

ORDINANCE NO. 1301-14 (CM)

A CODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE ADDING A NEW ARTICLE 11 TO CHAPTER 6 (TAXATION) OF TITLE 3 (FINANCE) OF THE WATSONVILLE MUNICIPAL CODE IMPOSING A ONE-HALF OF ONE PERCENT (0.50%) TRANSACTIONS AND USE TAX: *PUBLIC SAFETY SALES TAX MEASURE* TO BE ADMINISTERED BY THE CALIFORNIA STATE BOARD OF EQUALIZATION

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**THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DO HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. ENACTMENT.

Article 11 Transactions and Use Tax Ordinance: Public Safety Sales Tax Measure is hereby added to Chapter 6 (Taxation) of Title 3 (Finance) of the Watsonville Municipal Code to read as follows:

Article 11. Transactions and Use Tax: *Public Safety Sales Tax Measure*

Sec. 3-6.1101 Title.

This ordinance shall be known as the City of Watsonville Transactions and Use Tax: *Public Safety Sales Tax Measure*. The City of Watsonville hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City of Watsonville.

Sec. 3-6.1102 Program Restrictions.

The Public Safety Sales Tax Measure will provide a secure, local revenue stream to the City of Watsonville that shall be used entirely to provide additional police and fire personnel, update public safety equipment, facilities and services and enhance youth violence prevention programs to protect our community. Detailed expenditure plans shall be developed to explain how the funds will be spent if the one-half of one percent (0.50%) sales tax is approved. These Program Restrictions are established to govern how the money shall be spent, to specify the accounting, audit and oversight methods that will be implemented to make certain that the funds are spent according to the voters' direction, and to ensure the public is well-informed of the progress and process.

(a) **Public Safety Services.** The Public Safety Sales Tax Measure will enable the City to hire more police officers, help improve police emergency response times, increase neighborhood patrols, maintain anti-gang and youth violence prevention, intervention and suppression efforts, including the Caminos and Police Activities League programs, upgrade equipment and technology to help solve crimes, catch criminals and fight gangs, expand programs to identify and shut down drug and gang houses, hire more firefighters to ensure enough are on duty, maintain fire and paramedic emergency response times, and replace inadequate and outdated life saving equipment.

(b) **Fiscal Accountability Protections.** An independent auditor shall annually review and audit expenditures of funds specifically derived from the Public Safety Sales Tax Measure, to disclose how the money was used and ensure compliance with the expenditure plans and to

ensure that revenues are spent within prudent, established accounting procedures and practices. The results shall be part of the City's annual audit.

The City Revenue Measure Oversight Committee shall serve in an oversight capacity to at least bi-annually review revenues and expenditures and provide a second independent verification that all expenditures are being made as promised to Watsonville residents. The findings of both the Revenue Measure Oversight Committee and the independent auditor shall be reviewed by the City Council at a publicly noticed meeting of the Council and made available to the public.

The Public Safety Sales Tax Measure will expire after seven (7) years at which time Watsonville voters can choose to either renew the tax or let it expire.

(c) **Dedicated Accounting Structure.** The Public Safety Sales Tax Measure annual budget appropriation shall specify that all revenues from the Public Safety Sales Tax Measure shall be used only for improving our community's public safety, with the revenue to be directed in support of the Police and Fire Departments, in the proportions of sixty percent (60%) to Police and forty percent (40%) to Fire. The proportions are based upon the approximate historical General Fund budgetary funding proportions of the two departments.

The City shall establish separate funds into which these specific monies shall be deposited. These funds shall be separate for Police and for Fire and shall be the source of their respective expenditures as established in the annual budget appropriation reviewed by the Revenue Measure Oversight Committee and approved by resolution of the Council.

(d) **Maintenance of Effort.** The City Council shall not use Public Safety Sales Tax Measure funds to replace General Fund operating budget contributions for the Police and Fire Departments. The baseline maintenance of effort budgets for this purpose shall be the Fiscal Year 2013-2014 Adopted General Fund budgeted City contribution amounts for Police and Fire operations. The Police Department Fiscal Year 2013-2014 Adopted General Fund operating City

budget contribution amount is \$12,359,924; and the Fire Department Fiscal Year 2013-2014 Adopted General Fund operating City budget contribution amount is \$5,672,299.

(e) Administrative Costs. Administrative overhead costs for accounting, payroll and human resources related to the Public Safety Sales Tax Measure shall not exceed two percent (2%) of the annually budgeted revenues.

(f) Contingency/Reserve Fund. Because the Public Safety Sales Tax Measure is used for essential services that are needed during both good and bad economic times, the City Council shall establish a Contingency/Reserve Fund adequate to ensure that services are maintained in the event sales tax revenues decline. There shall be a separate Public Safety Sales Tax Measure Contingency/Reserve Fund for the Police Department and the Fire Department.

A Public Safety Sales Tax Measure Contingency/Reserve Fund shall be established as follows: A Contingency/Reserve Fund containing ten percent (10%) of the annually budgeted revenues will be established. In any given year when the Contingency/Reserve Fund holds less than the required ten percent (10%) of annual revenues, the first use of funds will be to implement the plan's current year program and then to establish or re-establish the Contingency/Reserve fund.

If actual revenues in any given year are less than budgeted revenues, the City Council may use the Contingency/Reserve Fund to make up the difference between budgeted revenues and actual revenues for the approved annual budget appropriation.

(g) Priorities if additional revenues are available. If the Contingency/Reserve Fund is fully funded and all annual planned expenditures have been implemented, any additional unanticipated sales tax revenues shall be used first to accelerate the implementation of the expenditure plans and then to provide additional public safety facilities, personnel, and equipment and youth violence prevention based upon the specific needs of the community with

the review and recommendation of the Revenue Measure Oversight Committee and approval of the City Council.

Sec. 3-6.1103 Operative date.

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

Sec. 3-6.1104 Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish these purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) and Section 7285.91 of Part 1.7 both in Division 2 of the Revenue and Taxation Code which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds 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 State Board of Equalization 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 State Board of Equalization 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.

Sec. 3-6.1105 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 transactions and use tax ordinance; 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. 3-6.1106 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-half of one percent (0.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory for seven (7) years from the operative date of this ordinance.

Sec. 3-6.1107 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. If 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 State Board of Equalization.

Sec. 3-6.1108 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the incorporated territory of the City of tangible personal property purchased from any retailer for

seven (7) years after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent (0.50 %) 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. 3-6.1109 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.

Sec. 3-6.1110 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 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 this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, 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:

(i) 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

(ii) 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.

Sec. 3-6.1111 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.

Sec. 3-6.1112 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:

(i) 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

(ii) 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 subsections (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 subsections (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.

Sec. 3-6.1113 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.

Sec. 3-6.1114 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.

Sec. 3-6.1115 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.

Sec. 3-6.1116 Effective date.

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

Sec. 3-6.1117 Termination date.

The tax levied by this ordinance shall continue from October 1, 2014, until September 30, 2021, which is seven (7) years from the Operative Date of this ordinance.

The foregoing ordinance was introduced and adopted at a regular meeting of the Council of the City of Watsonville, held on the 25th day of February, 2014, by Member Montesino, who moved its introduction and adoption, which motion being duly seconded by Member Dodge, was upon roll call carried and ordinance adopted, ordered printed and published by the following vote:

AYES: COUNCIL MEMBERS: **Bilicich, Coffman-Gomez, Dodge, Hernandez, Hurst, Montesino, Cervantez**

NOES: COUNCIL MEMBERS: **None**

ABSENT: COUNCIL MEMBERS: **None**



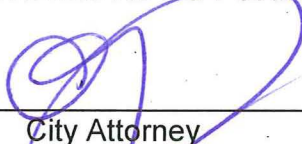
Karina Cervantez, Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

EFFECTIVE DATE:

February 25, 2014