

**NOTICE OF CALL OF SPECIAL MEETING
TO THE MEMBERS OF THE SUSANVILLE CITY COUNCIL**

You are hereby notified that a SPECIAL MEETING of the Susanville City Council will be held in the Council Chambers of City Hall in the City of Susanville at 66 North Lassen Street, Susanville, California on **October 21, 2019 at 9:00 a.m.** to transact the following business:

Call Meeting to Order
Roll Call of City Councilmembers

1 APPROVAL OF THE AGENDA:

2 PUBLIC COMMENT: Members of the public may address the Council concerning **any item on the agenda** prior to or during consideration of that item.

3 CLOSED SESSION: No Business

4 SCHEDULED MATTERS:

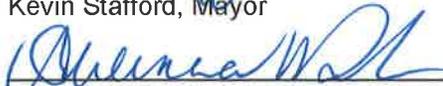
A Discussion regarding **Resolution No. 19-5720** authorizing a Sales and Transactions Use Tax of one percent (1%) to be used for Public Safety Services by review and final City Council approval of modifications to **Ordinance 19-1018** imposing a Transactions and Use Tax of one percent (1%) to be used for Public Safety subject to approval of a 2/3 majority of the Electors voting on the Tax Measure at the election held March 3, 2020.

5 ADJOURNMENT: *Next regular meeting is scheduled for November 6, 2019 at 6:00 p.m.*



Kevin Stafford, Mayor

ATTEST:



Gwenna MacDonald, City Clerk

AFFIDAVIT OF MAILING NOTICE

I, the undersigned City Clerk of the City of Susanville, California do hereby certify that an original of the **NOTICE OF CALL OF SPECIAL MEETING October 21, 2019 at 9:00 a.m.** was delivered to each and every person set forth on the list contained herein on the 18th day of October, 2019. A copy of said Notice is attached hereto.

I declare under penalty of perjury that the foregoing is true and correct.

Dated at Susanville, California this 18th day of October, 2019.



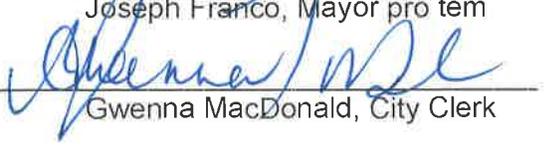
Gwenna MacDonald, City Clerk

Kevin Stafford	electronic mail
Joseph Franco	electronic mail
Mendy Schuster	electronic mail
Brian Moore	electronic mail
Brian Wilson	electronic mail

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Section 5. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

APPROVED: 
Joseph Franco, Mayor pro tem

ATTEST: 
Gwenna MacDonald, City Clerk

The foregoing **Resolution No. 19-5720** was adopted at a regular adjourned meeting of the City Council of the City of Susanville held on the 16th day of October, 2019 by the following vote:

AYES: Franco, Wilson, Schuster and Stafford
NOES: None
ABSENT: Moore
ABSTAINING: None


Gwenna MacDonald, City Clerk

APPROVED AS TO FORM: 
Jessica Ryan, City Attorney

ORDINANCE NO. 19-1018
AN ORDINANCE OF THE CITY OF SUSANVILLE, CALIFORNIA, IMPOSING A
TRANSACTIONS AND USE TAX OF 1% TO BE USED FOR PUBLIC SAFETY
SERVICES AND TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF
TAX AND FEE ADMINISTRATION, SUBJECT TO APPROVAL OF A 2/3 MAJORITY OF
THE ELECTORS VOTING ON THE TAX MEASURE AT THE GENERAL MUNICIPAL
ELECTION TO BE HELD ON TUESDAY, MARCH 3, 2020

The City Council of the City of Susanville does ordain as follows:

Section 1: Chapter 3.16 of the Susanville Municipal Code is hereby repealed and replaced with the following, to be numbered entitled and to read as follows:

CHAPTER 3.16
TRANSACTION AND USE TAX

3.16.010 Ordinance Title

This ordinance shall be known as the City of Susanville Transactions and use Tax Ordinance. This ordinance shall be applicable in the incorporated territory of the City of Susanville, which shall be referred to herein as "City."

3.16.020 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 the adoption being as set forth below.

3.16.030 Purpose

This ordinance is adopted to achieve the following, among 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 Sections 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a two-thirds 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 retain transactions and use tax for the purpose of raising revenue for public safety municipal purposes. All taxes, penalties and interest collected under this Chapter 3.16 shall be deposited in separate accounts and apart from the general fund and shall be designated for the use and used in providing of Public Safety Services.
- C. To adopt a retail transactions and use tax ordinance which incorporates provisions identical to those of the Sale and Use Tax laws 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.

- D. To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure therefore that can be administered and collected by California Department of Tax and Fee Administration in a manner that adopts 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.
- E. To adopt a retail transactions and use tax ordinance which can be administered in a manner which 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.

3.16.040 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 on the first day of the first calendar quarter following the execution of such a contract.

3.16.050 Transaction Tax Rate

- A. This section replaces former section 3.16.50 of the City of Susanville Municipal Code in order to clearly state the meaning and intention of former section 3.16.50.
 - a. From January 1, 1992 through June 30, 1992, of the 1% Bradley-Burns tax allocated as follows: the County of Lassen shall receive one percent and the City of Susanville shall receive the remaining ninety-nine percent (99%);
 - b. From July 1, 1992, through June 30, 1993 of the 1% Bradley-Burns tax allocated as follows: the County of Lassen shall receive three percent and the City of Susanville shall receive the remaining ninety-seven percent (97%);
 - c. From July 1, 1993 forward the 1% Bradley-Burns tax allocated as follows: the County of Lassen shall receive five percent and the City of Susanville shall receive the remaining ninety-five percent (95%);. (Prior Code §18.9)
- B. 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 (1%) of the gross receipts of any retailer for the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance. This amount is in addition to the existing local sales tax or transactions and use tax described below as well as any future authorized state or local sales tax or transactions and use tax.

3.16.060 Accounting for Revenue

All net revenues when received and all interest on said revenues shall be placed in separate accounts and apart from the general fund and shall be designated for use and used in the providing of Public Safety Services as defined herein consistent with California Government Code Section 30052 and the net revenues derived here from shall be used

in addition to, and not to supplant, or in any way replace or serve as a substitute for, the level of funding for the City of Susanville Police Department and the City of Susanville Fire Department that was provided from other revenue sources by the City of Susanville for the 2019-2020 fiscal year.

- A. Commending the first Wednesday in April 2020, and then continuing every three months thereafter, a report detailing the use of all funds collected pursuant to this Ordinance shall be presented for review to the City Council.
 1. All the reasonable and necessary administrative costs shall be paid for from the funds collected pursuant to this Ordinance;
 2. All funds received pursuant to this Ordinance shall be distributed and used as described herein as soon as reasonably possible following every quarterly report as described in Section 6.A. However, under no circumstances shall use and distribution of funds received pursuant to this Ordinance take place earlier than the first Wednesday in April 2020.
- B. The collected tax will be divided between the Susanville Police Department and the Susanville Fire Department as follows: 60% to the Susanville Police Department and 40% to the Susanville Fire Department.
- C. "Public Safety Services" includes the following services administered by the Police Department:
 1. For all classifications of Police Department employees:
 - a. Augmentation of the base wages,
 - b. Incentives or stipends pursuant to any bargaining unit agreement(s),
 - c. Any costs of fringe benefits,
 - d. Any cost of retirement.
 2. Additional employees throughout the City of Susanville to assist the Police Department including but not limited to the goal of hiring a minimum of five patrol officers in addition to the current employee list. This will happen as funding becomes available and the budget allows.
 3. Providing, maintaining and improved equipment and vehicles for the Police Department, and to aid in the maintenance and improvement of the facility.
 4. Any cost of CalPERS unfunded liability and continued increase cost(s) of CalPERS attributed to the Police Department. Unfunded liability coats for retirees is an eligible use for the tax funds.
 5. Any and all costs and expenses associated with the Police Department budget.
- D. "Public Safety Services" includes the following services administered by the Fire Department:
 1. For all classifications of Fire Department employees:

- a. Augmentation of the base wages,
 - b. Incentives or stipends pursuant to any bargaining unit agreement(s),
 - c. Any costs of fringe benefits,
 - d. Any cost of retirement.
2. Additional employees throughout the City of Susanville to assist the Fire Department including but not limited to the goal of hiring the additional: 1 full time code enforcement officer; 3 part time (seasonal) firefighters for fire season July 1 to November 1 annually, these three part time (seasonal) positions may be converted to full time positions as delivery of Fire and EMS services warrant; and any additional staffing increases necessary to maintain the current or expected level of Fire and EMS services delivered by the department, provide for employee safety and maintain the current ISO rating. This will happen as funding becomes available and the budget allows.
 3. Providing, maintaining and improved equipment and vehicles for the Fire Department, and to aid in the maintenance and improvement of the facility.
 4. Any cost of CalPERS unfunded liability and continued increase cost(s) of CalPERS attributed to the Fire Department. Unfunded liability costs for retirees is an eligible use for the tax funds.
 5. Any and all costs and expenses associated with the Fire Department budget.
- E. "Public Safety Services" includes: Code Enforcement costs for Code Enforcement Services administered by the Fire Department and the Police Department; and dispatch costs for dispatch services used by the Police Department and Fire Department. Each department must pay its own costs for dispatch and code enforcement.
- F. The City, including the Chief of Police and the Fire Chief, will meet and confer in good faith with the City of Susanville Peace Officer Association, Administrative Unit, Management Unit and Professional/Technical Unit and the Operating Engineers Local Union No. 3 Fire Fighters regarding the administration and use of all funds received pursuant to this Ordinance; unless otherwise specified herein. In the event the parties reach an impasse and are unable to reach an agreement, standard labor negotiation laws and procedures apply.
- G. Police Department shall have a dedicated and annually approved budget. The budget for the first year after this tax measure is passed is based on the approved beginning Fiscal 2019/2020 Budget year.
- H. Fire Department shall have a dedicated and annually approved budget. The budget for the first year after this tax measure is passed is based on the approved beginning Fiscal 2019/2020 Budget year.

3.16.070 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 the retailer's 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 of California 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.

3.16.080 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 (1%) percent of the sales price of the property. The sales price 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.

3.16.090 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.

3.16.100 Limited 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 the 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 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 and 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 provision of Part 1 of Division 1 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.
1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.16.110 Permit Not Required

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

3.16.120 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.
 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 the retailer's 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 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 Section 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.

3.16.130 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 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. The foregoing amendments shall not require voter approval.

C. The following amendments to this ordinance must be approved by the voters of the City: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of the preceding paragraph.)

3.16.140 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 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.

3.16.150 Implementing Policies

Upon approval of this ordinance by a two thirds majority of the voter, the City shall meet and confer regarding the necessary provisions of a Memorandum of Understanding between the City of Susanville Peace Officer Association, Administrative Unit, Management Unit and Professional/Technical Unit and the Operating Engineers Local Union No. 3 Fire Fighters, and shall adopt policies and take such other action as may be necessary for the immediate implementation of the transactions and use tax authorized by this ordinance.

3.16.160 Annual Audit

Pursuant to Section 1215 of the City's Charter, as may be amended, the revenues from the tax imposed by this Chapter shall be subject to the annual audit performed by the City's independent auditor of the City's municipal books, records, accounts and fiscal procedures and which is reported in the City's Comprehensive Annual Financial Report.

3.16.170 Citizen Oversight Committee

An Independent Citizens Oversight Committee appointed by the City Council shall review all the expenditures of revenues generated by the tax imposed by this Chapter.

3.16.180 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.

3.16.190 Penalty for Violation

Any person violating any of the provisions of this ordinance shall be guilty of an infraction and upon conviction thereof shall be punished as provide in the government code of the state of California.

3.16.200 Effective Date and Operative Date

This ordinance relates to the levying and collection of the City's transactions and use taxes and shall become effective immediately and shall become operative only if approved by a 2/3 majority of the voters voting on the measure in at the March 3, 2020 General Municipal Election.

INTRODUCED at a regular meeting of the City Council of the City of Susanville, California, on the ____ day of _____, 2019, and adopted at a regular meeting of the City Council of the City of Susanville, California, on the ____ day of _____, 2019.

APPROVED: _____
Kevin Stafford, Mayor

ATTEST: _____

Gwenna MacDonald, City Clerk

The foregoing Ordinance No. 19-1018 was adopted at a regular meeting of the City Council of the City of Susanville, held on the _____ day of _____, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gwenna MacDonald, City Clerk

APPROVED AS TO FORM:

Jessica Ryan, City Attorney