

RESOLUTION NO. 20-118

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
EXPRESSING ITS INTENT TO PRIORITIZE SPENDING OF GENERAL TRANSACTION AND
USE TAX (SALES TAX) REVENUES

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of El Paso de Robles, California, on Tuesday, November 3, 2020, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of El Paso de Robles (“City”), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax (sales tax) pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, the City Council is considering placing a general sales tax measure on the November 3, 2020 ballot; and

WHEREAS, a general tax enacted solely to raise revenue for the general governmental purposes of the City and all of the proceeds from the tax shall be placed in the City’s general fund and used for the usual current expenses of the City; and

WHEREAS, the general fund pays for important City services such as police, fire and paramedic services, street operations and maintenance, community center and recreation services, and general municipal services to the public; and

WHEREAS, the City Council desires to adopt this resolution expressing its intent, if it elects to place a general sales tax measure on the ballot and such measure is enacted by the voters, to spend the sales tax revenue for various purposes, with proposed priorities as identified herein.

NOW, THEREFORE the City Council of the City of El Paso de Robles does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Priorities for Spending Future Supplemental Sales Tax Revenue. The City Council hereby expresses its intent, if a supplemental sales tax measure is placed on the ballot by the City Council and enacted by the voters, to prioritize spending of future supplemental sales tax revenue for the following purposes:

A. **Fire and Emergency Services** – Preserve the 6 SAFER positions on the Squad; hire three fire Captains to fully staff and operate Fire Station 3; hire three additional Firefighters to mitigate overtime costs; ensure all fire suppression staff and paramedics have the equipment and supplies they need to perform effectively and safely; further reduce the community’s vulnerability to wildland fires through annual vegetation management projects in the Salinas Riverbed and west of the City; and upgrade response capabilities to fire and other natural disasters.

B. **Police Services** – Hire and train police officers at necessary levels to provide

essential policing functions not able to be provided now and position the Police Department to meet current and future public safety needs of the community; augment police training in critical areas such as active shooter prevention and response, de-escalation techniques, and enhanced arrest and control tactics; add the Salinas Riverbed as a new Police beat, regularly patrolled, to prevent homeless encampments and direct indigents to available services; and secure ancillary services for individuals and families facing issues of drug abuse, mental illness, and abuse.

C. **Streets Repair and Maintenance** – Maintain and repair high-priority street segments that cannot now be addressed at the optimal time given the limited funds available from current sources. It is expected that these projects would be highly visible and important to a large segment of the community. High-priority work can include reconstruction work on a major street like Niblick Road, as well as the repair of an entire neighborhood area surrounding a school. Current revenues are insufficient to address significant infrastructure improvements such as these given the funding required to simply keep pace with street maintenance on Paso Roble’s 350+ lane miles of roadway.

Section 3. Adjustment of Priorities over Time. This Resolution expresses the intent of the current City Council to spend future supplemental sales tax revenues to address specific priorities. These priorities remain in effect, for this and future Councils, unless and until replaced by a future Resolution stating adjusted priorities and the reasons for such adjustments.

APPROVED by the City Council of the City of El Paso de Robles, California, at its regular meeting held on the 21st day of July, 2020, by the following vote:

AYES: Gregory, Hamon, Garcia, Strong, Martin

NOES:

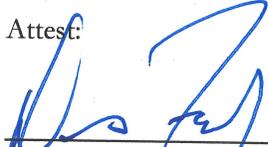
ABSENT:

ABSTAIN:



Steven W. Martin, Mayor

Attest:



Dennis Fansler, City Clerk

Exhibit A

EXHIBIT A

Transactions and Use Tax Ordinance

[attached behind this page]

ORDINANCE NO. XXX

AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA, ADDING CHAPTER 3.11 TO TITLE 3 OF THE PASO ROBLES MUNICIPAL CODE IMPOSING A GENERAL TRANSACTIONS AND USE TAX (SALES TAX) TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, pursuant to California Revenue and Taxation Code section 7285.9 the City of El Paso de Robles (“City”) is authorized to levy a Transactions and Use Tax (sales tax) for general purposes, subject to majority voter approval; and

WHEREAS, the People of the City desire to levy a Transactions and Use Tax for general purposes until repealed to fund essential general City services, at a rate of one percent (1.0%), which is equivalent to 1¢ for every \$1.00 spent; and

WHEREAS, if approved by the City’s voters, the Transactions and Use Tax Ordinance will be incorporated into Chapter 3.11 of Title 3 of the Paso Robles Municipal Code.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF EL PASO DE ROBLES DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Title and Text. This Ordinance shall be known as the City of Paso Robles Supplemental Transactions and Use Tax Ordinance, the full text of which is set forth in Attachment 1, attached hereto and incorporated herein by reference.

Section 2. Approval by the City Council. Pursuant to California Government Code section 53724 and Revenue and Taxation Code section 7285.9, this Ordinance was duly approved for placement on the ballot by a minimum two-thirds (2/3) vote of all members of the City Council on July 21, 2020.

Section 3. Approval by the Voters. Pursuant to California Elections Code section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of El Paso de Robles voting at the General Municipal Election of November 3, 2020. 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 4. Operative Date. “Operative Date” for the Transactions and Use Tax means the first day of the first calendar quarter commencing more than 110 days after the date this Ordinance is adopted, as set forth in Section 3 above.

Section 5. 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.

Section 6. Certification/Summary. Following the City Clerk’s certification that the citizens of El Paso de Robles have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

Section 7. Effective Date. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

Exhibit A

UPON MOTION OF Council Member _____, seconded by Council Member _____, the foregoing ordinance was adopted by the City Council of the City of Paso Robles the ____ day of _____, 2020 for placement on the November 3, 2020 general election ballot and subject to voter approval, by the following vote of at least two-thirds of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Melissa Martin, Deputy City Clerk

I hereby certify that the City of Paso Robles Supplemental Transactions and Use Tax Ordinance was **PASSED, APPROVED, AND ADOPTED** by the People of the City of El Paso de Robles on the 3rd day of November, 2020.

Steven W. Martin, Mayor

ATTEST:

Melissa Martin, Deputy City Clerk

Chapter 3.11 – Supplemental Transactions and Use Tax

Sections:

3.11.010 - Title.

3.11.020 - Purpose

3.11.030 - Contract with State.

3.11.040 - Transactions Tax Rate.

3.11.050 - Place of Sale.

3.11.060 - Use Tax Rate.

3.11.070 - Adoption of Provisions of State Law.

3.11.080 - Limitations on Adoption of State Law and Collection of Use Taxes.

3.11.090 - Permit Not Required.

3.11.100 - Exemptions and Exclusions.

3.11.110 - Amendments.

3.11.120 - Enjoining Collection Forbidden.

3.11.130 – Duration of Tax

3.11.140 - Oversight

Sections:

3.11.010. TITLE. This ordinance shall be known as the City of Paso Robles Supplemental Transactions and Use Tax Ordinance. The City of El Paso de Robles hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City. This chapter shall complement, and not replace or supersede, the city's existing transaction and use tax, as such tax is established in Chapters 3.08 and 3.10 of Article 3 of the Paso Robles Municipal Code.

3.11.020 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.

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3.11.030. 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.

3.11.040. 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 1.0% 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.

3.11.050. 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.

3.11.060. 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 1.0% 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.

3.11.070. 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.

3.11.080. 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:

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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.

3.11.090. 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.

3.11.100. 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

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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.

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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.

3.11.110. 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.

3.11.120. 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.

3.11.130. TERMINATION DATE. The authority set forth in this chapter shall continue until repealed by the voters of the City in the manner provided by law.

3.11.140. OVERSIGHT. The City Council shall expand the authority of the existing Supplemental Tax Oversight Committee to review the revenue received and the expenditures made in relation to the tax authorized by this chapter. The Committee shall make regular reports to the community confirming that expenditure are all in keeping with approved priorities and that no revenues have been siphoned off by the state or other entity for use outside of Paso Robles and for the benefit of other than the Paso Robles community.