

RESOLUTION NO. 11559

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A CERTAIN MEASURE RELATING TO A LOCAL GENERAL TRANSACTIONS AND USE TAX (SALES TAX) AT THE NOVEMBER 5, 2024, GENERAL MUNICIPAL ELECTION AS CALLED BY RESOLUTION NO. 11545

WHEREAS, the City of Orange (“City”) residents strongly prioritize maintaining and protecting city services that protect health, welfare and safety of residents and maintain the quality of life of residents in the City; and

WHEREAS, the City believes that safe neighborhoods and high-quality city services make for a safe and desirable community, create demand for local homes and help keep property values strong; and

WHEREAS, local revenues have not kept pace with the rising costs of maintaining city services and facilities and existing funds will not support the quality and level of service that residents have come to expect; and

WHEREAS, maintaining public safety services to quickly respond to emergencies and keeping public areas safe and clean is important to the quality of life in the City; and

WHEREAS, to ensure a better future, the City has been proactive in responding to funding challenges by reducing costs wherever feasible without impacting resident services; however, additional revenue is needed to protect the quality of life for City residents; and

WHEREAS, the City is committed to keeping tax dollars local to maximize funds available for city services for residents instead of sending local tax dollars to the County or the State; and

WHEREAS, if enacted, a new transactions and use tax measure would give the City local control over funds for local needs and no funds could be taken by the State; and

WHEREAS, on May 14, 2024, the City Council adopted Resolution No. 11545 calling a General Municipal Election for Tuesday, November 5, 2024; and

WHEREAS, on May 14, 2024, the City Council also adopted Resolution No. 11544 requesting that the General Municipal Election be consolidated with the Statewide General Election to be held on November 5, 2024, and requested assistance of the Orange County Registrar of Voters; and

WHEREAS, California Revenue and Taxation Code Section 7285.9 authorizes the City to levy a general transactions and use (sales) tax, with all revenues deposited into the City’s General Fund to be expended for governmental purposes as determined by the City Council; and

WHEREAS, in order to levy such a tax, the ordinance imposing the tax must be approved by a two-thirds vote of all members of the City Council and the tax must be approved by a majority vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, the City Council desires to submit to the voters of the City, at the General Municipal Election to be held on November 5, 2024, an ordinance imposing a one-half percent (0.5%) transaction and use (sales) tax.

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

SECTION 1. That the above recitals are true and correct and are incorporated herein.

SECTION 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election to be held on November 5, 2024, the following question:

| | |
|--|-----------------|
| City of Orange Public Safety/ City Services Measure Shall the measure providing funding for City of Orange’s general government use such as maintaining 911 response, fire/police protection/paramedic services; recruiting/retaining well-trained police/firefighters; preventing property crimes/thefts; addressing homelessness; keeping public areas/parks safe/clean; maintaining safe routes to school; repairing streets/potholes by establishing a 0.5% transactions and use tax (sales tax) providing approximately \$19,000,000 annually expiring after 10 years; requiring audits, spending disclosure, all funds benefiting City of Orange residents, be adopted? | YES <hr/> NO |
|--|-----------------|

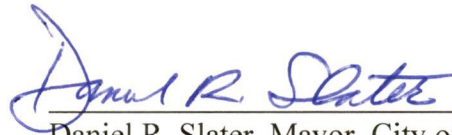
SECTION 3. That the proposed complete text of the ordinance to be submitted to the voters is attached as Exhibit A. The ballot question and the ordinance are collectively referred to herein as the “Measure.”

SECTION 4. That the vote requirement for the Measure to pass is a majority (50%+1) of the votes cast.

SECTION 5. The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors of the County of Orange and the Registrar of Voters of the County of Orange.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

ADOPTED this 28th day of June 2024.



Daniel R. Slater, Mayor, City of Orange

ATTEST:

for 

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:




Mike Vigliotta, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a special meeting thereof held on the 28th day of June 2024 by the following vote:

AYES: COUNCILMEMBERS: Barrios, Tavoularis, Bilodeau, Gutierrez, and Slater
NOES: COUNCILMEMBERS: Dumitru and Gyllenhammer
ABSENT: COUNCILMEMBERS: None

for 

Pamela Coleman, City Clerk, City of Orange

EXHIBIT A

[PROPOSED] ORDINANCE NO. 17-24

AN ORDINANCE OF THE PEOPLE OF THE CITY OF ORANGE, ADDING CHAPTER 3.23 TO TITLE 3 OF THE ORANGE MUNICIPAL CODE TO ENACT A 0.5% PERCENT TRANSACTIONS AND USE TAX (SALES TAX) FOR GENERAL GOVERNMENT USE TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, Article XIII C, section 2(b) of the California Constitution provides that any general tax imposed, extended, or increased by the City Council shall not take effect until it is submitted to the electorate and approved by a majority of voters in a regularly scheduled general election in which members of the City Council are also up for election or reelection; and

WHEREAS, this Ordinance shall only take effect following its approval by a majority of City voters in the election to be held on November 5, 2024.

NOW, THEREFORE, the People of the City of Orange hereby ordain as follows:

SECTION I. Chapter 3.23 [Transactions and Use Tax] is hereby added to the Orange Municipal Code to read as follows:

Chapter 3.23 – Transactions and Use Tax

3.23.010 – Title

This ordinance shall be known as the “Orange Transactions and Use Tax Ordinance.” The City of Orange shall be hereinafter referred to as the “City.” This ordinance shall apply in the incorporated territory of the City.

3.23.020 – Operative Date

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance.

3.23.030 – 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.

3.23.040 – 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.

3.23.050 – 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 0.5% 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.

3.23.060 – 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.

3.23.070 – 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 0.5% 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.

3.23.080 – Adoption of 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.

3.23.090 – 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.
1. “A retailer engaged in business in the District” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.23.100 – 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.

3.23.110 – 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 or her 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.

3.23.120 – Term

The tax imposed by this ordinance shall be effective upon adoption and remain in effect for ten years or otherwise altered by a majority of the City’s voters.

3.23.130 – Amendments

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.

3.23.140 – Independent Oversight

A seven-member Independent Citizens' Advisory Committee will be created to review the expenditure of revenues generated by the tax imposed by this chapter and to make recommendations to the City Council regarding those expenditures. Members of the committee will be appointed to terms of not more than 4 years by the City Council. The Independent Citizens' Advisory Committee shall meet publicly on at least a quarterly basis to review all revenues and expenditures of the transactions and use tax imposed by this chapter, review annual audit reports related to the tax, and make at least one written annual report to the City Council at a public meeting summarizing the Independent Citizens' Advisory Committee's findings and including any appropriate recommendations. The minutes of the meetings of Independent Citizens' Advisory Committee shall be provided to the City Council and placed on the next available regular City Council meeting agenda for informational purposes.

3.23.150 – Audit and Review

The proceeds of the tax imposed by this ordinance, as well as the expenditure thereof, shall be audited annually by an independent accounting firm. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

3.23.160 – 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.

3.23.170 – Severability

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

SECTION II. The adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA), Public Resources Code section 21000 *et seq.* and California Code of Regulations, title 14, section 15000 *et seq.* (CEQA Guidelines). The general transactions and use tax this Ordinance adopts is a government funding mechanism that does not “involve any commitment to any specific project which may result in a potentially significant physical impact on the environment,” and thus it is not a project under CEQA Guidelines section 15378(b)(4).

SECTION III. Pursuant to California Elections Code Section 9217, this ordinance shall take effect only if approved by a majority of the eligible voters of the City of Orange voting at a General Municipal Election to be held on November 5, 2024. It shall be deemed adopted when the City

Council has certified the results of that election by resolution and shall take effect ten (10) days thereafter.

SECTION IV. The Mayor and City Clerk are hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 5, 2024, by signing where indicated below.

The foregoing ordinance was **PASSED, APPROVED AND ADOPTED** by the People of the City of Orange voting on November 5, 2024, which vote was certified by the City Council on this ____ day of _____, 2024.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney