to the inflation adjustments, set forth in Section 7.81.020.

C. This special tax is imposed in compliance with Article 13 of the California Constitution, pursuant to Government Code Section 53978, and the City's constitutional authority under Article 11 section 5 of the California Constitution, in its capacity as a charter city.

D. The proceeds of the tax imposed by this Chapter shall be placed in a special fund to be used for the purpose of enhancing emergency response and preparedness by funding the following:

1. Eliminating the rotating closure of operating fire stations by enhancing the City's ability to pay costs needed to maintain full staffing;

2. Providing advanced life support ("ALS") personnel (paramedics) and equipment on all first responder vehicles and hiring a training officer to provide Emergency Medical Service ("EMS") training for first responders;

3. Providing funding to hire staff to conduct Community Emergency Response Training and other similar public disaster training and preparedness efforts, and for annual allocation for neighborhood emergency preparedness caches; and

4. Acquiring and maintaining equipment to enhance emergency preparedness, including equipment necessary to allow compatible radio communications throughout the City and with outside public safety agencies, and reserving tax proceeds as necessary to fund such acquisition.

E. Tax proceeds shall be allocated first to the estimated amount necessary to eliminate rotating closures of operating fire stations, provided that the Council may alter this priority allocation in the event it declares a fiscal emergency by a two-thirds vote. In such cases the Council may allocate the proceeds of this tax among the purposes set forth in subdivision (D) of this Section in its sole discretion.

F. For purposes of this Chapter, "first responder vehicle" shall mean any piece of fire department apparatus used to routinely respond to fire and/or medical emergencies.

7.81.020 Tax Rate and inflation adjustments.

A. The rate of tax for the fiscal year 2009-2010 shall be as follows:

1. For all dwelling units, the tax shall be imposed at the rate of \$.04083 per square foot.

2. For all other property the tax shall be imposed at the rate of \$.06179 per square foot.

B. Annually in May, the City Council may increase the previous year's tax by up to the greater of the cost of living in the immediate San Francisco Bay Area or *per capita* personal income growth in the state, as verified by official United States Bureau of Labor statistics. If either index referred to above is discontinued, the City shall use any successor index specified by the applicable agency, or if there is none, the most similar existing index then in existence.

7.81.030 Definitions.

For purposes of this Chapter, the following terms shall be defined as set forth below:

A. "Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "building" includes the word "structure."

B. "Dwelling" shall mean a building or portion of a building designed for human occupancy.

C. "Dwelling unit" shall mean a building or portion of a building designed for or occupied exclusively by one family.

D. "Family" shall mean one or more persons related by blood, marriage or adoption, and, in addition, any domestic servants or gratuitous guests thereof who are living together in a single dwelling unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single dwelling unit and maintain a common household.

E. "Improvements" means all buildings or structures erected or affixed to the land.

F. "Parcel" means a unit of real estate in one ownership as shown on the most current official assessment role of the Alameda County Assessor.

G. "Square footage" means the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding subsection 3 of this definition, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.

2. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.

3. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

H. "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

7.81.040 Exemptions.

A. The following parcels and improvements shall be exempt from the tax imposed by this Chapter:

1. Parcels and improvements owned by federal or state governmental agencies;
2. Parcels and improvements owned by local governmental agencies; and
3. Parcels and improvements exempt from taxation by the City pursuant to the laws or constitutions of the United States and the State of California.

B. The tax imposed by this Chapter shall not apply to any property owned by any person whose total personal income, from all sources, for the previous calendar year, does not exceed that level which shall constitute "very low-income," as may be established by resolution of the City Council. Any taxpayer claiming the exemption under this section shall be required to demonstrate his or her entitlement thereto annually by submitting an application and supporting documentation to the City Manager or his or her designee in the manner and at the time established in regulations and/or guidelines hereafter promulgated by the City Manager subject to review by the City Council in its discretion. Such applications shall be on forms provided by the City Manager, or his or her designee, and shall provide and/or be accompanied by such information as the City Manager shall require, including but not limited to, federal income tax returns and W-2 forms.

C. Any person or entity claiming an exemption from the tax imposed by this Chapter shall file a verified statement of exemption on a form prescribed by the City Manager prior to June 30th of the first fiscal year for which the exemption is sought.

7.81.050 Authority of the City Manager.

It shall be the duty of the City Manager to collect and receive all taxes imposed by this Chapter, and to keep an accurate record thereof. The City Manager is charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of this chapter, including provisions for the re-examination and correction of returns and payments.

7.81.060 Planning and oversight.

A. The Disaster and Fire Safety Commission shall function as the citizens' oversight committee for expenditure of the proceeds of this tax. For this purpose, in addition to its other powers, the Commission may:

1. request detailed expenditure plans for tax proceeds annually, which shall be provided to it as early in the budget process as feasible;

2. make recommendations to the City Manager and the City Council as to the rate at which the tax should be set and how any tax proceeds should be spent; and
 3. obtain a report on actual expenditures.
- B. The City Manager shall cooperate with the Disaster and Fire Safety Commission in providing the information it requests.

7.81.070 Interest and penalties.

The special tax imposed by this Chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Alameda on behalf of the City of Berkeley. The special tax imposed by this Chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a personal obligation of the owners of the parcel on the date the tax is due.

7.81.080 Refunds.

Whenever it is claimed that the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this chapter, such claim shall be subject to the provisions of Chapter 7.20 of the Berkeley Municipal Code or any such successor chapter.

7.81.090 Collection.

The amount of any tax, penalty, and interest imposed under the provisions of this Chapter shall be deemed a debt to the City. Any person owing money 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. The City shall be entitled to reasonable attorneys' fees and it's costs of suit in any such action.

7.81.100 Appropriations limit.

Pursuant to Article 13B, Section 4 of the California Constitution, the appropriations limit for the City of Berkeley for the fiscal years 2010-2013 is hereby increased by the maximum aggregate amount projected to be collected pursuant to the special tax imposed by this Chapter.

7.81.110 Effective date.

The tax imposed by this Chapter shall be operative on January 1, 2009.

7.81.120 Severability.

The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City Council to

impose the tax herein provided. If any sentence, clause, section or part of this Chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is declared to be the intention of the City Council of the City of Berkeley that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.