

**BEFORE THE BOARD OF SUPERVISORS OF THE  
COUNTY OF SUTTER, STATE OF CALIFORNIA**

A RESOLUTION OF THE SUTTER COUNTY BOARD )  
OF SUPERVISORS CALLING FOR AN ELECTION AND )  
ORDERING THE SUBMISSION TO THE QUALIFIED ) RESOLUTION NO. 22-057  
ELECTORS OF THE COUNTY OF SUTTER A MEASURE — )  
KNOWN AS THE SUTTER COUNTY ESSENTIAL SERVICES )  
MEASURE — PROPOSING AN ORDINANCE ENACTING A )  
COUNTY WIDE RETAIL TRANSACTIONS AND USE (SALES) )  
TAX AND ORDERING CONSOLIDATION OF THE ELECTION )  
ON THE TAX ORDINANCE WITH THE CONSOLIDATED )  
GENERAL ELECTION CALLED FOR NOVEMBER 8, 2022 )

*WHEREAS*, Sutter County wishes to maintain the essential services residents value and rely upon such as addressing homelessness, maintaining fire, emergency medical, and Sheriff response times, preventing the closure of a County Fire Station, upgrading firefighting equipment to meet safety standards, repairing roads, and supporting local businesses; and

*WHEREAS*, a recent special grand jury report found that Sutter County is facing serious problems with fire protection: outdated equipment, staffing shortages, and unbalanced, inadequate funding streams which impact all County Fire stations and service, including mutual aid to Cities; and

*WHEREAS*, if a County Fire Station closes, the average fire response time may go up from 5 minutes to long as 20 minutes, increasing the risk of fire damage and leading to increases in fire insurance rates for people throughout the county, and

*WHEREAS*, the county is currently considering cuts to essential public services such as reducing the number of sheriff's deputies patrolling our neighborhoods, closing a fire station, and not replacing aging firefighting equipment, impacting response times for residents countywide; and

*WHEREAS*, this measure would help provide a steady stream of locally controlled funding to invest in needed upgrades to equipment, fire stations, and retention and training for sheriff's deputies and firefighters; and

*WHEREAS*, this measure could help the county fund emergency services, disaster relief and preparing for future emergencies, including preparing for flooding, fires and earthquakes and sheltering victims of disaster; and

*WHEREAS*, the measure includes fiscal accountability requirements, such as an independent citizens' oversight committee, annual independent financial audits, public disclosure of expenditures, and requirements that all funds remain in Sutter County

*WHEREAS*, Section 2 of Article XIII C of the California Constitution, section 53723 of the California Government Code, and section 7285 of the California Revenue and Taxation Code authorize the County to impose a general sales tax upon a majority vote of the electorate; and

*WHEREAS*, pursuant to section 9140 of the California Elections Code, this Board may submit to the voters, without a petition, a measure relating to the enactment of any ordinance; and

**WHEREAS**, this Board is considering the adoption of an ordinance that would impose, pursuant to the County's taxing authority, a Retail Transactions (Sales) and Use Tax of one cent (1.0%) on transactions in the incorporated and unincorporated County of Sutter in order to generate revenue that will be placed in the general fund to support general County services and functions

**WHEREAS**, this Board deems it appropriate to propose to the electorate of the County of Sutter the adoption of this ordinance imposing a Retail Transactions (Sales) and Use Tax of one cent on transactions in the incorporated and unincorporated County of Sutter.

**NOW, THEREFORE, BE IT RESOLVED** that the Sutter County Board of Supervisors:

1. This Board hereby proposes a measure entitled the "Sutter County Essential Services Measure," to impose a Retail Transactions (Sales) and Use Tax of one cent (1.0%) on transactions in the incorporated and unincorporated areas of the County of Sutter.
2. An election shall be and is hereby ordered to be held on November 8, 2022, at which election there shall be submitted to the qualified electors of the County the measure set forth in paragraphs 6 and 7, below.
3. The County Clerk shall publish a notice of this election in accordance with the Elections Code and give any other required notices.
4. Election procedure:
  - a. The election shall be held and conducted, the returns canvassed, and the result declared in the same manner as provide by law for general elections.
  - b. The election will be held on November 8, 2022, from the hour of 7:00 a.m. to the hour of 8:00 p.m., during which period of time the polls will remain continuously open. At 8:00 p.m., the polls will be closed, except as provided in section 14401 of the Elections Code.
  - c. The County Clerk shall prepare and mail to each eligible voter in the County a sample ballot and a voter's pamphlet containing the text of the measure as indicated in paragraphs 6 and 7 below, providing for the imposition of a Transactions (Sales) and Use Tax at the rate of one percent (1.0%) in the County of Sutter.
  - d. The County Clerk shall establish election precincts, designate the polling places, and provide election officers for each precinct at the November 8, 2022 election in accordance with the election laws of the State of California.
  - e. The election on the proposed measure shall be consolidated with any and all other elections to be held on November 8, 2022.
5. Directs that arguments for and against the measure may be filed in accordance with applicable law, and that neither the Board of Supervisors as a body or any individual member of the Board is directed to file a written argument or any rebuttal argument for or against the measure.
6. The measure to be submitted to the qualified electors of the County shall be the question of imposition of a Retail Transactions (Sales) and Use Tax of one cent on transactions in the incorporated and unincorporated areas of the County of Sutter, said measure to read as follows:

Sutter County Essential Services Measure, Shall an ordinance generating locally controlled revenue for Sutter County's general purposes, such as maintaining fire and emergency response times, sheriff's patrols, wildfire response, veterans services; providing firefighting equipment/training; repairing roads; addressing homelessness; preventing County fire station closure; ensuring fiscal stability, by levying a 1 ¢ sales tax for 9 years, raising approximately \$19,600,000 annually that cannot be taken by Sacramento, requiring audits, citizens' oversight, public review/disclosure of spending, be adopted?

7. The full text of the measure to be submitted to the qualified electors at said election shall read as follows:

See Exhibit A

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Sutter, State of California, on this 9<sup>th</sup> day of August 2022 by the following vote:

AYES: Supervisors Micheli, Flores, Ziegenmeyer, Bains, and Conant

NOES: None

ABSENT: None

  
MIKE ZIEGENMEYER, CHAIR  
BOARD OF SUPERVISORS

ATTEST:  
DONNA M. JOHNSTON, CLERK

By   
Deputy



ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE COUNTY OF SUTTER AMENDING THE SUTTER COUNTY  
ORDINANCE CODE BY ADDING CHAPTER 105 PERTAINING TO TRANSACTIONS  
(SALES) AND USE TAX**

THE PEOPLE OF THE COUNTY OF SUTTER ORDAIN AS FOLLOWS:

**SECTION 1.** The Sutter County Ordinance Code is amended by adding Chapter 105 to read, in its entirety, as follows:

**Chapter 105**

**County of Sutter Retail Transactions (Sales) and Use Tax**

Sections

105-010	Title
105-020	Operative Date
105-030	Purpose
105-040	Contract with State
105-050	Transactions Tax Rate
105-060	Place of Sale
105-070	Use Tax Rate
105-080	Provisions of State Law
105-090	Limitations on Adoption of State Law and Collection of Use Tax
105-100	Permit Not Required
105-110	Exemptions and Exclusions
105-120	Amendments
105-130	Independent Community Oversight
105-140	Audit
105-150	Sunset

105-010 TITLE

This Chapter shall be known as the County of Sutter Retail Transactions (Sales) and Use Tax Ordinance. The County of Sutter shall hereinafter be called "County." This Chapter shall be applicable in the incorporated and unincorporated territory of the County.

105-020 OPERATIVE DATE

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the effective date of the ordinance amending this Chapter.

105-030      PURPOSE

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

- a) To adopt 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 of Part 1.7 of Division 2 which authorizes the County 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 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 Tax Code.
- c) To adopt a retail transactions and use tax 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 Chapter.

105-040      CONTRACT WITH STATE

Prior to the Operative Date, the County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this Chapter; provided, that if the County 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 execution of such a contract.

105-050      TRANSACTION TAX RATE

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate one percent (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.

105-060      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 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.

105-070 USE TAX RATE

An excise tax is hereby imposed on the storage, use or other consumption in the County of tangible personal property purchased from any retailer on and after the Operative Date for storage, use or other consumption in said territory at the rate of one percent (1.0%) of the sales price of the property. The sales price 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.

105-080 ADOPTION OF PROVISIONS OF STATE LAW

Except as otherwise provided in this Chapter 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 Chapter as though fully set forth herein.

105-090 LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAX

In adopting the provisions of Part 1.6 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 County 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 Board of Control, State Board of Equalization, 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 the County 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 Chapter;

- 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 consumptions remain subject to tax by the State under 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) The word "State" appears 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 "County" 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.

C. A "retailer engaged in business in this County" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales 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.

#### 105-100 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 Chapter.

#### 105-110 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 County which is shipped to a point outside the County, 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 purposes of this paragraph, delivery to a point outside the County 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-County address and by 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-County 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 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 Chapter, the storage, use or other consumption in this County 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 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) of this section, a retailer engaged in business in the County 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 County or participates within the County 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 County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.
- 7) "A retailer engaged in business in the County" 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 County.

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 city or county 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, which is subject to the use tax.

## 105-120      AMENDMENTS

All amendments to Part 1 of Division 2 of the Revenue and Taxation Code that are made subsequent to the effective date of this Chapter 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 Chapter, provided however,

that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter or the duration thereof.

#### 105-130 INDEPENDENT COMMUNITY OVERSIGHT

A five-member Independent Community Advisory Committee will be created and shall meet annually to review the expenditure of revenues generated by the tax imposed by this Chapter and to make recommendations to the board of supervisors regarding those expenditures. Members of the committee will be appointed to terms of not more than 4 years by the board of supervisors. The Independent Community 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 board of supervisors at a public meeting summarizing the Independent Community Advisory Committee's findings and including any appropriate recommendations. The minutes of the meetings of Independent Community Advisory Committee shall be provided to the board of supervisors and placed on the next available regular board of supervisors meeting agenda for informational purposes.

#### 105-140 AUDIT

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

#### 105-150 SUNSET

The tax imposed by this Chapter shall be imposed for nine years from the Operative Date of the tax as defined in section 105-020 of this Chapter and, thereafter, shall no longer be imposed.

### **SECTION 2: ENJOINING COLLECTION PROHIBITED**

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 County, or against any officer of the State or the County, 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.

**SECTION 3: RELATIONSHIP TO EXISTING TAX**

The transactions and use tax imposed by this ordinance is separate from, and in addition to, any other taxes currently imposed by the County. Nothing in this ordinance shall be interpreted to affect the rate or administration of any tax other than the transactions and use imposed by this ordinance.

**SECTION 4: COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Pursuant to California Environmental Quality Act (CEQA) guidelines sections 15060(c)(2) and 15378(b)(2) and (4), adoption of this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project" subject to the requirements of CEQA.

**SECTION 5: SEVERABILITY** If any section, subsection, sentence, clause, portion, or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

**SECTION 6: EFFECTIVE DATE** This ordinance shall take effect ten days after the date the vote is declared by the Board of Supervisors.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the Sutter County Board of Supervisors, State of California, by the following vote:

- AYES:
- NOES:
- ABSENT:

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:  
DONNA JOHNSTON, CLERK

By: \_\_\_\_\_  
Deputy