

## RESOLUTION NO. 16-90

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIDGECREST ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF RIDGECREST A MEASURE RELATING TO THE ESTABLISHMENT OF A TEMPORARY TRANSACTIONS AND USE TAX (SALES TAX) AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, AS CALLED BY RESOLUTION NO. 16-49

**WHEREAS**, continued local funding is needed to prevent cuts and maintain City of Ridgecrest services, including fixing city streets and potholes, 9-1-1 emergency response times, crime prevention and investigation, neighborhood police patrols, and the number of current number of police officers;

**WHEREAS**, continued local funding is needed to maintain current levels of public safety and police services, including neighborhood patrols, crime prevention and investigation programs, and 9-1-1 response times;

**WHEREAS**, existing, voter-approved local funding has helped repair major streets and fix potholes in Ridgecrest and is needed to continue the work to repair neighborhood streets and fix potholes;

**WHEREAS**, Ridgecrest streets have more than \$60 million of deferred maintenance, just to keep them in good working condition;

**WHEREAS**, without continued local funding, half of the Ridgecrest police budget and all of the road repair budget will be cut;

**WHEREAS**, without continued local funding, 15 police officer positions who patrol our neighborhoods would be cut;

**WHEREAS**, by law, all funds from this measure must stay in Ridgecrest to maintain local services. None of it can be taken by Sacramento or County;

**WHEREAS**, this measure requires independent resident oversight, mandatory financial audits, and yearly reports to the community to ensure the funds are spent in a fiscally prudent manner;

**WHEREAS**, on January 11, 2012, the Ridgecrest City Council declared a Fiscal Emergency for the City of Ridgecrest; and

**WHEREAS**, the previously adopted local sales tax will expire under its own terms; and

**WHEREAS**, on October 6, 1997, Assembly Bill 1472 became law adding Chapter 2.93 commencing with Section 7286.52 to Part 1.7 of Division 2 of the Revenue and Taxation Code; and

**WHEREAS**, California Constitution Article XIII C Section 2(b) added by Proposition 218 effective November 1996, requires that a measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

**WHEREAS**, on the City Council, passed Resolution Nos. 16-49 and 16-50, calling a General Municipal Election to be held on November 8, 2016, and requested the County Board of Supervisors to approve consolidation of the election with the Statewide General Election to be held on the same day; and

**WHEREAS**, pursuant to California Constitution Article XIII C Section 2(b) and Elections Code Section 10201, the City also desires to submit to the electors at the General Election a measure to enact an ordinance establishing a transactions and use tax;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIDGECREST, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER** as follows:

**Section 1.** That the City Council, pursuant to its right and authority, does order submitted to the electors at the General Municipal Election the following question:

“Ridgecrest Public Safety and Essential City Services Measure. To help prevent cuts and maintain City of Ridgecrest services, including: city streets and pothole repair; police officers and neighborhood police patrols; 9-1-1 emergency response times; crime prevention and investigation; and other city services, shall the City of Ridgecrest enact a one cent sales tax, providing \$4,000,000 annually for 8 years, requiring a citizen's oversight committee, annual independent audits, with all funds for City of Ridgecrest services only, and no funds for Sacramento?”

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

**Section 2.** The City Clerk is hereby directed to forward a copy of Resolution Nos. 16-49, 16-50 and this Resolution to the County Clerk for inclusion in the ballot for the November 8, 2016, General Municipal Election.

**Section 3.** The proposed Ridgecrest Vital City Services Measure will pass only if a majority of the votes cast by electors voting on the measure are “yes” votes and will, if passed, take precedence over any other conflicting measure receiving less votes in this election.

**Section 4.** The City Council hereby directs the City Attorney to prepare an impartial written analysis of the measure, not to exceed 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 the date set by the City Clerk for the filing of primary arguments.

**Section 5.** The City Council hereby authorizes its members to file written arguments for or against the measure described above to this resolution. All written arguments filed by any person in favor or against the measure shall be accompanied by the names and signatures of the persons submitting the arguments as required by applicable law and any names, signatures and arguments may be filed until the time and date fixed by the City Clerk, after which no change may be submitted to the City Clerk unless permitted by law.

**Section 6.** The proposed Ordinance amending Chapter III, Article 2 of the Ridgecrest Municipal Code establishing a Temporary Transactions and Use Tax, attached hereto as Exhibit "A", the text of the measure, together with the City Attorney's impartial analysis, and any arguments for or against the measure, to be mailed to all qualified electors with the ballot. In addition to other notices and publications required by law, the City Clerk, not less than forty (40) days and not more than sixty (60) days before the General Municipal Election, shall cause the text of the measure to be published once in the official newspaper. The City Clerk is authorized to give such notices and to fix such times and dates as are required by law or which are appropriate to properly conduct the election.

**Section 7.** The provisions of Resolution 16-49 refer to more particulars concerning the General Municipal Election to be held on November 8, 2016, and in all respects the election shall be held and conducted as provided for by applicable law. The City Clerk is authorized and directed to procure and furnish any official ballots, notices, printed materials, and all supplies or equipment that may be necessary in order to properly and lawfully conduct the election.

**PASSED, APPROVED AND ADOPTED** on July 20, 2016, by the following roll call vote:

AYES: Mayor Breeden, Council Members Sanders, Acton, Thomas, and Mower  
NAYS: None  
ABSTAIN: None  
ABSENT: None

  
\_\_\_\_\_  
Peggy Breeden, Mayor

ATTEST:

  
\_\_\_\_\_  
Rachel J. Ford, CMC, City Clerk

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Michael Silander, City Attorney

**ORDINANCE NO. 16-02**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF RIDGECREST  
AMENDING THE RIDGECREST MUNICIPAL CODE CONCERNING A  
TEMPORARY TRANSACTIONS AND USE TAX TO BE ADMINISTERED  
BY THE STATE BOARD OF EQUALIZATION**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIDGECREST as follows:**

**1. Purpose.**

This Ordinance amends the Ridgcrest Municipal Code in order to change the term and amount of a temporary transactions and use tax.

**2. Amendment.**

The following Chapter 3, Article 2, is hereby added to Ridgcrest Municipal Code to read as follows:

**"Article 2. Temporary Transactions and Use Tax**

**3.2.101. Purpose and Operative Date.**

(a) The purpose of this article is to impose a retail transactions and use tax in accordance with the provisions of the Revenue and Taxation Code which authorizes the City to adopt this tax if a majority of the qualified voters of the City vote to approve the imposition of the tax. Unlike the tax described in Article 3 of this Chapter, this tax is set for a fixed term of eight years from the Operative Date.

(b) "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the later of the adoption of this ordinance and article, the date of such adoption being as set forth on the ordinance that adopted this article, or the approval of the voters of the City of a measure approving the imposition of the transaction and use tax set forth herein; provided, that if the City shall not have entered into a contract with the State Board as required herein prior to such date, the Operative Date shall be the first day of the first calendar quarter following execution of such a contract.

(c) When becoming operative, this measure automatically repeals and replaces Measure 'L', which was passed by the citizens of Ridgcrest in 2012.

(d) Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax article; provided, that if the City shall not have contracted with the State Board of Equalization 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.

**Sec. 3-2.102. Transactions Tax Rate.**

Commencing on the Operative Date and continuing for a period of eight years following this date, 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 a rate of one percent (1%) of the gross receipt 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 article. Such tax shall be in addition to any other transaction (sales) tax imposed by this Code or applicable state law.

**Sec. 3-2.103. Place of Sale.**

For the purposes of this article, 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 State Board of Equalization.

**Sec. 3-2.104. Use Tax Rate.**

Commencing on the Operative Date and continuing for a period of eight years following that date, 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 or after the Operative Date of this article for storage, use, or other consumption in the incorporated territory of the City at a rate of one percent (1%) 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. Such tax shall be in addition to any other use tax imposed by this Code or applicable to state law. Specifically, this tax is in addition to the tax imposed by 3-3.102 of this Code.

**Sec. 3-2.105. Adoption of Provisions of State Law.**

Except as otherwise provided in this article, 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 article as though fully set forth herein.

**Sec. 3-2.106. Limitations on Adoption of State Law and Collection of Use Taxes.**

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

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, 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 State Board of Equalization, in performing the functions incident to the administration or operation of this article;

(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 to that phrase in Section 6203.

### **Sec. 3-2.107. 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 article.

### **Sec. 3-2.108. 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 and 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 Chapter 2 of 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 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 this article.

(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 imposed by this article, 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 article.

(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 article.

(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 article.

(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 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 Chapter 2 of 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 article 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.

**Sec. 3-2.109. Amendments.**

(a) All amendments subsequent to the effective date of this article 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 article, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this article.

(b) The City Council of the City of Ridgecrest may make amendments to this article that do not affect the rate of tax imposed without approval of the voters of the City. The City Council of the City of Ridgecrest may repeal this article by a two-thirds (2/3) vote of the Council without approval of the voters of the City, provided all indebtedness secured by the tax has been satisfied. The City Council may amend the rate of tax imposed herein (increase or decrease) or extend the term of the tax only upon two-thirds (2/3) vote of the Council and with approval of the voters of the City.

**Sec. 3-2.110. 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 article, 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.

**Sec. 3-2.111. Severability.**

If any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

**Sec. 3-2.112. Use of Tax Proceeds.**

All proceeds of the tax levied and imposed under this article shall be paid into the general fund for use by the City of Ridgecrest.

**Sec. 3-2.113. Establishment of Committee and Purpose.**

A Citizens' Oversight Committee is hereby established to oversee expenditures of the revenues received by the City from the sales and use taxes imposed pursuant to this chapter, and to ensure that tax revenues are spent by the City in a manner consistent with the voter approved measure adopting this chapter as well as any voter approved or council approved priorities adopted to implement the provisions of this chapter.

**Sec. 3-2.114. Appointment and Tenure of Committee Members.**

(a) The Citizens' Oversight Committee shall consist of five members appointed by the City Council. Three members shall constitute a quorum. The City Manager shall appoint an ex-officio staff person to serve as the secretary and custodian of records who shall not have a vote.

(b) Upon their appointment and during their incumbency, members of the committee shall be and remain residents of the City; provided, however, that City employees, other city officials, and City vendors shall not be qualified to serve as committee members at any time they occupy such positions or are engaged in such business. Should a member cease to be a City resident, that office shall be deemed vacant and the term of such member terminated. The secretary shall notify the City Council and City Manager of such termination as soon as administratively possible.

(c) All members of the committee shall serve at the pleasure of the City Council and may be removed by a majority vote of the City Council at any time.

**Sec. 3-2.115. Terms of Office.**

(a) Of the members of the committee first appointed, two shall be appointed for terms of one year, two shall be appointed for terms of two years, and one shall be appointed for a term of three years. Succeeding members shall be appointed for terms of four years. The secretary's term shall be designated by the City Manager. All members shall serve until a successor is appointed and qualified.

(b) Should a member of the committee fail to attend three consecutive meetings, unless excused for cause by the chairperson, that member's office shall be deemed vacant and the member's term ended. The committee secretary shall immediately notify the City Council and City Clerk of such termination.

**Sec. 3-2.116. Organization.**

(a) Each January, a board, commission, or committee shall annually organize and elect a chairperson and vice-chairperson from its membership for a one-year term. In the chairperson's or vice-chairperson's absence or disability, the committee may designate a chairperson or vice-chairperson *pro tempore*.

(b) Regular meetings shall be held on the day and time established by resolution of the board, commission, or committee as amended from time-to-time.

(c) Each board commission or committee shall establish a procedure for calling special meetings and may also adopt application requirements, meeting procedures, and other reasonable rules and regulations for conducting business. Minutes shall be kept of all meetings and the secretary shall deliver copies of minutes to the City Manager and City Clerk for filing and distribution to City Council members.

(d) Any board, commission, or committee may designate one of its members, or a subcommittee composed of not more than two members, to study, review, consider, or make recommendations concerning any matter within its purview, provided that, a board, commission, or committee authorized to consist of seven members may designate one of its members, or a subcommittee composed of not more than three members, to study, review, consider, or make recommendations.

**Sec. 3-2.117. Duties.**

(a) The committee is charged with the following responsibilities: (1) reviewing all appropriations of revenues received by the City from the sales and use taxes imposed pursuant to the provisions of this chapter to determine whether such funds are to be used as provided for in this chapter and the voter approved measure that adopted this chapter; (2) reviewing the audit prepared by an independent auditor retained by the City to perform the City's Comprehensive Annual Financial Report to determine whether such funds have been spent as provided for in this chapter and the voter approved measure; and (3) prepare and issue the committee's own annual report setting forth their findings in regard to the foregoing.

(b) The committee shall confine itself specifically to funds received by the City from the sales and use taxes imposed pursuant to the provisions of this chapter. City revenues and funds generated through other sources are outside the scope of the committee.

(c) In order to preserve the integrity and independence of the oversight process, committee members will not play a formal role in contracting, project management, construction, or any other aspect of the public safety funding. In addition, the committee is not charged with decision-making on spending priorities, construction schedules, project details, funding source decisions (e.g., leveraged funds, developer fees, etc.), financing plans, tax rate assumptions, or selection of consultants, design, and construction firms."

**3. Effective Date.**

This Ordinance relates to the levying and collecting of the City transactions and use taxes, and is a valid and binding ordinance of the City upon passage and approval by the electorate of the City of Ridgecrest. This Ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect ten (10) days after that date.

**3. Other**

Accept as otherwise provided herein the Ridgecrest Municipal Code is Reaffirmed and Readopted.

**PASSED, APPROVED, AND ADOPTED** by the Ridgecrest City Council on \_\_\_\_\_,  
2016, by the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Rachel J. Ford, City Clerk

(Seal)

July\_21, 2016

To: Rachel J. Ford, City Clerk

**RE: Resolution of the City Council of the City of Ridgecrest ordering the submission to the qualified electors of the City of Ridgecrest a measure relating to the establishment of a temporary transaction and use tax (sales tax) at the general election to be held on Tuesday, November 8, 2016**

**Analysis**

This initiative will adopt a one cent sales tax for a period of eight (8) years. This is a general tax, meaning that it will be collected and placed in the City's general fund for any City purpose.

However, this city council has pledged that this tax will be used only for the repair and maintenance of City streets, the hiring and retention of police officers, and related activities. To this end, the initiative also creates a citizens' oversight committee which is charged with the duty to review the expenditure of all funds collected pursuant to this tax and publicly report its findings. If this measure is successful it will repeal the final year of the previously adopted sales tax by amending the applicable provisions of the municipal code.