

RESOLUTION 4228

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT HUENEME FOR THE PLACEMENT OF A LOCAL FUNDING BALLOT MEASURE ON THE BALLOT OF THE NOVEMBER 6, 2018 GENERAL ELECTION TO ADOPT A ONE-CENT GENERAL PURPOSE TRANSACTIONS AND USE TAX

WHEREAS, over the last few months, the City of Port Hueneme has engaged over a thousand residents on their priorities through over two dozen community meetings; and

WHEREAS, Port Hueneme is one of the few cities of its size in the County with its own Police Department, guaranteeing proactive neighborhood police patrols where local officers are available when needed and not diverted to other cities; and

WHEREAS, when City residents need emergency care, seconds count—the City wishes to ensure quick responses to 911 emergencies; and

WHEREAS, residents strongly prioritize protecting and maintaining existing public safety and quality of life services, including providing quick responses to 9-1-1 emergencies, preventing gang activity and drug-related crimes, maintaining streets and repairing potholes, protecting crime prevention and investigation, repairing and maintaining buildings, sidewalks, curbs, and gutters, and keeping public areas clean and free of graffiti; and

WHEREAS, this measure will also fund needed street and road repair and fix potholes, performing critical maintenance now before it becomes a lot more expensive to repair in the future; and

WHEREAS, this measure funds vandalism repair and graffiti removal, ensuring that our public areas are safe and clean, and protecting our local property values; and

WHEREAS, the City of Port Hueneme has already made deep cuts to staff and public services, reducing the number of employees by nearly 20%, postponing street and road maintenance, and reducing basic city services; and

WHEREAS, the City still has an annual structural deficit of nearly \$1,000,000, with no more room to cut without effecting core public safety services and other programs our residents rely on; and

WHEREAS, Port Hueneme has a growing number of homeless individuals who need mental health, substance abuse, and job training while the City ensures that our local businesses, beaches, and public areas are safe and secure for everyone; and

WHEREAS, high quality public safety services and maintaining local streets, parks and beaches are essential to protecting local property values; and

WHEREAS, the City Council of the City of Port Hueneme believes enacting this ordinance, which is attached hereto as "ATTACHMENT 1," is necessary and essential to the following:

- Support viability of local Police Department
- Quick responses to 9-1-1 emergencies and neighborhood police patrols
- Prevent gang activity and drug-related crimes
- Maintain streets and repair potholes
- Repair and maintain public buildings and infrastructure including sidewalks, curbs, storm drains, and gutters
- Provide crime prevention and investigations
- Keep public areas clean and free of graffiti
- Maintain parks, beaches and recreation facilities

WHEREAS, any additional voter-approved funding will be spent locally to improve the Port Hueneme community and cannot be taken away by Sacramento politicians; and

WHEREAS, a Citizen's Oversight Committee and annual independent audits will ensure that voter-approved funding is spent responsibly; and

WHEREAS, Revenue & Taxation Code section 7285.9 authorized the City Council for the City of Port Hueneme to levy a Transactions and Use Tax if the ordinance proposing the tax is approved by a two-thirds vote of all members of the City Council, and the tax is approved by a simple majority (50%+1) vote of the qualified voters of the City voting in an election on the issue.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORT HUENEME DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: The City Clerk is hereby directed to submit the ballot text to the Registrar of the County of Ventura for consolidation in the Statewide General Election on November 6, 2018 as follows:

PORT HUENEME 911/ESSENTIAL SERVICES MEASURE			
To prevent elimination of the City's Police Department/maintain long-term financial viability/essential services including quick 911 response; gang, drug, crime prevention and investigations; street, storm drain, pothole and gutter repair; keep public areas clean and graffiti-free; and provide other general City services, shall the ordinance establishing a one-cent sales tax until ended by voters be adopted to provide \$1,800,000 annually, requiring citizen oversight and independent audits, with all funds controlled locally?			
YES		NO	

SECTION 2: That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 3: The City Council having previously adopted a resolution requesting consolidation with the Statewide General Election on November 6, 2018, by Resolution No. 4210, adopted by the City Council on May 21, 2018, requests the consolidation of this Measure in the Statewide General Election to be held and conducted in accordance with Elections Code section 10418.

SECTION 4: That by adopting this resolution, the City Council hereby approves the form of the attached Ordinance No. _____, and the submission of said ordinance to the voters of the City at the November 6, 2018, General Statewide Election, such ordinance to become effective immediately upon the approval of a majority (50%+1) of the voters voting on the measure in the election.

SECTION 5: That pursuant to Section 9280 of the Elections Code of the State of California, the City Council directs the City Clerk to transmit a copy of the ballot measure to the Port Hueneme City Attorney. The City Attorney shall prepare an impartial analysis of the ballot measure, not to exceed five hundred (500) words in length, showing the effect of the measure on existing law and the operation of the measure. The impartial analysis shall be filed by July 24, 2018, the date set by the Ventura County Elections Office of the Registrar of Voters for the filing of primary arguments.

SECTION 6: Due to the community interest in this issue, the City Council authorizes a process permitting a community submittal of the argument. Under Elections Code section 9282, staff recommends that a ballot argument on this Measure may only be submitted by an individual voter eligible to vote on the Measure, a bona fide association of citizens, or any combination of voters or associations. The City Council as a body or any individual members of the City Council are not authorized to file a written argument or any rebuttal argument for or against this Measure.

SECTION 7: That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure, the elections official shall send a copy of an argument in favor of the measure to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author or a majority of authors of an argument related to a measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument may not be signed by more than five authors in accordance with Section 9285 of the Elections Code.

The rebuttal arguments shall be filed with the elections official, signed with the printed names and signatures of the authors submitting, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for filing direct arguments. The rebuttal arguments are due to the Ventura County Elections Office of the Registrar of Voters on August 13, 2018.

SECTION 8: That the City Clerk is authorized, instructed and directed to coordinate with the Ventura County Elections Office of the Registrar of Voters 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 9: That in all particulars not recited in this resolution, the election shall be conducted as provided by law to be used at such election.

SECTION 10: That the City Clerk shall certify to the passage and adoption of this resolution, enter it into the book of original resolutions, and is hereby directed to file a certified copy of this resolution with the Ventura County Board of Supervisors and Elections Office of the Registrar of Voters.

SECTION 11: That the City Clerk and City Attorney are hereby authorized to make any typographical, clerical, non-substantive corrections to this resolution as may be deemed necessary by the Ventura County Clerk and/or the Elections Office of the Registrar of Voters.

SECTION 12: The Council directs that the full text of the Measure not be printed in the Voter Information Guide due to length and cost of printing, that it instead be placed on the City's website and that it be made available from the City Clerk without cost to anyone requesting a copy of the full Measure in accordance with the provisions of the Election Code section 9280, which reads in relevant part as follows:

If the entire text of the measure is not printed on the ballot, nor in the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

The City Attorney is directed to include the foregoing language and the address of the City's website at the conclusion of the impartial analysis.

PASSED AND ADOPTED by the City Council of City of Port Hueneme, on the 2nd day of July, 2018, by the following vote:

AYES: COUNCILMEMBERS: *Boj, Hensley, Schnopp, Sharkey*

NOES: COUNCILMEMBERS: *Fijt*

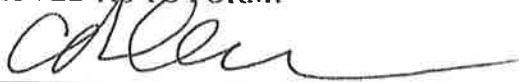
ABSENT: COUNCILMEMBERS:


Sylvia Munoz Schnopp, Mayor

ATTEST:


Michele Kostenuik, City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'C. Green', written over a horizontal line.

Charles R. Green, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORT HUENEME ADDING A NEW CHAPTER 6 TO ARTICLE V OF THE MUNICIPAL CODE FOR THE PURPOSE OF ESTABLISHING AND IMPOSING A GENERAL TRANSACTIONS AND USE TAX FOR ESSENTIAL MUNICIPAL SERVICES TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The City Council of the City of Port Hueneme does hereby ordain as follows:

SECTION 1 – RECITALS AND FINDINGS: The City Council finds and determines as follows:

WHEREAS, over the last few months, the City of Port Hueneme has engaged over a thousand residents on their priorities through over two dozen community meetings; and

WHEREAS, Port Hueneme is one of the few cities of its size in the County with its own Police Department, guaranteeing proactive neighborhood police patrols where local officers are available when needed and not diverted to other cities; and

WHEREAS, when City residents need emergency care, seconds count—the City wishes to ensure quick responses to 911 emergencies; and

WHEREAS, residents strongly prioritize protecting and maintaining existing public safety and quality of life services, including providing quick responses to 9-1-1 emergencies, preventing gang activity and drug-related crimes, maintaining streets and repairing potholes, protecting crime prevention and investigation, repairing and maintaining buildings, sidewalks, curbs, and gutters, and keeping public areas clean and free of graffiti; and

WHEREAS, this measure will also fund needed street and road repair and fix potholes, performing critical maintenance now before it becomes a lot more expensive to repair in the future; and

WHEREAS, this measure funds vandalism repair and graffiti removal, ensuring that our public areas are safe and clean, and protecting our local property values; and

WHEREAS, the City of Port Hueneme has already made deep cuts to staff and public services, reducing the number of employees by nearly 20%, postponing street and road maintenance, and reducing basic city services; and

WHEREAS, the City still has an annual structural deficit of nearly \$1,000,000, with no more room to cut without effecting core public safety services and other programs our residents rely on; and

WHEREAS, Port Hueneme has a growing number of homeless individuals who need mental health, substance abuse, and job training while the City ensures that our local businesses, beaches, and public areas are safe and secure for everyone; and

WHEREAS, high quality public safety services and maintaining local streets, parks and beaches are essential to protecting local property values; and

WHEREAS, any additional voter-approved funding will be spent locally to improve the Port Hueneme community and cannot be taken away by Sacramento politicians; and

WHEREAS, a Citizen's Oversight Committee and annual independent audits will ensure that voter-approved funding is spent responsibly.

SECTION 2: A new Chapter 6 is hereby added to Article V of Port Hueneme Municipal Code to read:

CHAPTER 6
Essential Municipal Services General Transaction and Use Tax

5600. TITLE.

The Ordinance codified in this Chapter shall be known as the "City of Port Hueneme Essential Municipal Services General Transaction and Use Tax." The City of Port Hueneme hereinafter shall be referred to as the "City." This Ordinance shall be applicable within the incorporated territory of the City.

5601. 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.

5602. PURPOSE.

(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 the 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 within 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 highest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting transactions and use taxes, and that the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

(e) This Ordinance is adopted to achieve the following, among other purposes, and the City Council directs the provisions hereof be interpreted in order to accomplish those purposes:

- (1) To enhance public safety by supporting the viability of City's Police Department;
- (2) To provide quick responses to 9-1-1 emergencies and neighborhood police patrols;
- (3) To prevent gang activity and drug-related crimes;
- (4) To maintain City streets and repair potholes;
- (5) To repair and maintain public buildings and infrastructure, including, but not limited to, sidewalks, curbs, storm drains, and gutters;
- (6) To support crime prevention and investigations;
- (7) To Keep public areas clean and free of graffiti, including, but not limited to, graffiti abatement; and
- (8) To maintain parks, beaches, and recreation facilities.

5603. CONTRACT WITH STATE.

Prior to the operative date of this Ordinance, 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 has not 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.

5604. 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 one percent of the gross receipts of any retailer from the sale of all tangible property sold at retail in said territory on and after the operative date of this Ordinance.

5605. 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.

5606. 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 one percent 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.

5607. 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 5608. 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) Whenever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. The substitution, however, shall not be made when:

(1) The word "State" is used as part of the title of the State Controller, State Treasurer, California Department of Tax and Fee Administration, 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 the 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:

i. 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

ii. 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 said provisions 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 5609. 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 5610. EXCLUSIONS AND EXEMPTIONS.

(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 purposes of this paragraph, delivery to a point outside the City shall be satisfied:

i. 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

ii. 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 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 levied 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 subsections (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 subsection (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.

(e) Nothing in this Chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States, or the Constitution of the State of California.

SECTION 5611. AMENDMENTS.

(a) All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to the 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.

(b) Except for amendments that would: (i) increase the tax rate or revise the methodology for calculating the tax such that a tax increase would result; (ii) impose the tax on transactions and uses not previously subject to the tax; or (iii) change the purposes and/or uses for which the tax is collected, the City Council may amend this Ordinance or the Expenditure Plan without submitting the amendment to the voters for approval.

SECTION 5612. 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 this City, or against any officer of the State or this 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 5613. REFUNDS AND CREDITS, SUITS AND LEGAL PROCEEDINGS.

(a) Refunds of and credits for any tax paid pursuant to this Ordinance may be made only as provided in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(b) Suits and proceedings for the recovery of any amount alleged to have been erroneously or illegally determined or collected pursuant to this Ordinance may be maintained in any court only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code. A judgment shall not be rendered in favor of the plaintiff in any action brought against the Board of Equalization to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

SECTION 5614. INDEPENDENT ANNUAL AUDIT.

The proceeds resulting from this Transactions and Use Tax shall be deposited into the City's general fund and become 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 City Council and made available for public review.

SECTION 5615. CITIZENS' OVERSIGHT COMMITTEE.

Although not otherwise required by law, the City Council shall, by resolution adopted before the operative date of this Chapter, establish a citizens' oversight committee to review the revenue and expenditure of funds from the tax adopted by this Chapter. The members' terms, qualifications, duties, and scope of the committee shall be as established by the resolution.

SECTION 3 – ENVIRONMENTAL REVIEW: The adoption of this Ordinance is not a “project” subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

SECTION 4 – ENFORCEABILITY: Repeal of any provision of the Port Hueneme Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 5 - SEVERABILITY: If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction for any reason, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Chapter irrespective of whether one or more sections, subsections, sentences, clauses, phrases, or portions of this Chapter be declared invalid or unconstitutional.

SECTION 6 – ELECTIONS REQUIRED/EFFECTIVE DATE: This Ordinance relates to the levying and collecting of a general City transactions and use tax, and shall take effect immediately upon approval of the voters at the General Statewide Election to be held on November 6, 2018. If approved by a majority of the electors voting on the measure in said election, this Ordinance shall be considered adopted upon the date that the election results are declared by the City Council and a resolution certifying the same is duly adopted by the City Council.

SECTION 7 – REPEAL OF CONFLICTING PROVISIONS: All of the provisions of the City of Port Hueneme Municipal Code as heretofore adopted by the City Council that are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 8 – CERTIFICATION: The City Clerk shall certify to the adoption of this Ordinance by the voters, cause it to be published as required by law, and forward a copy of the adopted ordinance to the California Department of Tax and Fee Administration.

PASSED AND ADOPTED this ____ day of _____ 2018.

Sylvia Munoz Schnopp, Mayor

ATTEST:

Michele Kostenuik, City Clerk

APPROVED AS TO FORM:

Charles R. Green, City Attorney