

**CITY OF SAND CITY**  
**RESOLUTION SC 20-54, 2020**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY  
APPROVING PLACEMENT ON THE NOVEMBER 3, 2020 BALLOT OF A  
MEASURE TO INCREASE SAND CITY'S GENERAL PURPOSE TRANSACTIONS  
AND USE TAX TO ONE AND ONE-HALF PERCENT (1.5%); REQUESTING THAT  
THE MONTEREY COUNTY ELECTION DEPARTMENT CONSOLIDATE THE  
ELECTION REGARDING THE MEASURE WITH THE NOVEMBER 3, 2020  
GENERAL ELECTION AND PROVIDE NECESSARY ASSISTANCE AND  
SERVICES; AUTHORIZING ARGUMENT; DIRECTING THE CITY CLERK TO  
TAKE ALL NECESSARY ACTIONS TO ENSURE PLACEMENT OF THE  
ORDINANCE ON THE NOVEMBER 3, 2020 BALLOT; AND DIRECTING THE CITY  
ATTORNEY TO PREPARE AND SUBMIT AN IMPARTIAL ANALYSIS**

**WHEREAS**, the City of Sand City ("City") has experienced significant reductions in revenues due to the coronavirus pandemic (COVID-19); and

**WHEREAS**, the City Council has made reductions to the City's operating budget; and

**WHEREAS**, the City faces a continuing deficit in its general fund budget that will significantly impair the City's ability to maintain adequate City services, including the maintenance and repair of City facilities; and

**WHEREAS**, the City is dependent on property taxes and taxes derived from retail sales for the majority of its revenue; and

**WHEREAS**, State law authorizes the City to levy a transactions and use tax to be used for general City purposes, in addition to the existing sales and use tax, if approved by a majority of voters voting in an election on the issue; and

**WHEREAS**, the City previously levied a transactions and use tax with a rate of one percent in 2014; and

**WHEREAS**, State law authorizes the City to increase the rate of its transactions and use tax by an ordinance adopted by two thirds of the members of the City Council and approved by a majority of the qualified voters of the City voting in an election on the issue; and

**WHEREAS**, the City Council has acted by unanimous vote to adopt the ordinance attached hereto marked Exhibit "A" which if approved by the electorate will increase the rate of the Sand City General Purpose Transactions and Use Tax from one percent (1%) to one and one-half percent (1.5%); and

**WHEREAS**, a General Municipal Election on Tuesday, November 3, 2020 has been called by prior Resolution of the City Council.

**NOW, THEREFORE**, the City Council of the City of Sand City does hereby resolve as follows:

1. Pursuant to California Constitution Article XIIC, California Government Code §§53723 and 53724, California Revenue and Taxation Code §7285.9, and

California Elections Code §9222, the City Council of the City of Sand City hereby submits to the qualified voters of the City a measure that if approved would increase the rate of a general purpose transactions and use tax as proposed in Section 3 of this Resolution. The election has been called by prior Resolution of the City Council and shall be held in the City on November 3, 2020.

2. Ballot Language.

The question to be presented to the voters shall be as follows:

“Shall an ordinance be adopted to increase the rate of a transactions and use tax from one percent (1%) to one and one-half percent (1.5%) on the retail sale of goods in Sand City to generate an estimated \$1,000,000 per year with no termination date to be used to provide general City services?”

The question requires the approval of a majority of qualified electors casting votes.

3. Proposed Ordinance.

The ordinance authorizing the general tax to be approved by the voters is set forth in Exhibit A attached hereto and by this reference incorporated herein. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 3, 2020 election as required by Revenue and Taxation Code section 7285.9.

4. Request to Consolidate, Conduct Election and Canvass Returns.

The City Council requests that the Monterey County Elections Department provide assistance and services necessary to consolidate the election on this ballot measure with the general election to be held on November 3, 2020. Said election has previously been consolidated with any other election to be held totally or partially within the boundaries of this City by City Council Resolution No. SC 20-25, 2020, the provisions of which regarding polling place, canvass of vote and billing the City for the costs associated with the City election are incorporated by reference herein.

5. Publication of Measure.

The City Clerk shall cause a synopsis of the measure to be published once in accordance with California Elections Code section 12111.

6. Submission of Ballot Arguments.

The last day for submission of arguments for or against the measure shall be 5:00 p.m. on August 7, 2020. The direct arguments shall not exceed three hundred (300) words, and shall not be signed by more than five (5) persons. The City Council has not adopted the provisions of Elections Code section 9285(a)

and therefore there shall be no rebuttal arguments. All submittals of arguments shall be made to the City Clerk in a timely manner.

7. Council Preparation of Arguments in Support of Measure.

Pursuant to California Elections Code section 9282, the City Council is hereby authorized to prepare the written argument in favor of the proposed measure, not to exceed three hundred (300) words. The argument may be signed by such members of the City Council that wish to do so.

8. Impartial Analysis by City Attorney.

Pursuant to California Elections Code section 9280, the City Clerk is directed to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, outlining the effect and operation of the measure, and transmit that impartial analysis to the City Clerk and Elections Department on or before August 13, 2020.


9. Implementation.

The City Manager and City Clerk are authorized and directed on behalf of the City to take all actions necessary to place the measure on the ballot and to cause the ordinance or measure to be printed, including but not limited to executing documents and appropriating necessary funds to pay the City's costs of placing the measure on the ballot. The City will reimburse Monterey County for the actual cost incurred in conducting the election upon receipt of a bill detailing those costs. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors, the County Clerk and the Registrar of Voters, together with the attached ballot measure.


**PASSED AND ADOPTED** by the City Council of the City of Sand City on this 21<sup>st</sup> day of July, 2020, by the following vote:

**AYES:** Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**APPROVED:**

  
\_\_\_\_\_  
Mary Ann Carbone, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Connie Horca, Acting City Clerk

**CITY OF SAND CITY**  
**ORDINANCE NO. \_\_\_\_, 2020**

**AN ORDINANCE OF THE CITY OF SAND CITY REPLACING THE EXISTING GENERAL PURPOSE TRANSACTIONS AND USE TAX AT A RATE OF ONE PERCENT WITH A GENERAL PURPOSE TRANSACTIONS AND USE TAX AT A RATE OF ONE AND ONE-HALF PERCENT, TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, SUBJECT TO ADOPTION BY THE ELECTORATE**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAND CITY:**

**SECTION 1. FINDINGS.**

A. On November 2, 2004, the voters of the City of Sand City adopted a General Purpose Transactions and Use Tax with a rate of one-half of one percent.

B. On November 4, 2014, the voters of the City of Sand City adopted a General Purpose Transactions and Use Tax with a rate of one percent.

C. The depressed economic times due to the coronavirus pandemic has resulted in a decline in revenues available for use in the City and a crucial immediate need for revenue, jeopardizing the community's essential services.

D. Without additional revenue the City cannot maintain the quality of local services due to insufficient revenue.

E. All funds from a local transactions and use tax must stay in the City of Sand City and cannot be taken by the State.

F. This General Purpose Transactions and Use Tax is a general tax and must be approved by at least a simple majority of affirmative votes of the qualified voters of Sand City at an election to be held on November 3, 2020 to become effective.

**SECTION 2. AMENDMENT OF SAND CITY MUNICIPAL CODE.** Chapter 3.36 "General Purpose Transactions and Use Tax" of the Sand City Municipal Code is hereby amended to read in its entirety as follows:

**"Section 3.36.010 Title.** This ordinance shall be known as the City of Sand City General Purpose Transactions and Use Tax Ordinance. The City of Sand City hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

**Section 3.36.020 Operative Date.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the effective date, being the date this ordinance is approved by the voters as set forth below. The operative date is anticipated to be April 1, 2021.

**Section 3.36.030 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 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.

**Section 3.36.040 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 ordinance; 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.

**Section 3.36.050 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 1.5% 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 ordinance.

**Section 3.36.060 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 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.

**Section 3.36.070 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 ordinance for storage, use or other consumption in said territory at the rate of 1.5% 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 3.36.080 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.

**Section 3.36.090 Limitations on Adoption of State Law and Collections 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 therefore. 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 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 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 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 3.36.100 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 ordinance.

**Section 3.36.110 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 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.

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.



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.

**Section 3.36.120 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 ordinance.

**Section 3.36.130 Enjoining Collection Prohibited.** 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 3.36.140 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 3.36.150 Effective Date.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately if the tax is imposed by a simple majority of the voters voting on the question at the November 3, 2020 election..”

**SECTION 3. REPEAL OF EXISTING GENERAL PURPOSE TRANSACTIONS AND USE TAX.** The existing one percent General Purpose Transaction and Use Tax will not be repealed by this Ordinance unless this Ordinance is approved by a simple majority of the affirmative votes of the qualified voters of Sand City at the election to be held on November 3, 2020. If this Ordinance is approved by a simple majority of the affirmative votes of the qualified voters of Sand City at the election to be held November 3, 2020, the existing one percent General Purpose Transaction and Use Tax will be repealed effective on the Operative Date set forth in SECTION 2 (Section 3.36.020) of this Ordinance.

**SECTION 4. CEQA DETERMINATION.** This General Purpose Transactions and Use Tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose, the revenues from which are not committed to any particular action. As such, under CEQA Guidelines 15378(b)(4) and 15060(c)(2) & (3) the tax is not a project within the meaning of CEQA because it creates a governmental funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. (Public Resources Code Sections 21000 et seq, “CEQA”, and 14 Cal. Code Reg. Sections 15000 et seq, “CEQA Guidelines”). If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines 15060, review of this ordinance under CEQA is not required.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Sand City held on this \_\_\_\_ day of July, 2020 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

APPROVED:

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Mary Ann Carbone, Mayor

ATTEST:

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Connie Horca, Acting City Clerk

**APPROVED** by the following vote of the people on November 3, 2020:

Yes: \_\_\_\_ No: \_\_\_\_

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Connie Horca, Acting City Clerk