

ORDINANCE NO. 1866 N.C. (2d)

A PROPOSED ORDINANCE AMENDING CHAPTER 3.09 OF THE VALLEJO MUNICIPAL CODE RELATED TO THE VALLEJO LOCAL ROAD AND ESSENTIAL SERVICES MEASURE TO MAINTAIN CITY SERVICES, INCLUDING REPAIRING, REPAVING, AND MAINTAINING DETERIORATING LOCAL ROADS; IMPROVING CITY BUILDINGS; ADDRESSING HOMELESSNESS; FIRE PROTECTION, YOUTH SERVICES; AND GENERAL GOVERNMENT USE; REQUIRING INDEPENDENT AUDITS, CITIZEN OVERSIGHT, AND ALL FUNDS SPENT IN VALLEJO

THE PEOPLE OF THE CITY OF VALLEJO DO ORDAIN AS FOLLOWS:

SECTION 1. Section 3.09.020 of the Vallejo Municipal Code is hereby amended to read as follows:

3.09.020 - Definitions.

For the purposes of this chapter the following terms shall have the meanings given in this section:

A. "City" means the incorporated territory of the city.

B. "Operative date" means the first day of the first calendar quarter commencing more than one hundred ten days after the adoption of this chapter and the approval by the voters of the city of a measure approving the imposition of a transaction and use tax; provided, that if the city shall not have contracted with the ~~state board of equalization~~ *California Department of Tax and Fee Administration* as required by Section 3.09.040 prior to such 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.

SECTION 2. Section 3.09.030 of the Vallejo Municipal Code is hereby amended to read as follows:

3.09.030 - Purpose.

The city council hereby declares that this chapter 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 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.

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 recordkeeping upon persons subject to taxation under the provisions of this ordinance.

SECTION 3. Section 3.09.040 of the Vallejo Municipal Code is hereby amended to read as follows:

3.09.40 – Contract with State

Prior to the operative date, the city shall contract with the ~~state board of equalization~~ *California Department of Tax and Fee Administration* to perform all functions incident to the administration and operation of this chapter.

SECTION 4. Section 3.09.055 of the Vallejo Municipal Code is hereby added to read as follows:

3.09.055 - Imposition of additional transaction tax, transaction tax rate.

For the privilege of selling tangible personal property at retail, in addition to section 3.09.50 of this chapter, an additional tax is hereby imposed upon all retailers in the city at the rate of seven-eighths cent (.875%) 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.

SECTION 5. Section 3.09.060 of the Vallejo Municipal Code is hereby amended to read as follows:

3.09.060 - Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The

gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the ~~state board of equalization~~ *California Department of Tax and Fee Administration*.

SECTION 6. Section 3.09.075 of the Vallejo Municipal Code is hereby added to read as follows:

3.09.075 - Imposition of use tax, use tax rate.

In addition to section 3.09.70 of this chapter, an additional 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 and before the termination date for storage, use or other consumption in said territory at the rate of seven-eighths percent (.875%) 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.

SECTION 7. Section 3.09.090 of the Vallejo Municipal Code is hereby amended to read as follows:

3.09.090 - Limitations on the 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 Board of Control, State Board of Equalization, State Treasury, *California Department of Tax and Fee Administration*, 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~~ *California Department of Tax and Fee Administration*, in performing the functions incident to the administration or operation of this chapter.

3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other 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.

SECTION 8. Section 3.30.160 is hereby added to Chapter 3.09 and shall read as follows:

3.30.160 Independent annual audit.

The proceeds resulting from the transactions and use tax imposed by this chapter shall be deposited into the City's general fund and shall be 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 Citizens' Oversight Committee, the City Council and made available for public review.

SECTION 9. Section 3.30.170 is hereby added to Chapter 3.09 and shall read as follows:

3.30.170 Citizens' Oversight Committee.

A. A Citizens' Oversight Committee is hereby established to independently review and advise upon the City's expenditure of proceeds generated by the transactions and use tax. The Committee shall meet at least twice each calendar year and more frequently, if necessary, to discharge the responsibilities of the Committee. All meetings of the Committee shall be held in

accordance with provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.).

1. The Committee shall consist of seven members, all of whom shall be residents of the City of Vallejo. The City shall initially post and publish notice soliciting applications for persons interested in being members of the Committee and shall thereafter repost and republish notice soliciting applications as necessary to fill vacancies on the Committee. The City Council shall review all applications for eligibility and at a public meeting appoint seven eligible applicants to serve as members of the Committee. Council Members and the Mayor shall each appoint one member. Members appointed by Council Members shall be residents of the corresponding Council District of the appointing Council Member. Members appointed by the Mayor may reside anywhere in the City. Each member of the Committee shall serve for a term of two years and such service shall be at the pleasure of the City Council. Four members of the Committee shall constitute a quorum. Members of the Committee shall not receive a stipend for their service. Any additional responsibilities and duties of the Committee shall be established by resolution of the City Council. Except as otherwise set forth in this section 3.09.170, the Committee shall be subject to Chapter 2.26 of this Code.

2. The Citizens' Oversight Committee shall annually review and report on (a) the City's proposed and actual expenditure of proceeds generated by the transactions and use tax and (b) the independent annual audit required under this chapter. The Committee's report shall be submitted to the City Council for review and discussion at a public meeting of the City Council and shall be available to the public.

3. The City shall provide such staff resources as are reasonably necessary to assist the Committee with the discharge of its duties under this chapter. The Committee shall not have authority to hire or retain its own staff, consultants, or contractors.

SECTION 10. 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 11. CONSTRUCTION. To the extent the provisions of the Vallejo Municipal code as amended by this Ordinance are substantially the same as the provisions of that Code as it read earlier, those provisions shall be read as continuations of earlier enactments and not as new enactments.

SECTION 12. EFFECTIVE DATE. This Ordinance shall be submitted to the voters at an election to be held on November 8, 2022. Upon approval by a majority of the voters of the City voting on this Ordinance, this Ordinance shall take effect 10 days after the City Council certifies the result of the election, as provided by Elections Code section 9217, and the Transactions and Use Tax shall be increased as provided for in this Ordinance.

First read at a regular meeting of the Council of the City of Vallejo held on the 12th day of July, 2022 and finally adopted at a regular meeting of the Council of the City of Vallejo on the 26th day of July, 2022 by the following vote:

AYES: Vice Mayor Verder-Aliga, Councilmembers Arriola, Brown, Dew, Loera-Diaz and Miessner
NOES: Mayor McConnell
ABSENT: None
ABSTAIN: None

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ROBERT H. MCCONNELL
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ROBERT H. MCCONNELL, MAYOR

ATTEST:

DocuSigned by:
Dawn G. Abrahamson
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DAWN G. ABRAHAMSON, CITY CLERK