

**RESOLUTION NO. 22-1180**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLVANG, CALIFORNIA, APPROVING AN ORDINANCE ENACTING A LOCALLY CONTROLLED 1 CENT TRANSACTIONS AND USE (SALES) TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, ORDERING THE SUBMITTAL OF SAID ORDINANCE TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS THEREOF**

**WHEREAS**, Solvang residents prioritize pothole and street repair, flammable brush removal, 911 emergency response, neighborhood police patrols, recreation programs, and other vital city services as important priorities; and

**WHEREAS**, the City wishes to maintain services for Solvang citizens every year at the levels they expect and deserve; and

**WHEREAS**, the City needs additional funding to maintain, among other programs and services, pothole and street repairs, flammable brush removal, 911 emergency response, neighborhood police patrols, and recreation programs; and

**WHEREAS**, this measure will provide Solvang local control over local funds for local needs to benefit the Solvang community; and

**WHEREAS**, Tourists pay two-thirds of the sales tax, ensuring tourists continue to pay their fair share for City services; and

**WHEREAS**, this measure will require an independent citizens' oversight committee, financial audits and yearly reports to the community to ensure that all funds are spent as promised; and

**WHEREAS**, groceries and prescription medications are exempt from this measure; and

**WHEREAS**, the City Council proposes to submit to the voters of the City an Ordinance providing for the levy of a transactions and use (sales) tax.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOLVANG DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds that the facts set forth in the recitals of this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

**SECTION 2.** Section 7285.9 of the California Revenue and Taxation Code authorizes any city to levy, increase or extend a transactions and use tax for general purposes at a rate of 0.125 percent, or a multiple thereof, subject to approval by a two-thirds vote of all of the members of the City Council and by a majority of the qualified voters of the City voting in an election on the issue.

**SECTION 3.** By Resolution No. R-2022-1173, adopted on June 13, 2022, the City Council has previously called and given notice of the General Municipal Election to be held in the City on November 8, 2022, and to be consolidated with the statewide general election conducted on the same date. Pursuant to California Elections Code Sections 9222 and 10201, the City Council hereby orders that at the said election, a Transactions and Use Tax Ordinance be submitted to the voters for approval. The full text of the Solvang Transactions and Use Tax Ordinance is attached to this Resolution as Exhibit A and incorporated herein by reference. The measure to be submitted to the voters shall appear and be printed on the ballot as follows:

City of Solvang	
<p><b>Solvang Local Control and Essential Services Measure.</b> To protect and maintain funding for City of Solvang services, such as: pothole and street repair, flammable brush removal, 911 emergency response, neighborhood police patrols, recreation programs and general government use shall the City of Solvang adopt a measure establishing a local 1¢ sales tax, until ended by voters, providing \$1.6 million dollars annually that cannot be taken by the State, with independent citizen oversight, and no money for administrative overhead?</p>	YES
	NO

**SECTION 4.** The City Council hereby approves the proposed Solvang Transactions and Use Tax Ordinance, attached to this Resolution as Exhibit A, to be submitted to the voters. The proposed measure is a general tax, as defined in Article XIIC of the California Constitution, at a rate of 1.0% on transactions and uses in the City as defined in the Ordinance, to be collected by the California Department of Tax and Fee Administration. The Ordinance shall not take effect unless and until approved by a vote of at least a majority of voters voting on the question at the election.

**SECTION 5.** The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280.

**SECTION 6.** The City Council hereby authorizes one or more of its members to submit a ballot argument in favor of or against the measure pursuant to Elections Code Section 9282.

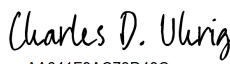
**SECTION 7.** In all particulars not recited in this Resolution, the General Municipal Election shall be held and conducted as provided by law for holding municipal elections. All persons qualified and registered to vote in the City of Solvang as of the date of such election shall be entitled to vote.

**SECTION 8.** Notice of the time and place of holding the General Municipal Election is hereby given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in the time, form and manner as required by law, and to publish a synopsis of the measure as required by law.

**SECTION 9.** The City Clerk is hereby directed to submit a certified copy of this Resolution to the Santa Barbara County Clerk-Recorder’s Office and to the Santa Barbara County Board of Supervisors.


**SECTION 10.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED, APPROVED, AND ADOPTED** on this 27th day of June 2022.

DocuSigned by:  
  
AA641E9AC73D48C  
 Charlie Uhrig, Mayor

APPROVED AS TO FORM:

ATTEST:

DocuSigned by:  
  
8CACE76DAD12485  
 Dave Fleishman, City Attorney

DocuSigned by:  
  
2EFC6CE62C12406...  
 Annamarie Porter, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF SANTA BARBARA    )        ss  
CITY OF SOLVANG                )

I, Annamarie Porter, City Clerk of the City of Solvang, California do hereby certify that Resolution No. 22-1180 was passed and adopted by the City Council of the City of Solvang at a regular meeting of said City Council held on the 27th day of June 2022, and thereafter signed and approved by the Mayor and attested by the City Clerk, and that said resolution was adopted by the following vote:

AYES:            CLARKE, INFANTI, ORONA, THOMAS, UHRIG

NOES:            NONE

ABSTAIN:        NONE

ABSENT:         NONE

DocuSigned by:  
  
2EFC6CE62C12406...  
Annamarie Porter, City Clerk

## **EXHIBIT A**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF SOLVANG CALIFORNIA IMPOSING A LOCALLY CONTROLLED ONE CENT TRANSACTIONS AND USE (SALES) TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

THE PEOPLE OF THE CHARTERED CITY OF SOLVANG DO ORDAIN AS FOLLOWS:

**SECTION 1.** Chapter 3-6 is hereby added to the Solvang Municipal Code to read as follows:

“3-6-1. **SHORT TITLE.** This ordinance shall be known as the City of Solvang Local Control and Essential Services Measure. The City of Solvang hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3-6-2. **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.

3-6-3. **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, authorizing 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 therefor 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.

3-6-4. **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.

3-6-5. **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 1.00% 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.

3-6-6. 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.

3-6-7. 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 1.00% 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.

3-6-8. 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.

3-6-9. 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 the 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.

3-6-10. 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.

3-6-11. 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, in which case the tax rate shall be the rate in effect in the City 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, in which case the tax rate shall be the rate in effect in the City 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, in which case the tax rate shall be the rate in effect in the City 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.

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.

3-6-12. 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.

3-6-13. 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.

3-6-14. CITIZENS' OVERSIGHT COMMITTEE. Although not otherwise required by law, the city council shall, by resolution adopted before the operative date of this chapter, establish a citizens' oversight committee to review the revenue and expenditure of funds from the tax adopted by this chapter. The members' terms and qualifications, and duties and scope of the committee, shall be as established by the resolution."

**SECTION 2.** **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 3.** **EFFECTIVE DATE.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon approval by the voters.

**SECTION 4.** **CERTIFICATION.** The City Clerk shall certify the passage of this ordinance and forward a copy of the adopted ordinance to the California Department of Tax and Fee Administration.

**PASSED, APPROVED, AND ADOPTED** by the voters of the City of Solvang, State of California, at the General Municipal Election held on November 8, 2022.

\_\_\_\_\_  
Charlie Uhrig, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Dave Fleishman, City Attorney

\_\_\_\_\_  
Annamarie Porter, City Clerk