

ORDINANCE NO. XX

AN ORDINANCE OF THE PEOPLE OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, ESTABLISHING A ONE PERCENT (1%) TRANSACTIONS (SALES) AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, the residents of the City of Twentynine Palms (“City” or “Twentynine Palms”) choose to reside in Twentynine Palms because it offers a wide range of programs and services that enhance residents’ safety and quality of life, and maintain their property values; and

WHEREAS, Twentynine Palms residents strongly prioritize maintaining and protecting key City services that protect public safety, health and welfare of residents and improve the quality of life of residents in the City; and

WHEREAS, to preserve vital City services, the City must identify a reliable source of locally controlled funding; and

WHEREAS, Article XIII C, Section 2 of the California Constitution authorizes a city to impose a general tax (including a transaction (sales) and use tax) if approved by a majority vote of the qualified electors; and

WHEREAS, Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation Code, authorizes a city to adopt a transactions and use tax ordinance (commonly known as a “sales 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; and

WHEREAS, the purpose of this ordinance (the “Purpose”) is to create a locally-controlled funding source, which is legally protected from being taken by the State, by creating a 1% transaction (sales) and use tax, the proceeds of which may only be used for local services and to address local priorities such as: maintaining 911 and emergency response times, police officers and patrols; repairing streets/sidewalks; responding to floods/natural disasters; maintaining safety of public parks; and upgrading the animal shelter. .

NOW, THEREFORE THE PEOPLE OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA DO 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 3.30, Transactions and Use Tax, is hereby added to the Twentynine Palms Municipal Code to read as follows:

**“Chapter 3.30
TRANSACTIONS AND USE TAX**

3.30.010 Title.

This ordinance shall be known as the Twentynine Palms Transactions and Use Tax Ordinance. The City of Twentynine Palms hereinafter shall be called “City.” This ordinance shall be applicable in the incorporated territory of the City.

3.30.020 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. For purposes of Revenue and Taxation Code section 7265, this ordinance shall be considered adopted on the date of the election in which it is approved by the qualified voters of the City.

3.30.030 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 (commencing with Section 6001 of the Revenue and Taxation Code) 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.

3.30.040 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.

3.30.050 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 one cent per dollar (1.00%) 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.

3.30.060 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 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 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.

3.30.070 Use Tax Rate.

A use 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 one cent per dollar (1.00%) 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.

3.30.080 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.

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

In adopting the provisions of Part 1 (commencing with Section 6001) 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.

3.30.100 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.

3.30.110 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.

8. "A retailer engaged in business in the City" 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.

D. Any person subject to use tax under this ordinance shall be entitled to credit against that tax any transactions tax, or to reimbursement for a transactions tax, paid to a jurisdiction or retailer in a jurisdiction imposing a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code.

3.30.120 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 (commencing with Section 6001) 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.

3.30.130 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.

3.30.140 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.

3.30.150 Effective Date.

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

3.30.160 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. 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 of effectiveness of the remaining

portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that anyone or more subsections, subdivisions, paragraphs sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

Section 4. CEQA. The adoption of this ordinance is not a “project” subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section §§ 21000 et seq.). CEQA Guideline § 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

Section 5. Appropriations Limit. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Twentynine Palms is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

Section 6. 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 City transactions and use tax (commonly known as a “sales tax”) at the General Municipal Election to be held on November 3rd, 2026.

Section 7. Term/Amendments Requiring Vote. This ordinance shall remain in effect unless rescinded or amended by a vote of the electorate of the City of Twentynine Palms at a properly called election; provided, however, the City Council is authorized to approve amendments if and as may be needed to conform the provisions hereof with any requirements of State law so long as such amendments do not conflict with the Purpose hereof as defined in the Recitals.

Section 8. Limitation on Expenditures; Audits/Disclosures. Revenue received by the City from the 1% transaction and use tax created by this ordinance shall only be used in furtherance of the Purpose hereof, as defined in the Recitals, and the City’s annual audit shall include a confirmation that this limitation on spending has been complied with, as well as a summary of how such revenue was expended in the audit period with such summary maintained as a public record available for disclosure to the public.

Section 9. Execution. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the passage and adoption of it and publish it in the manner required by law.

Section 10. Certification. The City Clerk of the City of Twentynine Palms shall certify that this ordinance was passed, approved and adopted by the People of the City

of Twentynine Palms, California, voting on the 3rd day of November, 2026.

Section 11. Effective Date. This ordinance shall be considered as adopted upon the date that the vote on this ordinance is certified by the City Council for the City of Twentynine Palms, and shall go into effect 10 days after that date.

ADOPTED by the vote of the people of the City of Twentynine Palms on, November 3, 2023 at a General Municipal Election as certified by the City Council of the City of Twentynine Palms on the XX day of XX, 2026, and becomes effective 10 days thereafter on XX, 2026.

ATTEST:

Cindy Villegas, CMC
City Clerk of the City of Twentynine Palms

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS
CITY OF TWENTYNINE PALMS)

I, CINDY VILLEGAS, City Clerk of the City of Twentynine Palms, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Twentynine Palms as an initiative measure at an election held on November 3, 2026, as certified by the City Council of the City of Twentynine Palms on the X day of X , 2026, and that the ordinance becomes effective 10 days thereafter on X, 2026.

Cindy Villegas, CMC
City Clerk of the City of Twentynine Palms