



## OROVILLE CITY COUNCIL

Council Chambers  
1735 Montgomery Street  
Oroville, CA. 95965

### **SPECIAL MEETING AUGUST 12, 2016 10:00 A.M. AGENDA**

---

#### **ROLL CALL**

Council Members Berry, Del Rosario, Hatley, Pittman, Simpson, Vice Mayor Chan Wilcox, Mayor Dahlmeier

#### **PLEDGE OF ALLEGIANCE**

#### **RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS**

This is the time the Mayor will invite anyone in the audience wishing to address the Council on a matter that is on the agenda to state your name and the agenda item on which you wish to speak. When that item comes up on the agenda, you will be asked to step to the podium, repeat your name for the record, and make your presentation or ask questions regarding the agenda item. Following your remarks, Council and/or staff may respond to your comments or questions. **Presentations are limited to three minutes per person.** Under Government Code Section 54954.3 the time allotted for presentations may be limited.

#### **SPECIAL BUSINESS**

1. **AMENDMENT TO RESOLUTION NO. 8516.1 – RELATING TO THE CONSOLIDATION OF THE NOVEMBER 8, 2016 GENERAL MUNICIPAL ELECTION WITH THE COUNTY OF BUTTE** - resolution

The Council may consider an amendment to Resolution No. 8516.1 relating to the consolidation of the November 8, 2016 General Municipal Election with the County of Butte. **(Scott E. Huber, City Attorney)**

Council Action Requested: **Adopt Amended Resolution No. 8516.1 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF BUTTE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE.**

#### **ADJOURNMENT**

The meeting will be adjourned. A regular meeting of the Oroville City Council will be held on Tuesday, August 16, 2016, at 5:00 p.m.

*Accommodating Those Individuals with Special Needs* – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

**CITY OF OROVILLE  
AN AMENDED RESOLUTION NO. 8516.1**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF BUTTE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE**

**WHEREAS**, on July 26, 2016, the Butte County Board of Supervisors approved Oroville City Council's request to consolidate the General Municipal Election to be held on November 8, 2016; and

**WHEREAS**, the City Council of the City of Oroville is amending Resolution No. 8516.1 to clarify the sales tax measure language to be presented to the voters on November 8, 2016; and

**WHEREAS**, the City Council of the City of Oroville has called a General Municipal Election to be held on November 8, 2016, for the purpose of the election of three (3) members of the City Council for the term of four years; and

**WHEREAS**, the City Council is submitting to the voters the question relating to approval of Ordinance No. 1816, an Ordinance adding Chapter 3.18 to the Oroville Municipal Code Regarding a Transactions and Use Tax to be Administered by the State Board of Equalization; and

**WHEREAS**, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the city the precincts, polling places and election officers of the two elections be the same, and that the Butte County Clerk-Recorder/Registrar of Voters of the County of Butte canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OROVILLE DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** That pursuant to the requirements of §10403 of the California Elections Code, the Board of Supervisors of the County of Butte is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of the election of three (3) Members of the City Council for the term of four years.

**Section 2.** That a measure is to appear on the ballot as follows:

<b>PUBLIC SAFETY SOLUTIONS FOR OROVILLE – SALES TAX MEASURE</b>	
Shall Ordinance No. 1816, a Temporary sales tax increase of one percent (1%) generating approximately \$3.6 million annually, that automatically expires in six years, and that establishes a citizen oversight committee to ensure that the funds are used to preserve public services such as police protection, fire suppression, vehicle repair and maintenance, finance analyst and human resources services for the City of Oroville, be adopted?	<input type="radio"/> YES <input type="radio"/> NO

**Section 3.** That the proposed complete text of the measure submitted to the voters is attached as Exhibit A, which shall be printed in full text.

**Section 4.** That the vote requirement for the measure to pass is a majority of the votes cast.

**Section 5.** That the Butte County Clerk-Recorder/Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide or special election.

**Section 6.** That the Board of Supervisors is requested to issue instructions to the Butte County Clerk-Recorder/Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.

**Section 7.** That the City of Oroville recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

**Section 8.** That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the Butte County Clerk-Recorder/Registrar of Voters of the County of Butte.

**Section 9.** That 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** by the Oroville City Council at a special meeting on August 12, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

/  
/

\_\_\_\_\_  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Jamie Hayes, Assistant City Clerk

**EXHIBIT "A"**

**CITY OF OROVILLE  
ORDINANCE NO. 1816**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING  
AND ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING  
A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD  
OF EQUALIZATION**

The People of the City of Oroville, State of California do **ordain as follows:**

**SECTION 1:** Chapter 3.18 is hereby added to the Oroville Municipal Code to read as follows:

**CHAPTER 3.18  
Temporary Transactions and Use Tax**

Sections:

3.18.010	Title
3.18.020	Operative Date
3.18.030	Purpose
3.18.040	Contract with State
3.18.050	Transaction Tax Rate
3.18.060	Place of Sale
3.18.070	Use Tax Rate
3.18.075	Citizens Oversight Committee
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	Amendments
3.18.130	Enjoining Collection Prohibited

**3.18.010 Title**

This ordinance shall be known as the Temporary Transactions and Use Tax Ordinance. The City of Oroville hereinafter shall be called "City". This ordinance shall be applicable in the incorporated area 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 this ordinance, the date of such adoption being as set forth below.

### **3.18.030 Purpose**

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

A. To maintain and preserve City of Oroville public services, including police protection, fire suppression, vehicle repair and maintenance, finance analyst and human resources services with the City.

B. To impose a retail transactions and use tax in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

C. 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.

D. 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 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.

E. 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.

### **3.18.040 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 case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

### **3.18.050 Transactions Rate Tax**

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the incorporated area of the City at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said area for six (6) years from the operative date of this ordinance.

### **3.18.060 Place of Sale**

For the purposes of this ordinance all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his /her or its 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 of California 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.

### **3.18.070 Use Tax Rate**

A complementary tax is hereby imposed on the storage, use, or other consumption in the incorporated area of the City of tangible personal property purchased from any retailer for six (6) years after the operative date of this ordinance for storage, use, or other consumption in such area at the rate of one percent (1%) 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.

### **3.18.075 Citizens Oversight Committee**

- A. The City Council shall establish and appoint a Citizens Oversight Committee.
- B. The Citizens Oversight Committee shall consist of a nine-member board of residents and/or business owners and two elected City Council members of the City of Oroville.
- C. The purpose of the Citizens Oversight Committee shall be to meet with the City's Department Heads during the preparation of each fiscal year budget until the ordinance sunsets, to make recommendations to the City Council regarding how the proceeds from the implementation of the ordinance will be allocated for the ensuing budget year. The committee shall make recommendations to the Council to provide for local public services, including but not limited to police protection, fire suppression, vehicle repair and maintenance, finance analyst and human resources services that will improve the quality of life for residents and businesses within the City of Oroville. The committee shall meet at least quarterly during the fiscal year to ensure that the revenue generated by the ordinance is allocated and disbursed in accordance with the City budget. All quarterly and annual budget reports from the committee shall be published on the City of Oroville website prior to Council adoption of the budget and will be available for public review.

### **3.18.080 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.

### **3.18.090 Limitations of Adoption of State Law and Collection of Use Taxes**

In adopting the provisions of Part 1 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, Victim Compensation and Government Control Board, 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:

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 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.

### **3.18.100 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 transaction's permit shall not be required by this ordinance.

### **3.18.110 Exemptions and Exclusions**

A. There shall be excluded from the measure of the transactions tax and the use tax in 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 shall be 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 City pursuant to the contract of sale by delivery to such point by the retailer or his/her or its agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purpose of this paragraph, delivery to a point 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 Chapter 2 of Division 3.5 commencing with Section 9840) if the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the 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 purchase 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 any amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this sub-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 in 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 Chapter 2 of 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.

### **3.18.130 Amendments**

All amendments subsequent to the effective date of the ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not consistent 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.

### **3.18.140 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.

**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause, phrase portion of the application thereof to any person or circumstance of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision of such ordinance and shall not affect the validity of the remaining portions thereof.

**SECTION 3. CEQA COMPLIANCE.** The City Council finds and determines that the enactment of this Ordinance is not a “project” as that term is used in the California Environmental Quality Act (“CEQA;” Cal Pub. Resources Code Section 21000 et seq.) or the State CEQA Guidelines (Cal.Code of Regs. Title 14, Section 15000 et seq.) Therefore no environmental assessment is required or necessary.

**SECTION 4. EFFECTIVE DATE.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon its approval by voters of the City.

**SECTION 5. TERMINATION DATE.** The tax levied by this ordinance shall continue at the rate of 1% from April 01, 2017 until December 31, 2022. The authority to levy the tax imposed by this ordinance shall expire six (6) years from the operative date of this ordinance.

**SECTION 6. DECLARATION.** The proceeds of the taxes imposed by this ordinance may be used for any lawful purpose of the City, as authorized by ordinance, resolution or action of the City Council. These taxes are not special taxes within the meaning of Section 1(d) of Article XIII C of the California Constitution, but are general taxes imposed for general government purposes.

**SECTION 7. EXECUTION.** The Mayor and City Council are authorized to subscribe this ordinance where indicated below to evidence its approval by the voters of the City.

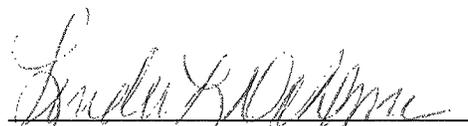
**PASSED AND ADOPTED** by the Oroville City Council of the City of Oroville, County of Butte, State of California, on this **21<sup>st</sup>** day of **June, 2016**, by the following two-thirds vote:

Ayes: Council Members Berry, Del Rosario, Hatley, Pittman, Simpson, Vice Mayor Chan Wilcox, Mayor Dahlmeier

Noes: None

Abstain: None

Absent: None

  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

  
Scott E. Huber, City Attorney

ATTEST:

  
Donald Rust, Acting City Clerk