

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. 2020-082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE ORDERING THAT AN ORDINANCE BE SUBMITTED TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, APPROVING ENACTING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE, SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT RELATING TO THE BALLOT MEASURE, AND PROVIDING FOR REBUTTAL ARGUMENTS RELATING TO THE BALLOT MEASURE

WHEREAS, the health and safety of all residents in the City of Palmdale (“the City”) is our top priority; and

WHEREAS, the City is committed to strong community partnerships, safe neighborhoods and parks, quality services to support residents, and respectful and responsive city employees to make Palmdale a strong, caring and safe community for all residents; and

WHEREAS, the City has been proactive in its actions to protect residents during the Coronavirus pandemic, to safely reopen businesses and partner with local employers to ensure a strong economic recovery, serving as a model for other cities in Los Angeles County; and

WHEREAS, the City is committed to maintaining quick 911 emergency response times, youth, veteran and senior services, keeping public spaces safe and clean, addressing homelessness, repairing streets, and maintaining other essential city services; and

WHEREAS, like the rest of the State and the country, the City faces serious fiscal challenges due to the fallout of the COVID-19 pandemic with funding for high-priority services threatened as a result; and

WHEREAS, the City currently expects an alarming decrease in revenues that will severely limit its ability to provide these essential City services; and

WHEREAS, the City has taken cost-saving measures, including implementing hiring and salary freezes for existing employees, reduced operating budgets, capital outlay and a workforce reduction by the elimination of vacant positions; and

WHEREAS, despite current expenditure reductions, the City's General Fund revenues are expected to decrease by \$9.9 million in Fiscal Year 2020-21 and another \$8.8 million in Fiscal Year 2021-22 due to steep declines in sales tax, property tax, and state funding revenues; and

WHEREAS, additional locally-controlled funding is necessary to protect essential city services and keep our community strong, healthy and safe into the future; and

WHEREAS, the City Council proposes to submit to the voters of Palmdale an ordinance to increase the City's Transactions and Use Tax (Sales Tax) by ¾ cent; and

WHEREAS, a local Sales Tax would provide \$12,000,000 million annually to maintain essential city services; and

WHEREAS, 100% of funds from a local Sales Tax would remain here in Palmdale, overseen by a community oversight committee, and no funds could be taken by the State or County;

NOW THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the foregoing recitals are true and correct. The recitals are hereby incorporated into the operative provisions of this Resolution by this reference.

SECTION 2. The City Council has previously called the City's General Municipal Election, to be held on Tuesday, November 3, 2020, for the purpose of electing a mayor and members of the City Council, through the adoption of Resolution Nos. CC 2020-078, CC 2020-079, and CC 2020-080 (collectively "the 2020 Election Resolutions").

SECTION 3. Pursuant to California Elections Code Sections 9222, the City Council hereby orders that an ordinance also be submitted to the voters of Palmdale. The full text of Ordinance No 1549 to be submitted to the voters is attached to this Resolution as Exhibit A and shall be printed in the voter pamphlet. The measure to be submitted to the voters shall appear on the ballot as follows:

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City of PALMDALE	
<p>Palmdale Essential Services Protection Measure “Shall an ordinance protecting Palmdale’s long-term financial stability; maintaining essential city services; repairing streets/potholes; addressing homelessness; maintaining 911 emergency response; keeping public areas safe/clean for all; retaining local businesses; protecting local water sources; maintaining veterans, senior, mental health, community programs; by establishing a ¾-cent sales tax, providing approximately \$12,000,000 annually until ended by voters; requiring citizen oversight, public spending disclosures; all funds used locally in Palmdale, be adopted?”</p>	YES
	NO

A copy of the ordinance shall be available for inspection by the public in the City Clerk’s Office, located at 38300 Sierra Highway, Palmdale, CA 93550. In addition, a copy of the ordinance shall be available, upon request, to any voter at the expense of the City.

SECTION 4. The proposed ordinance enacts a general tax as defined in Article XIII C of the California Constitution, and shall not take effect unless and until approved by a vote of at least a majority of the voters voting on the question at the election.

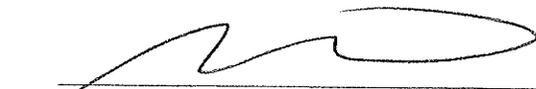
SECTION 5. The proposed ordinance shall be submitted to the voters for approval in compliance with the 2020 Election Resolutions previously adopted by the City Council, with the addition of the following:

- A. The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280.
- B. The City Council hereby authorizes the following members of the legislative body to prepare and submit a ballot argument in favor of the measure pursuant to Elections Code Section 9282: Mayor Steven D. Hofbauer, Mayor Pro Tem Richard Loa, Councilmember Austin Bishop, Councilmember Laura Bettencourt, and Councilmember Juan Carrillo.
- C. The City Council hereby authorizes rebuttal arguments, for this measure only, to be submitted pursuant to, and consistent with the requirements of, Elections Code Section 9285.
- D. In all particulars not recited in this Resolution and the 2020 Election Resolutions previously adopted by the City Council, said election for the ballot measure described in Section 3 shall be held and conducted as provided by general law for holding municipal elections.

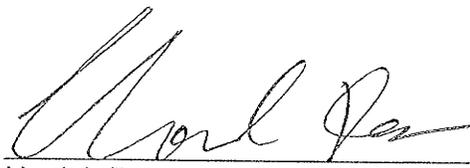
SECTION 6. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED and ADOPTED by the City Council of the City of Palmdale this 14th day of July, 2020.

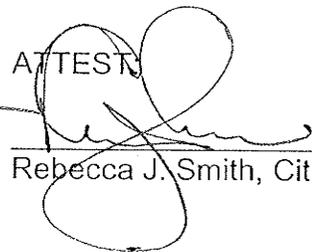
Approved as to form:



Steven D. Hofbauer, Mayor



Noel J. Doran
Interim City Attorney

ATTEST


Rebecca J. Smith, City Clerk

I, Rebecca J. Smith, City Clerk of Palmdale, California, do hereby certify that the foregoing resolution was duly passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 14th day of July, 2020 by the following roll call vote:

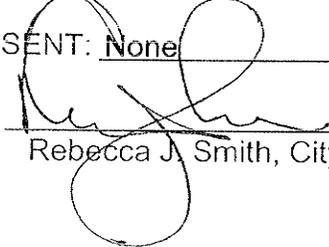
AYES: Hofbauer, Loa, Bettencourt, Carrillo

NOES: Bishop

ABSTAIN: None

ABSENT: None

Date: July 16, 2020



Rebecca J. Smith, City Clerk

EXHIBIT A

CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1549

AN ORDINANCE OF THE CITY OF PALMDALE ESTABLISHING A ¾
CENT TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, the health and safety of all residents in the City of Palmdale (“the City”) is our top priority; and

WHEREAS, the City is committed to strong community partnerships, safe neighborhoods and parks, quality services to support residents, and respectful and responsive city employees to make Palmdale a strong, caring and safe community for all residents; and

WHEREAS, the City has been proactive in its actions to protect residents during the Coronavirus pandemic, to safely reopen businesses and partner with local employers to ensure a strong economic recovery, serving as a model for other cities in Los Angeles County; and

WHEREAS, the City is committed to maintaining quick 911 emergency response times, youth, veteran and senior services, keeping public spaces safe and clean, addressing homelessness, repairing streets, and maintaining other essential city services; and

WHEREAS, like the rest of the State and the country, the City faces serious fiscal challenges due to the fallout of the COVID-19 pandemic with funding for high-priority services threatened as a result; and

WHEREAS, the City currently expects an alarming decrease in revenues that will severely limit its ability to provide these essential City services; and

WHEREAS, the City has taken cost-saving measures, including implementing hiring and salary freezes for existing employees, reduced operating budgets, capital outlay and a workforce reduction by the elimination of vacant positions; and

WHEREAS, despite current expenditure reductions, the City’s General Fund revenues are expected to decrease by \$9.9 million in Fiscal Year 2020-21 and another \$8.8 million in Fiscal Year 2021-22 due to steep declines in sales tax, property tax, and state funding revenues; and

WHEREAS, additional locally-controlled funding is necessary to protect essential city services and keep our community strong, healthy and safe into the future; and

WHEREAS, the City Council proposes to submit to the voters of Palmdale an ordinance to increase the City's Transaction and Use Tax (Sales Tax) by $\frac{3}{4}$ cent; and

WHEREAS, a local Sales Tax would provide \$12,000,000 million annually to maintain essential city services; and

WHEREAS, 100% of funds from a local Sales Tax would remain here in Palmdale, overseen by a community oversight committee, and no funds could be taken by the State or County;

THE PEOPLE OF THE CITY OF PALMDALE DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and, accordingly, are incorporated as a material part of this Ordinance.

SECTION 2. Amendment of Municipal Code. Chapter 3.11 – Transactions and Use Tax is hereby added to the Palmdale Municipal Code to read as follows:

Transactions and Use Tax

3.11.010 Title.

This Ordinance shall be known as the Palmdale Transactions and Use Tax Ordinance. The city of Palmdale hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.

3.11.020 Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.11.030 Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.11.040 Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3.11.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of $\frac{3}{4}$ of a cent per dollar (0.75%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.11.060 Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations

to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.11.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of $\frac{3}{4}$ of a cent per dollar (0.75%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.11.080 Adoption of the Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.11.090 Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption

remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.11.100 Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.11.110 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.11.120 Amendments to State Law.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.11.130 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.11.140 Severability.

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

3.11.150 Effective Date.

This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

3.11.160 Termination Date. The authority to levy the tax imposed by this ordinance shall not expire unless terminated by lawful vote of the electorate or as required or authorized by law.

SECTION 3. The people of the city of Palmdale desire enhanced transparency and public participation regarding the tax imposed by this Ordinance, and expect the revenues and expenditures from the tax to be regularly reviewed by a Citizen's Advisory Committee. Therefore, the Palmdale Municipal Code is further amended by adding Section 3.11.170 to read as follows:

3.11.170 Oversight. Following adoption of this Ordinance by the voters, the City Council shall appoint, pursuant to Palmdale Municipal Code Section 2.08.030, a five-member Citizen's Advisory Committee. The City Council shall, by resolution, adopt guidelines for the duties of the Citizen's Advisory Committee which shall include, but not be limited to, receiving semi-annual reports from City staff each fiscal year on revenues and expenditures from the tax imposed by this Ordinance and review of proposed spending plans. The revenue from the sales tax shall not be spent by the City until after the Citizen's Advisory Committee has had an opportunity to review and comment on proposed expenditures.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase added by this ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The people of the city of Palmdale hereby declares that they would have passed each section, subsection, subdivision, paragraph,

sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases are declared unconstitutional, invalid or ineffective.

SECTION 5. Election Required. This ordinance shall not become effective unless and until a majority of City voters voting on this measure vote to approve the imposition of a City transactions and use tax (more commonly known as a "sales tax" at the General Municipal Election to be held November 3, 2020.

SECTION 6. Upon approval by the voters, the City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published or posted as required by law.

PASSED, APPROVED and ADOPTED by the voters of the city of Palmdale, State of California, at a municipal election held on November 3, 2020.

Approved as to form:

Steven D. Hofbauer, Mayor

ATTEST:

Noel J. Doran
Interim City Attorney

Rebecca J. Smith, City Clerk

