

ORDINANCE NO. 2913

AN ORDINANCE OF THE CITY OF REDLANDS ADDING CHAPTER 3.18 TO THE REDLANDS MUNICIPAL CODE TO ENACT A ONE PERCENT (1.0%) TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, the City Council (“City Council”) of the City of Redlands (“City”) has created a balanced budget every year for the past 12 years despite being severely impacted by the decline in national, state, and local economies, and significant State funding takeaways; and

WHEREAS, the City Council is taking every proactive effort to save money and maintain the level of service our community has come to expect, including cutting its budget by reducing service positions, including cuts to public safety; purchasing essentials with grant funding; conserving energy to keep costs down; and participating in purchasing pools with other cities to lower expenses; and

WHEREAS, the City of Redlands is one of the few cities in the County of San Bernardino with its own Fire and Police Departments, which guarantees public safety resources are available when needed for Redlands’ residents and not diverted to other cities; and

WHEREAS, calls for 911 emergencies, crime rates, fire risks and the need to address homelessness is much higher than in the past, and the City has fewer firefighters, police officers and paramedics in Redlands than it had in the past; and

WHEREAS, members of the community have identified the need to address homelessness as one of its top priorities; and

WHEREAS, members of the community have placed a clear priority on the need to maintain police services, including neighborhood police patrols, crime prevention, and investigations; and

WHEREAS, members of the community also consider the provision of fire protection and paramedic services a high priority; and

WHEREAS, there is a great need to fix damaged sidewalks and curbs and much of the City’s aging infrastructure before it becomes more expensive to fix in the future; and

WHEREAS, revenue constraints will cause ongoing funding for the A.K. Smiley Library and other services to be reduced, translating to fewer materials, programs and hours of services; and

WHEREAS, despite significant cost saving measures the City Council has employed in recent years to address the ongoing budget crisis, including the consolidation of job duties, significant reductions in staffing levels, sales of assets and deferment of equipment purchases,

and the creation of assessment districts, current revenue forecasts indicate that the City's General Fund will struggle to maintain basic service levels in future fiscal years; and

WHEREAS, in order to address these issues as soon as possible, the City Council desires to enact a one-cent transactions and use tax ordinance (the "Measure"), with approval of the voters at the statewide general election on November 3, 2020; and

WHEREAS, if enacted, this Measure would provide a locally-controlled revenue source, enacted solely to raise revenue for any and all municipal purposes including addressing homelessness, maintaining vital police and fire services, maintaining library services, keeping public areas, parks and recreation facilities well-maintained and free of graffiti and help maintain public buildings, and infrastructure including sidewalks, curbs and storm drains; and

WHEREAS, the Measure will give the City Council local control over funds for local needs and no funds from this measure can be taken away by the State;

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above are true and correct, and are hereby incorporated into this Ordinance in their entirety.

Section 2. A new Chapter 3.18 relating to the City of Redlands' enactment of a Transactions and Use Tax is hereby added to Title 3 ("Revenue and Finance") of the Redlands Municipal Code to read as follows:

"Chapter 3.18
City of Redlands' Transactions and Use Tax

- 3.18.010 Title
- 3.18.020 Operative Date
- 3.18.030 Purpose
- 3.18.040 Contract with State
- 3.18.050 Imposition of Transactions and Use Tax -- Transaction Tax Rate
- 3.18.060 Place of Sale
- 3.18.070 Imposition of Use Tax -- Use Tax Rate
- 3.18.080 Adoption of Provisions of State Law
- 3.18.090 Limitations on Adoption of State Law and Collection of Use Taxes
- 3.18.100 Permit Not Required
- 3.18.110 Exemptions and Exclusions
- 3.18.120 Adoption of Amendments to State Law
- 3.18.130 Enjoining Collection Forbidden
- 3.18.140 Independent Annual Audit
- 3.18.150 Citizens' Advisory Committee
- 3.18.160 Severability

3.18.010. TITLE. This Chapter shall be known as the “City of Redlands’ Transactions and Use Tax” Ordinance. The City of Redlands hereinafter shall be called the “City.” This Chapter shall be applicable in the incorporated territory of the City.

3.18.020. OPERATIVE DATE. “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance enacting this Chapter.

3.18.030. PURPOSE. This Chapter is enacted 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 enact the tax ordinance establishing this Chapter, 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 Taxation Code.

C. To adopt a retail Transaction 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 Transaction and Use Tax 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.

3.18.040. 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; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, the City 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.

3.18.050. IMPOSITION OF TRANSACTIONS AND USE TAX -- TRANSACTION 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 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 of the ordinance enacting this Chapter. Such tax shall be in addition to any other transactions tax imposed by this Code or applicable State law.

3.18.060. 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 to 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 tax 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 Board of Tax and Fee Administration.

3.18.070. IMPOSITION OF USE TAX -- 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 Chapter 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 state sales or use tax regardless of the place to which delivery is made.

3.18.080. 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.

3.18.090. 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:

1. When the word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, California Department of Tax and Fee Administration, or the Constitution of the State of California;

2. When 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 Chapter.

3. In those sections, including, but not necessarily limited to section 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 6798 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.18.100. 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.

3.18.110. 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 taxes 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 governments.

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 subsection, 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 Chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this Chapter.

5. For the purposes of subparagraphs 3 and 4 of this subsection B, 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 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 exemption 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 Chapter.

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 Chapter.

5. For the purposes of subparagraphs 3 and 4 of this subsection C, 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 subsection C, 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 Chapter may credit against that tax any Transactions Tax or reimbursement for Transactions Taxes 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.

3.18.120. ADOPTION OF AMENDMENTS TO STATE LAW.

A. All amendments, subsequent to the Operative Date of this Chapter, 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 Chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter unless any increase in the rate of this tax is first approved by the voters of the City voting on such question.

B. Pursuant to California Elections Code Section 9217, or any successor statute, the City Council of the City may amend or repeal this Chapter, but not increase or extend the rate of tax imposed herein, or any indebtedness authorized hereunder, without the approval of the voters of the City voting on such question.

3.18.130. 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 City, or against any officer of the State or the City, to prevent or enjoin the collection under this Chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.18.140. INDEPENDENT ANNUAL AUDIT. The proceeds of the Transactions and Use Tax levied and imposed pursuant to this Chapter shall be deposited into the City's General Fund for use by the City, and become subject to the same independent annual audit requirements as other

General Fund revenue. The independent auditor's report, which shall include an accounting of the revenues received and expenditures made from the Transactions and Use Tax, will be presented annually to the City Council and made available for public review.

3.18.150. CITIZENS' FINANCIAL ADVISORY COMMITTEE. A Citizens' Advisory Committee (the "Committee") shall be established by the City Council for the purpose of providing independent advisory review of revenues generated by the Transactions and Use Tax. The Committee shall meet at least once each calendar year, and all meetings shall be subject to the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.)

3.18.160. SEVERABILITY. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter and the application of such provision to other persons or circumstances shall not be affected thereby."

Section 3. This ordinance relates to the levying and collecting of the city of Redlands' Transactions and Use Tax and shall take effect immediately upon its adoption.

Section 4. Upon approval by the voters, the City Clerk shall again certify the passage of this ordinance; publish the same as required by applicable law, and forward a copy of the adopted ordinance to the California Department of Tax and Fee Administration.

Section 5. The City Clerk shall, immediately following the final passage of this ordinance, cause the summary below to be published at least once in a newspaper of general circulation, published and circulated in the City of Redlands:

Contingent upon majority voter approval, this Ordinance adopts a one percent (1.0%) Transactions and Use Tax on the sale or consumption of tangible personal property within the City of Redlands, subject to annual audit and a Citizens' Financial Oversight Committee review. The proceeds of the Transactions and Use Tax will be deposited in to the General Fund of the City.

Section 6. The Transaction and Use Tax proposed to be imposed by this Ordinance was duly approved by the following vote of the voters of the City of Redlands on November 3, 2020.

(insert vote)

Paul W. Foster, Mayor

ATTEST:

Jeanne Donaldson, City Clerk

I, Jeanne Donaldson, City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Redlands on the ____ day of _____, 2020, and was duly adopted by the City Council at an adjourned regular meeting thereof held on the ____ day of _____, 2020.

AYES:

NOES:

ABSENT:

ABSTAINED:

Jeanne Donaldson, City Clerk