

FILED

JUN 26 2024

BY  DEPUTY
REGISTRAR OF VOTERS

ORDINANCE NO. ____

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF YUCAIPA
ADOPTING A ONE PERCENT GENERAL TRANSACTIONS AND USE
TAX**

WHEREAS the People of the City of Yucaipa desire to impose a general transactions and use tax to support the provision of general municipal services and all lawful public purposes within the city, including but not limited to police, fire, paramedic, 911 emergency response, property crime/gang prevention, senior/youth/afterschool programs, homelessness prevention, and street/pothole repair; and

WHEREAS the California Revenue and Taxation Code permit the adoption of local transactions and use taxes for general purposes upon approval by a majority vote of the electorate; and

WHEREAS it is the intent of the City Council to adopt an ordinance that aligns with the provisions of state law to ensure efficient administration and minimal deviation from existing procedures used by the California Department of Tax and Fee Administration (CDTFA); and

WHEREAS the City of Yucaipa aims to establish a tax ordinance that minimizes the cost of tax collection and the burden of record-keeping for retailers, while maximizing the benefits and revenue for the city's general fund; and

WHEREAS an independent annual audit will be conducted to ensure transparency and accountability in the use of tax proceeds, with findings presented to the City Council, a citizen oversight committee, and made available for public review; and

WHEREAS the City Council finds that it is in the best interest of the residents of Yucaipa to ensure that the revenues generated from this tax are used effectively and efficiently to maintain and enhance city services.

THE PEOPLE OF THE CITY OF YUCAIPA DO HEREBY ORDAIN AS FOLLOWS

Section 1. Incorporation of Recitals

The recitals set forth in the preamble to this ordinance are hereby incorporated by reference and made a part of this ordinance as if fully set forth herein. The People of the City of Yucaipa finds that each of those recitals is true and correct and relies upon them as a basis for adopting this ordinance.

Section 2. Adoption of Tax; Municipal Code Amendment

Chapter 3.18 adopting a one percent (1%) Transactions and Use Tax, set forth in Exhibit A to this Ordinance and incorporated as though written in full, is hereby adopted and added to the Yucaipa Municipal Code.

Section 7. CEQA

The People of the City of Yucaipa find that this Ordinance is not subject to the California Environmental Quality Act (CEQA) because pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) Section 10560(c)(3) (the activity is not a project as defined by Section 15378).

Section 8. Adjustment of Appropriations Limit.

Pursuant to Article XIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the City of Yucaipa is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-25 and each year thereafter.

Section 9. Liberal Construction

This Ordinance shall be liberally construed to effectuate its purposes.

Section 10. Effective Date

This Ordinance shall take effect upon its approval by a majority of the electorate of the City of Yucaipa at the earliest date provided by law.

Section 11. Municipal Affair

The People of the City of Yucaipa hereby declare that, separately and together, the purposes encompassed by this Ordinance constitute municipal affairs. The People of the City of Yucaipa hereby further declare their desire for this Ordinance to coexist with any similar tax measures adopted by the city, county or state.

Section 12. Certification.

The City Clerk shall certify to the passage of this Ordinance, publish the same as required by applicable law, and forward a copy of the Ordinance to the California Department of Tax and Fee Administration.

Sec. 3.18.040. 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 the ordinance codified in this chapter for storage, use or other consumption in the incorporated territory of the city, and in the incorporated territory of the city as it may hereafter be amended through annexation, at the rate of one percent (1%) 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.

Sec. 3.18.050. Independent annual audit.

The proceeds resulting from the transactions and use tax imposed by this chapter shall be deposited into the city's general fund and shall be subject to the same independent annual audit requirements as other general fund revenue. The independent auditor's report, which shall include an accounting of the revenues received and expenditures made from the transactions and use tax, will be presented annually to the citizen oversight committee, the city council and made available for public review.

Sec. 3.18.060. Operative date.

"Operative date" shall mean the first day of the first calendar quarter commencing more than 110 days after the adoption of the City of Yucaipa Transactions and Use Tax Ordinance.

Sec. 3.18.070. Termination.

The transactions and use tax levied by this chapter shall commence on the operative date and shall continue thereafter until repealed or amended by the necessary vote of the registered voters of the city.

Sec. 3.18.080. Contract with state.

Prior to the operative date, the city shall contract with the state board of equalization to perform all functions incident to the administration and operation of this chapter; provided, that if the city shall not have contracted with the state board of equalization 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.

Sec. 3.18.090. Place of sale.

For the purposes of this chapter, 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 or her 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

Sec. 3.18.120. 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 chapter.

Sec. 3.18.130. 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 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 the Vehicle Code § 4000 et seq., aircraft licensed in compliance with the Public Utilities Code § 21411, and undocumented vessels registered under the Vehicle Code § 9840, 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 the ordinance codified in this chapter.

(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 the ordinance codified in this chapter.

(5) For the purposes of subsections (b)(3) and (b)(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

(d) Any person subject to use tax under this chapter 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.

Sec. 3.18.140. Amendments.

All amendments subsequent to the effective date of this chapter to the Revenue and Taxation Code part 1 of division 2 relating to sales and use taxes and which are consistent 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 chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

Sec. 3.18.150. 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 chapter, 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.

Sec. 3.18.160. Citizen oversight committee.

(a) A citizens' oversight committee is hereby established to independently review and advise upon the city's expenditure of proceeds generated by the transactions and use tax. The committee shall meet as necessary to discharge the responsibilities of the committee. All meetings of the committee shall be held in accordance with provisions of the Ralph M. Brown Act (Government Code § 54950 et seq.).

(1) The committee shall consist of five members, all of whom shall be residents of the city. The city shall initially post and publish notice soliciting applications for persons interested in being members of the committee and shall thereafter repost and republish notice soliciting applications as necessary to fill vacancies on the committee. The city council shall review all applications for eligibility and at a public meeting interview all eligible applicants and appoint five eligible applicants to serve as members of the committee. Each member of the committee shall serve for a term of two years and such service shall be at the pleasure of the city council. Three members of the committee shall constitute a quorum. Members of the committee shall not receive a stipend for their service.

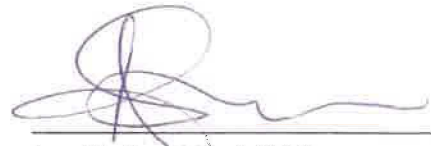
(2) The citizens' oversight committee shall annually review and report on

a. The city's proposed and actual expenditure of proceeds generated by the transaction and use tax; and

State of California)
County of San Bernardino) ss
City of Yucaipa)

I, Ana V. Sauseda, MMC, City Clerk of the City of Yucaipa, California, do hereby certify, that Resolution No. 2024-38 was adopted by the City Council of the City of Yucaipa, California, at the regular meeting of June 24, 2024, by the following vote:

AYES: Councilmember Duncan, Councilmember Garner, Councilmember Thorp, and
 Mayor Pro Tem Venable
NOES: None
ABSTAIN: None
ABSENT: Mayor Beaver



Ana V. Sauseda, MMC
City Clerk