



ENACTED BY VOTERS NOVEMBER 8, 2016

**CITY OF HEMET
Hemet, California
ORDINANCE NO. 1918**

**AN ORDINANCE OF THE CITY OF HEMET,
CALIFORNIA, ADOPTING A GENERAL
TRANSACTIONS AND USE TAX, AS
ENACTED BY THE CITY OF HEMET VOTERS**

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the governing body of any city (i.e. the City Council) to levy a transactions and use tax for general revenue purposes under Part 1.6 of the Revenue and Taxation Code; and

WHEREAS, Revenue and Taxation Code section 7285.9 requires the City Council to adopt an ordinance proposing to levy a general purpose transactions and use tax by a two-thirds vote of the City Council, and to then submit the ordinance to the voters, who must approve the ordinance by a majority of the voters voting on the measure for it to take effect; and

WHEREAS, the City Council and the People of the City of Hemet desire to adopt a transactions and use tax pursuant to Revenue and Taxation Code section 7285.9 for general revenue purposes; and

WHEREAS, proceeds from this transactions and use tax may be used for any lawful purposes of the City, including but not limited to, police protection and crime suppression services, fire protection and suppression services, 9-1-1 / paramedic services and other general municipal services.

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1 THE PEOPLE AND THE CITY COUNCIL OF THE CITY OF HEMET DO
2 ORDAIN AS FOLLOWS:

3 **SECTION 1: CITY OF HEMET TRANSACTIONS AND USE TAX**

4 A new Article V (Transactions and Use Tax) is added to Chapter 74 (Taxation) of
5 the Hemet Municipal Code as follows:

6 **“ARTICLE V. – TRANSACTIONS AND USE TAX**

7 **Sec. 74-130. – Title.**

8 This article shall be known as the “City of Hemet Transactions and Use Tax
9 Ordinance.”

10 **Sec. 74-131. – Purpose and Intent.**

11 In enacting the City of Hemet Transactions and Use Tax Ordinance
12 (“ordinance”), it is the purpose and intent of the People of the City of Hemet to:

13 A. Impose a retail transactions and use tax in accordance with the provisions
14 of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation
15 Code and Section 7285.9 of Part 1.7 of Division 2 of the Revenue and Taxation Code
16 which may be used for general municipal services and all lawful public purposes of the
17 City.

18 B. Adopt a retail transactions and use tax ordinance that incorporates
19 provisions identical to those of the Sales and Use Tax Law of the State of California
20 insofar as those provisions are not inconsistent with the requirements and limitations
21 contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

22 C. Adopt a retail transactions and use tax ordinance that imposes a tax and
23 provides a measure therefore that can be administered and collected by the State
24 Board of Equalization in a manner that adapts itself as fully as practicable to, and
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1 requires the least possible deviation from, the existing statutory and administrative
2 procedures followed by the State Board of Equalization in administering and collecting
3 the California State Sales and Use Taxes.

4 D. Adopt a retail transactions and use tax ordinance that can be administered
5 in a manner that will be, to the greatest degree possible, consistent with the provisions
6 of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of
7 collecting the transactions and use taxes, and at the same time, minimize the burden of
8 record keeping upon persons subject to taxation under the provisions of this article.

9 **Sec. 74-132. – Transactions Tax Rate.**

10 For the privilege of selling tangible personal property at retail, a tax is hereby
11 imposed upon all retailers in the incorporated territory of the City, as it exists on the
12 operative date of this article, and in the incorporated territory of the City as it may
13 hereafter be amended through annexation, at the rate of one percent of the gross
14 receipts of any retailer from the sale of all tangible personal property sold at retail in said
15 territory on and after the operative date of this ordinance.

16 **Sec. 74-133. – Use Tax Rate.**

17 An excise tax is hereby imposed on the storage, use or other consumption in the
18 City of tangible personal property purchased from any retailer on and after the operative
19 date of this ordinance for storage, use or other consumption in the incorporated territory
20 of the City, and in the incorporated territory of the City as it may hereafter be amended
21 through annexation, at the rate of one percent of the sales price of the property. The
22 sales price shall include delivery charges when such charges are subject to state sales
23 or use tax regardless of the place to which delivery is made.

24 **Sec. 74-134. – Independent Annual Audit.**

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1 The proceeds resulting from the transactions and use tax imposed by this article
2 shall be deposited into the City's general fund and shall be subject to the same
3 independent annual audit requirements as other general fund revenue. The
4 independent auditor's report, which shall include an accounting of the revenues
5 received and expenditures made from the transactions and use tax, will be presented
6 annually to the citizen oversight committee, the City Council and made available for
7 public review.

8 **Sec. 74-135. – Operative Date.**

9 "Operative Date" shall mean the first day of the first calendar quarter
10 commencing more than 110 days after the adoption of the City of Hemet Transactions
11 and Use Tax Ordinance.

12 **Sec. 74-136. – Termination.**

13 The transactions and use tax levied by this article shall commence on the
14 operative date and shall continue for a period of ten (10) years thereafter unless
15 extended by the necessary vote of the registered voters of the City.

16 **Sec. 74-137. – Contract With State.**

17 Prior to the operative date, the City shall contract with the State Board of
18 Equalization to perform all functions incident to the administration and operation of this
19 article; provided, that if the City shall not have contracted with the State Board of
20 Equalization prior to the operative date, it shall nevertheless so contract and in such a
21 case the operative date shall be the first day of the first calendar quarter following the
22 execution of such a contract.

23 **Sec. 74-138. – Place Of Sale.**

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

10 **Sec. 74-139. – Adoption Of Provisions Of State Law.**

11 Except as otherwise provided in this article and except insofar as they are
12 inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation
13 Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the
14 Revenue and Taxation Code are hereby adopted and made a part of this article as
15 though fully set forth herein.

16 **Sec. 74-140. – Limitations On Adoption Of State Law And Collection Of Use Tax.**

17 In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation
18 Code:

19 A. Wherever the state of California is named or referred to as the taxing
20 agency, the name of the City shall be substituted therefor. However, the substitution
21 shall not be made when:

- 22 1. The word "state" is used as a part of the title of the state Controller,
23 state Treasurer, State Board of Control, State Board of Equalization, state
24 Treasury, or the Constitution of the state of California.

1 2. The result of that substitution would require action to be taken by or
2 against the City or any agency, officer, or employee thereof rather than by or
3 against the State Board of Equalization, in performing the functions incident to
4 the administration or operation of this article.

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

8 a. Provide an exemption from this tax with respect to certain
9 sales, storage, use or other consumption of tangible personal property
10 which would not otherwise be exempt from this tax while such sales,
11 storage, use or other consumption remain subject to tax by the state under
12 the provisions of Part 1 of Division 2 of the Revenue and Taxation Code,
13 or;

14 b. Impose this tax with respect to certain sales, storage, use or
15 other consumption of tangible personal property which would not be
16 subject to tax by the state under the said provision of that code.

17 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711,
18 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

19 B. The word "city" shall be substituted for the word "state" in the phrase
20 "retailer engaged in business in this state" in Section 6203 and in the definition of that
21 phrase in Section 6203.

22 **Sec. 74-141. – Permit Not Required.**

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1 If a seller's permit has been issued to a retailer under Section 6067 of the
2 Revenue and Taxation Code, an additional transactor's permit shall not be required by
3 this article.

4 **Sec. 74-142. – Exemptions and Exclusions.**

5 A. There shall be excluded from the measure of the transactions tax and the
6 use tax the amount of any sales tax or use tax imposed by the state of California or by
7 any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales
8 and Use Tax Law or the amount of any state-administered transactions or use tax.

9 B. There are exempted from the computation of the amount of transactions
10 tax the gross receipts from:

11 1. Sales of tangible personal property, other than fuel or petroleum
12 products, to operators of aircraft to be used or consumed principally outside the
13 county in which the sale is made and directly and exclusively in the use of such
14 aircraft as common carriers of persons or property under the authority of the laws
15 of this state, the United States, or any foreign government.

16 2. Sales of property to be used outside the City which is shipped to a
17 point outside the City, pursuant to the contract of sale, by delivery to such point
18 by the retailer or his or her agent, or by delivery by the retailer to a carrier for
19 shipment to a consignee at such point. For the purposes of this paragraph,
20 delivery to a point outside the City shall be satisfied:

21 a. With respect to vehicles (other than commercial vehicles)
22 subject to registration pursuant to Article 1 (commencing with Section
23 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance
24 with Section 21411 of the Public Utilities Code, and undocumented
25 vessels registered under Division 3.5 (commencing with Section 9840) of

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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 the ordinance codified in this article.

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 the ordinance codified in this article.

5. For the purposes of subsections (B)(3) and (B)(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 article, the storage, use or other consumption in the 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

1 use of such aircraft as common carriers of persons or property for hire or
2 compensation under a certificate of public convenience and necessity issued
3 pursuant to the laws of this state, the United States, or any foreign government.
4 This exemption is in addition to the exemptions provided in Sections 6366 and
5 6366.1 of the Revenue and Taxation Code of the state of California.

6 3. If the purchaser is obligated to purchase the property for a fixed
7 price pursuant to a contract entered into prior to the operative date of the
8 ordinance codified in this article.

9 4. If the possession of, or the exercise of any right or power over, the
10 tangible personal property arises under a lease which is a continuing purchase of
11 such property for any period of time for which the lessee is obligated to lease the
12 property for an amount fixed by a lease prior to the operative date of the
13 ordinance codified in this article.

14 5. For the purposes of subsections (C)(3) and (C)(4) of this section,
15 storage, use, or other consumption, or possession of, or exercise of any right or
16 power over, tangible personal property shall be deemed not to be obligated
17 pursuant to a contract or lease for any period of time for which any party to the
18 contract or lease has the unconditional right to terminate the contract or lease
19 upon notice, whether or not such right is exercised.

20 6. Except as provided in subsection (C)(7), a retailer engaged in
21 business in the City shall not be required to collect use tax from the purchaser of
22 tangible personal property, unless the retailer ships or delivers the property into
23 the City or participates within the City in making the sale of the property,
24 including, but not limited to, soliciting or receiving the order, either directly or
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1 indirectly, at a place of business of the retailer in the City or through any
2 representative, agent, canvasser, solicitor, subsidiary, or person in the City under
3 the authority of the retailer.

4 7. "A retailer engaged in business in the City" shall also include any
5 retailer of any of the following: vehicles subject to registration pursuant to Article
6 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft
7 licensed in compliance with Section 21411 of the Public Utilities Code, or
8 undocumented vessels registered under Division 3.5 (commencing with Section
9 9840) of the Vehicle Code. That retailer shall be required to collect use tax from
10 any purchaser who registers or licenses the vehicle, vessel, or aircraft at an
11 address in the City.

12 D. Any person subject to use tax under this article may credit against that tax
13 any transactions tax or reimbursement for transactions tax paid to a district imposing, or
14 retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue
15 and Taxation Code with respect to the sale to the person of the property the storage,
16 use or other consumption of which is subject to the use tax.

17 **Sec. 74-143. – Amendments.**

18 All amendments subsequent to the effective date of this article to Part 1 of
19 Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which
20 are consistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation
21 Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and
22 Taxation Code, shall automatically become a part of this article, provided however, that
23 no such amendment shall operate so as to affect the rate of tax imposed by this article.

24 **Sec. 74-144. – Enjoining Collection Forbidden.**

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

6 **Sec. 74-145. – Citizen Oversight Committee.**

7 A. A citizens' oversight committee is hereby established to independently
8 review and advise upon the City's expenditure of proceeds generated by the
9 transactions and use tax. The committee shall meet at least twice each calendar year
10 and more frequently if necessary to discharge the responsibilities of the committee. All
11 meetings of the committee shall be held in accordance with provisions of the Ralph M.
Brown Act (Cal. Gov. Code Section 54950 et seq.).

12 1. The committee shall consist of seven (7) members, all whom shall
13 be residents of the City of Hemet, reside within its sphere of influence, or own a
14 business having its primary offices located within the City of Hemet. A majority of
15 committee members shall be residents of the City of Hemet. The City shall
16 initially post and publish notice soliciting applications for persons interested in
17 being members of the committee and shall thereafter repost and republish notice
18 soliciting applications as necessary to fill vacancies on the committee. The City
19 Council shall review all applications for eligibility and at a public meeting
20 interview all eligible applicants and appoint seven (7) eligible applicants to serve
21 as members of the committee. Each member of the committee shall serve for a
22 term of two (2) years and such service shall be at the pleasure of the City
Council. Four (4) members of the committee shall constitute a quorum.
Members of the committee shall not receive a stipend for their service.

23 2. The citizens' oversight committee shall annually review and report
24 on (i) the City's proposed and actual expenditure of proceeds generated by the
25 transaction and use tax and (ii) the independent annual audit required under this

1 article. The committee's report shall be submitted to the City Council for review
2 and discussion at a noticed public meeting of the City Council and shall be made
3 available to the public at least five (5) business days prior to such public meeting.

4 3. The City shall provide such staff resources as are reasonably
5 necessary to assist the committee with the discharge its duties under this article.
6 The committee shall not have authority to hire or retain its own staff, consultants,
7 or contractors."

7 **SECTION 2: CEQA**

8 The adoption of this ordinance is not a "project" subject to the requirements of
9 the California Environmental Quality Act (CEQA) (Public Resources Code Section
10 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government
11 funding mechanisms or other government fiscal activities that do not involve any
12 commitment to a specific project that may result in a potentially significant physical
13 impact on the environment are not projects subject to the requirements of CEQA.

14 **SECTION 3: SEVERABILITY**

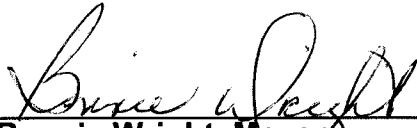
15 If any part or provision of this ordinance, or the application of this ordinance to
16 any person or circumstance, is held invalid, the remainder of this ordinance, including
17 the application of such part or provisions to other persons or circumstances, shall not be
18 affected by such a holding and shall continue in full force and effect. To this end, the
19 provisions of this ordinance are severable.

20 **SECTION 4: ELECTION REQUIRED; EFFECTIVE DATE.**

21 This ordinance shall be submitted to the voters at the regular municipal election
22 to be held on November 8, 2016. This ordinance shall not become operative unless
23 and until a majority of the electors voting on the measure vote to approve this
24 ordinance, in which case this ordinance shall go into effect ten (10) days after the date
25 on which the election results are declared by the City Council.

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**PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF HEMET
AT THE REGULAR MUNICIPAL ELECTION HELD ON THE 8TH DAY OF
NOVEMBER, 2016.**



Bonnie Wright, Mayor

ATTEST:

APPROVED AS TO FORM:



Sarah McComas, City Clerk



Eric S. Vail, City Attorney

Ordinance No. 1918 was submitted to the People of the City of Hemet at the November
8, 2016, general election. It was approved by the following vote of the electors:

YES: 15744
NO: 10056

1 State of California)
2 County of Riverside)
3 City of Hemet)


4 I, Sarah McComas, City Clerk of the City of Hemet, do hereby certify that the
5 foregoing Ordinance was approved for placement on the ballot at the regular
6 meeting of the Hemet City Council on the 26th day of July, 2016, and was passed
7 by the following vote:

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9 **AYES: Council Members Krupa and Youssef, Mayor Pro Tem Raver**
10 **Mayor Wright**

11 **NOES: Council Member Milne**

12 **ABSTAIN:**

13 **ABSENT:**

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15 Sarah McComas
16 Sarah McComas, City Clerk
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