

RESOLUTION NO. 5829

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA (“CITY”), CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO WHETHER TO IMPOSE A ONE AND A QUARTER PERCENT (1.25%) LOCAL TRANSACTIONS AND USE TAX (“LOCAL SALES TAX”), SUPERSEDING AND REPLACING RESOLUTION NO. 5795.

WHEREAS, under the provisions of the laws relating to general law cities in the State of California a General Municipal Election shall be held on November 6, 2018, for the election of Municipal Officers; and

WHEREAS, the City Council also desires to submit to the voters at the election a question relating to imposing a one and a quarter percent (1.25%) Local Sales Tax; and

WHEREAS, the City Council adopted Resolution No. 5795 on June 11, 2018 and it now desires to supersede and replace Resolution No. 5795 with Resolution No. 5829.

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

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Carpinteria, California, on Tuesday, November 6, 2018, a General Municipal Election for the purpose of electing three Members of the City Council for the full term of four years.

SECTION 2. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Carpinteria, California, on Tuesday, November 6, 2018, a General Municipal Election for the purpose of submitting to the City electors the question of whether to adopt Ordinance No. 722, which will (if approved) amend the Carpinteria Municipal Code to impose a Local Sales Tax at a rate of one and a quarter percent (1.25%).

SECTION 3. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election to be held November 6, 2018, the following question:

<p style="text-align: center;"><u>CITY OF CARPINTERIA PUBLIC SAFETY AND VITAL SERVICES MEASURE</u></p> <p>To maintain sheriff's deputies; improve disaster preparedness/response and communication during wildfires, floods, and other natural disasters; repair streets, potholes; protect local beaches/creeks from water pollution; prevent cuts to local library, senior, youth programs; address homelessness; and other general services; shall the measure be adopted to establish a 1¼¢ sales tax providing an estimated \$2,300,000 annually until ended by voters; requiring annual audits, all funds for Carpinteria?</p>	YES
	NO

SECTION 4. That the proposed complete text of Ordinance No. 722 submitted to the voters is attached as Exhibit A and incorporated by reference. The complete text of Ordinance No. 722 will not be printed in the voter pamphlet, but will be made available to the public and to any voter upon request, pursuant to the requirements of the Elections Code.

SECTION 5. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 6. That in the event a majority of City electors voting on the ballot measure set forth above vote in favor thereof, Ordinance No. 722 shall be automatically adopted and shall amend the Carpinteria Municipal Code to read as set forth in Exhibit A, effective ten (10) days following the certification of the election results with no further action by the Council.

SECTION 7. That Ordinance No. 722 imposes a general tax as defined in section 1(a) of Article XIIC of the California Constitution, the proceeds of which shall be deposited in the City's general fund to be used for unrestricted general revenue purposes of the City. The tax shall be collected in the manner provided for in Ordinance No. 722.

SECTION 8. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 9. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 10. That the polls for the election shall be open at seven o'clock a.m. on the day of the election and shall remain open continuously from that time until 8:00 o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code section 10242, except as provided in section 14401 of the Elections Code of the State of California.

SECTION 11. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 12. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 13. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 14. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 15. This Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 16. Resolution No. 5829 shall supersede and replace Resolution No. 5795.

PASSED, APPROVED AND ADOPTED on July 12, 2018, by the following vote:

AYES: COUNCILMEMBER: CLARK, CARTY, STEIN, NOMURA

NOES: COUNCILMEMBER: NONE

ABSENT: COUNCILMEMBER: SHAW



Fred Shaw, Mayor

ATTEST:



Fidela Garcia, City Clerk

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a special meeting of the City Council of the City of Carpinteria held on July 12, 2018.



Fidela Garcia, City Clerk

APPROVED AS TO FORM:



Peter N. Brown, on behalf of Brownstein
Hyatt Farber Schreck, LLP acting as
City Attorney of the City of Carpinteria

Exhibit "A"

ORDINANCE NO. 722

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,
ADDING SECTION 3.18 TO THE CARPINTERIA MUNICIPAL CODE TO
IMPOSE A ONE AND A QUARTER PERCENT (1.25%) LOCAL
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The City Council of the City of Carpinteria does hereby ordain as follows:

SECTION 1. FINDINGS. The People of Carpinteria hereby find and declare the following to be true and correct.

- A.** The City of Carpinteria provides vital local services to the Carpinteria community such as:
- Disaster response and community preparedness;
 - Street pavement and sidewalk maintenance and repair;
 - Park maintenance and repair;
 - Clean water projects and improvements required under the Americans with Disabilities Act;
 - Library support;
 - Addressing homelessness; and
 - Support for other local services necessary to protect public health, safety and general welfare.
- B.** The City of Carpinteria has a very good quality of life, high property values, a favorable business climate and is an attractive visitor destination.
- C.** Most of the City's infrastructure is over fifty (50) years old requiring a greater amount and more expensive maintenance than in the past. Most street pavements in the City are now rated as poor.
- D.** Expenses for law enforcement, library, and other important services are rising significantly faster than revenue growth.
- E.** The City is mandated by State and federal law to prevent creek and ocean water pollution from storm water runoff, and to update public facilities to insure that they are accessible to the public.
- F.** Despite new mandates and growing costs for City services, overall, State and federal financial support has declined.

- G. Addressing homelessness and other important public health and safety issues has increasingly become the responsibility of cities, including Carpinteria.
- H. The City recently completed a Five-Year Financial Plan that, in part, determined that a \$1.5 million annual revenue shortfall exists for infrastructure maintenance and capital projects, and the City determined that this shortfall increases to at least \$2.3 million annually due to increased costs for law enforcement, library, and other necessary and desirable public services.
- I. The City conducted a survey and held community meetings and determined that there is significant community support for imposing a one and a quarter (1.25%) local transactions and use tax ("Local Sales Tax").
- J. At least fifty percent (50%) of the City's sales tax revenue is paid by visitors to Carpinteria who have a significant impact on costs for City services; and
- K. A Local Sales Tax of one and a quarter percent (\$1.25%) would generate approximately \$2.3 million in annual revenue for unrestricted general revenue purposes, all of which would stay in the City of Carpinteria.

SECTION 2. AMENDMENT OF TITLE 3 OF CARPINTERIA MUNICIPAL CODE. The Carpinteria Municipal Code is hereby amended to add Chapter 3.18 to read as follows:

Chapter 3.18 – LOCAL 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	Transactions Tax Rate
3.18.060	Place of Sale
3.18.070	Use Tax Rate
3.18.080	Adoption of Provision of State Law
3.18.090	Limitations of 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 Forbidden
3.18.140	Severability
3.18.150	Effective Date
3.18.160	Attestation by Mayor

3.18.170 Publication
3.18.180 Termination Date

3.18.010 Title.

This chapter shall be known as the Local Transactions and Use Tax Ordinance. The City of Carpinteria hereinafter shall be called "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 effective date of this chapter, the date of which is as set forth below in Section 13.18.150.

3.18.030 Purpose.

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 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 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 California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this Chapter; 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.

3.18.050 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 1.25 % 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 Chapter.

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, or his or her 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.

3.18.070 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 1.25 % 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 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 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.

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 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 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 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 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 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 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 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.

3.18.120 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 Chapter.

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 the 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 Severability.

If any provision of this Chapter 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.

3.18.150 Effective Date.

The Ordinance amending Chapter 3.18 of Title 3 of the Carpinteria Municipal Code shall be in full force and effect ten (10) days after the date on which the City Council has approved the canvas of votes and declared that the voters of the City of Carpinteria have approved said Ordinance by a vote of no less than a majority of the votes cast by the electors voting on the tax measure set forth in this Ordinance at the general municipal election to be held Tuesday, November, 6, 2018.

3.18.160 Attestation by Mayor

The Mayor is hereby authorized to attest to the adoption of this Ordinance by signing where indicated below.

3.18.170 Publication

The City Clerk shall publish this Ordinance as required by law.

3.18.180 Termination Date.

The authority to levy the tax imposed by this Ordinance shall expire when terminated by the voters of the City of Carpinteria.

///

I hereby certify that the foregoing ordinance was PASSED, APPROVED, AND ADOPTED this __ day of __, 2018, by the People of the City of Carpinteria

voting on the sixth day of November,
2018 by the following electoral results:

VOTES IN FAVOR:

VOTES AGAINST:

Mayor of the City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter Brown, on behalf of Brownstein
Hyatt Farber Schreck, LLP acting as
City Attorney of the City of Carpinteria