



BALLOT MEASURE – FULL TEXT

Transactions and Use Tax Measure

City of Culver City November 6, 2018 Special Consolidated
Municipal Election

Culver City Neighborhood Safety and City Services Protection Measure. Shall the measure to maintain 911 emergency response times by retaining firefighters, police officers, paramedics; fully staff neighborhood fire stations; fix potholes/streets; maintain senior services, after school programs, parks and other general fund City services, by increasing Culver City's sales tax one-quarter cent, until ended by voters with no rate increase, generating approximately \$4,900,000 annually, requiring independent annual audits, and all funds used locally, be adopted?

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ORDINANCE NO. 2018 – ___

AN ORDINANCE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, AMENDING CHAPTER 3.08 OF THE CULVER CITY MUNICIPAL CODE TO IMPOSE A TRANSACTIONS AND USE TAX FOR NEIGHBORHOOD SAFETY AND CITY SERVICES PROTECTION TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The People of the City of Culver City, California, **DO HEREBY ORDAIN** as follows:

Section 1. Chapter 3.08 of the Culver City Municipal Code is hereby amended by adding subchapter 3.08.500, to read as follows:

**NEIGHBORHOOD SAFETY AND CITY SERVICES PROTECTION
TRANSACTIONS AND USE TAX**

- 3.08.500 Title.
- 3.08.505 Operative date.
- 3.08.510 Purpose.
- 3.08.515 Contract with state.
- 3.08.520 Transactions tax rate.
- 3.08.525 Place of sale.
- 3.08.530 Use tax rate.
- 3.08.535 Adoption of provisions of state law.
- 3.08.540 Limitations on adoption of state law and collection of use taxes.
- 3.08.545 Permit not required.
- 3.08.550 Exemptions and exclusions.
- 3.08.555 Amendments.
- 3.08.560 Enjoining collection forbidden.
- 3.08.565 Severability.
- 3.08.570 Effective date.

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§ 3.08.500 TITLE.

This ordinance shall be known as the City of Culver City Neighborhood Safety and City Services Protection Transactions and Use Tax Ordinance. The City of Culver City hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.

§ 3.08.505 OPERATIVE DATE.

The Operative Date of this Ordinance shall be the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance by the voters, the date of such adoption being as set forth below.

§ 3.08.510 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 enhance the City of Culver City’s ability to offset rising costs for providing services and protecting essential City services to the residents of Culver City, such as: maintaining 911 emergency response times by retaining firefighters, police officers, paramedics; fully staffing neighborhood fire stations; fixing potholes/streets; continuing senior services and after school programs; maintaining parks and other unrestricted general fund City services.
- B. 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.
- 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

1 requirements and limitations contained in Part 1.6 of Division 2 of the
2 Revenue and Taxation Code.

3 D. To adopt a retail transactions and use tax ordinance that imposes a tax
4 and provides a measure therefore that can be administered and
5 collected by the California Department of Tax and Fee Administration in
6 a manner that adapts itself as fully as practicable to, and requires the
7 least possible deviation from, the existing statutory and administrative
8 procedures followed by the California Department of Tax and Fee
9 Administration in administering and collecting the California State Sales
and Use Taxes.

10 E. To adopt a retail transactions and use tax ordinance that can be
11 administered in a manner that will be, to the greatest degree possible,
12 consistent with the provisions of Part 1.6 of Division 2 of the Revenue
13 and Taxation Code, minimize the cost of collecting the transactions and
14 use taxes, and at the same time, minimize the burden of record keeping
15 upon persons subject to taxation under the provisions of this ordinance.

16 **§ 3.08.515 CONTRACT WITH STATE.**

17 Prior to the operative date, the City shall contract with the California Department
18 of Tax and Fee Administration to perform all functions incident to the administration
19 and operation of this transactions and use tax ordinance; provided, that if the City shall
20 not have contracted with the California Department of Tax and Fee Administration
21 prior to the operative date, it shall nevertheless so contract and in such a case the
22 operative date shall be the first day of the first calendar quarter following the execution
23 of such a contract.

24 **§ 3.08.520 TRANSACTIONS TAX RATE.**

25 For the privilege of selling tangible personal property at retail, a tax is hereby
26 imposed upon all retailers in the incorporated territory of the City at the rate of one-
27 quarter of one percent (0.25%) of the gross receipts of any retailer from the sale of all
28 tangible personal property sold at retail in said territory on and after the operative date

1 of this ordinance. The tax imposed herein is in addition to any other transactions tax
2 imposed by the City, the County of Los Angeles, or the State of California.

3 **§ 3.08.525 PLACE OF SALE.**

4 For the purposes of this ordinance, all retail sales are consummated at the
5 place of business of the retailer unless the tangible personal property sold is delivered
6 by the retailer or its agent to an out-of-state destination or to a common carrier for
7 delivery to an out-of-state destination. The gross receipts from such sales shall
8 include delivery charges, when such charges are subject to the state sales and use
9 tax, regardless of the place to which delivery is made. In the event a retailer has no
10 permanent place of business in the State or has more than one place of business, the
11 place or places at which the retail sales are consummated shall be determined under
12 rules and regulations to be prescribed and adopted by the California Department of
13 Tax and Fee Administration.

14 **§ 3.08.530 USE TAX RATE.**

15 An excise tax is hereby imposed on the storage, use or other consumption in
16 the City of tangible personal property purchased from any retailer on and after the
17 operative date of this ordinance for storage, use or other consumption in said territory
18 at the rate of one-quarter of one percent (0.25%) of the sales price of the property.
19 The sales price shall include delivery charges when such charges are subject to state
20 sales or use tax regardless of the place to which delivery is made. The tax imposed
21 herein is in addition to any other transactions tax imposed by the City, the County of
22 Los Angeles, or the State of California.

23 **§ 3.08.535 ADOPTION OF PROVISIONS OF STATE LAW.**

24 Except as otherwise provided in this ordinance and except insofar as they are
25 inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation
26 Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of
27 the Revenue and Taxation Code are hereby adopted and made a part of this
28 ordinance as though fully set forth herein.

1 **§ 3.08.540 LIMITATIONS ON ADOPTION OF STATE LAW AND**
2 **COLLECTION OF USE TAXES.**

3 In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation
4 Code:

5 A. Wherever the State of California is named or referred to as the taxing
6 agency, the name of this City shall be substituted therefor. However, the
7 substitution shall not be made when:

- 8 1. The word "State" is used as a part of the title of the State
9 Controller, State Treasurer, State Treasury, or the Constitution of
10 the State of California;
- 11 2. The result of that substitution would require action to be taken by
12 or against this City or any agency, officer, or employee thereof
13 rather than by or against the California Department of Tax and
14 Fee Administration, in performing the functions incident to the
15 administration or operation of this Ordinance.
- 16 3. In those sections, including, but not necessarily limited to sections
17 referring to the exterior boundaries of the State of California,
18 where the result of the substitution would be to:
 - 19 a. Provide an exemption from this tax with respect to certain
20 sales, storage, use or other consumption of tangible
21 personal property which would not otherwise be exempt
22 from this tax while such sales, storage, use or other
23 consumption remain subject to tax by the State under the
24 provisions of Part 1 of Division 2 of the Revenue and
25 Taxation Code, or;
 - 26 b. Impose this tax with respect to certain sales, storage, use
27 or other consumption of tangible personal property which
28 would not be subject to tax by the state under the said
 provision of that code.

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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.

§ 3.08.545 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.

§ 3.08.550 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 its agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For

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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.
 - 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 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.

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- 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 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.

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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.

§ 3.08.555 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,

1 provided however, that no such amendment shall operate so as to affect the rate of tax
2 imposed by this ordinance.

3 **§ 3.08.560 ENJOINING COLLECTION FORBIDDEN.**

4 No injunction or writ of mandate or other legal or equitable process shall issue
5 in any suit, action or proceeding in any court against the State or the City, or against
6 any officer of the State or the City, to prevent or enjoin the collection under this
7 ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or
8 any amount of tax required to be collected.

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10 **§ 3.08.565 SEVERABILITY.**

11 If any provision of this ordinance or the application thereof to any person or
12 circumstance is held invalid, the remainder of the ordinance and the application of
13 such provision to other persons or circumstances shall not be affected thereby.

14 **§ 3.08.570 EFFECTIVE DATE.**

15 This ordinance relates to the levying and collecting of the City transactions and
16 use taxes and shall take effect immediately upon its adoption by a majority vote of the
17 qualified electors of the City voting in an election on the subject.

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19 I hereby certify that the foregoing Ordinance was PASSED, APPROVED and
20 ADOPTED by the People of the City of Culver City voting on the 6th day of November,
21 2018.

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24 _____
THOMAS AUJERO SMALL, MAYOR
City of Culver City, California

25
26 ATTEST

APPROVED AS TO FORM

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28 _____
JEREMY GREEN, City Clerk

CAROL A. SCHWAB, City Attorney