

ORDINANCE NO. 815

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF SUISUN CITY
RENEWING THE 1% GENERAL TRANSACTIONS AND USE (“SALES”)
TAX CODIFIED AT CHAPTER 3.14 TO TITLE 3 OF THE SUISUN CITY
CODE AND INCREASING THE SALES TAX TO 1.75%, TO BE
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND
FEE ADMINISTRATION, SUBJECT TO APPROVAL OF A MAJORITY
OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE
GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY,
NOVEMBER 5, 2024**

WHEREAS, the City of Suisun City (“City”) is facing a severe budget deficit that threatens the future of the City and directly impacts the safety and quality of life of local residents; and

WHEREAS, after several years of declining city revenues, the City does not receive sufficient revenue to sustain current operations and essential services for residents; and

WHEREAS, Suisun City currently relies upon limited emergency reserves and temporary COVID relief funding to sustain services, but temporary COVID relief funds are now fully expended and limited emergency reserves will soon be depleted; and

WHEREAS, at the City Council meeting on May 28, 2024, the City’s Finance Department reported to the City Council that in fiscal year 2024-25 the City will operate at a deficit of nearly \$2 million, which it plans to cover from the City’s reserve funds, using 40% of the City’s reserves for that purpose; and

WHEREAS, at the City Council meeting on June 16, 2024, the City’s Finance Department reported to the City Council that unless revenues substantially increase to bridge the budget shortfall prior to fiscal year 2025-26, the City’s Finance Department anticipates that the City will be required to make drastic cuts to its services, which will impact the City’s residents and businesses; and

WHEREAS, in 2016, 69% of local voters in Suisun City approved a 1% sales tax measure that currently provides approximately \$3.9 million in annual funding to support essential city services and this funding is now set to expire; and

WHEREAS, if current local sales tax funding expires and Suisun City is unable to secure additional revenue, city leaders may be forced to consider declaring bankruptcy for the City which will mean immediate and direct reductions in city services, quality of life, and potentially safety of the community; and

WHEREAS, deep cuts to the city budget and potential bankruptcy could lead to the elimination of Suisun City’s locally controlled fire department, police department, parks, libraries, youth and senior programs, among other services; and

WHEREAS, over the past five years Suisun City has experienced nearly a 200% increase in fires, a 32% increase medical emergencies, and a 29% increase in overall 911 calls for service, 70% of which are for medical emergencies; and

WHEREAS, current police and fire department staffing levels are lower than the standard for a community the size of Suisun City, and, at times, only two or three police officers are on duty, making it challenging to patrol neighborhoods and respond to emergency calls; and

WHEREAS, the police department lacks the resources needed to address the nuisances associated with homelessness, which negatively impacts safety and quality of life in the City; and

WHEREAS, the police department currently operates with only 26 sworn Officers, which is several Officers below recommended staffing levels, causing increased response times and reduced ability to respond to lower priority calls, to enforce traffic regulations, and to solve past crimes; and

WHEREAS, two-thirds of the fire department's 911 calls are for medical emergencies, requiring the fast response of a paramedic and current emergency response staffing results in response times as high as 50 minutes for some calls, while the national standard for response times is five minutes; and

WHEREAS, the fire department has a critical need to develop a second fire station to improve response times and save lives by allowing it to arrive on scene within five minutes, as contemplated in the City's General Plan; and

WHEREAS, to improve the city's financial stability, avoid potential bankruptcy, and maintain locally controlled services, the Suisun City Council believes that the expiring locally controlled sales tax funding approved by voters in 2016 needs to be renewed with an increase in the rate to 1.75% to provide additional locally controlled revenue; and

WHEREAS, locally controlled funding from a renewed and increased sales tax measure would protect and sustain essential city services, including addressing crime and public nuisances associated with homelessness, preventing the elimination of neighborhood police patrols, maintaining local fire protection and improving 911 emergency response times, and maintaining city infrastructure including local streets and roads; and

WHEREAS, to help ensure the cost of a renewed and increased sales tax measure is not a burden to those on fixed or limited incomes, essential purchases such as groceries, prescription medicine, and diapers are exempt from the cost of sales tax;

WHEREAS, sales tax is paid by anyone who shops in Suisun City, including visitors, to help ensure that nonresidents who work or shop in Suisun City pay a fair share for local services, roads, and infrastructure they use; and

WHEREAS, a measure to renew and increase local sales tax funding would continue strict fiscal accountability requirements, including public disclosure of all spending, and independent citizen oversight; and

WHEREAS, all funds from a measure to renew and increase local sales tax funding must stay local in Suisun City for local needs, and no funds can be taken away by the State; and

WHEREAS, Article XIIC, Section 2 of the California Constitution authorizes a city to impose a general tax if approved by a majority vote of the qualified electors; and

WHEREAS, the City of Suisun City (the “City”) imposed a General Transactions and Use Tax, authorized by Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation Code (“Authorizing Statutes”), which was passed by the electorate on November 8, 2016; and

WHEREAS, the Authorizing Statutes authorize the City to renew and increase the sales tax with a new General Transactions and Use Tax ordinance (“Ordinance”), which shall be operative if a majority of the electors voting on the measure vote to approve the Ordinance, at an election called for that purpose; and

WHEREAS, this Ordinance proposes to renew the 1% Suisun City General Transactions and Use Tax at the increased rate of 1.75%, which would sunset 15 years from the Operative Date, as that term is defined below, with collected revenue being deposited in the City’s General Fund; and

WHEREAS, California Constitution Article XIIC, Section 2, provides that an election regarding a general tax must be consolidated with a regularly scheduled special or general municipal election for members of the City Council; and

WHEREAS, a general municipal election has been called for Tuesday, November 5, 2024 by Resolution No. 2024-95, adopted on July 2, 2024; and

WHEREAS, by its Resolution No. 2024-95, adopted on July 2, 2024, the City Council acted to submit this Ordinance to the City’s voters at the November 5, 2024 election and approved this Ordinance pursuant to Revenue & Taxation Code Section 7285.9, which Ordinance becomes effective upon the City’s voters’ approval; and

WHEREAS, this Ordinance renews the 1% general tax at the new rate of 1.75% and would sunset 25 years after the Operative Date, where generated revenues will be deposited in the City’s General Fund.

NOW THEREFORE, on the basis of the foregoing, the People of the City of Suisun City, at the November 5, 2024 general municipal election do hereby Ordain as follows:

SECTION 1. The recitals set forth above are all true and correct and are incorporated herein.

SECTION 2. Title 3, Chapter 3.14 of the City of Suisun City Municipal Code is hereby repealed in its entirety and replaced to read as set forth below :

Section 3.14.010. Title of ordinance. This ordinance shall be known as the City of Suisun City General Transactions and Use Tax Ordinance. The City of Suisun City hereinafter shall be called "City." This ordinance shall be applicable only in the incorporated territory of the City.

Section 3.14.020. Basic definitions. As used in this chapter, "city" means the City of Suisun City and "tax" means the General Transactions and Use Tax imposed under the provisions of this ordinance.

Section 3.14.030. 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, and shall expire fifteen years thereafter.

Section 3.14.040. Purpose. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

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

Section 3.14.050. Contract with state. Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 3.14.060. Transaction 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 and three-quarters percent (1.75%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 3.14.070. 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 his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

Section 3.14.080. 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 and three-quarters percent (1.75%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 3.14.090. Proceeds of taxes. The proceeds of the transactions and use tax imposed by this chapter shall be deposited into the general fund of the city to be used for all general government purposes which may include, but are not limited to, fire and police protection, street and sidewalk repair and maintenance, park repair and maintenance, recreational programs, building and code enforcement services, planning and zoning services, capital equipment requirements, public infrastructure, repair and replacement of city facilities, capital improvement projects, operational expenses, fiduciary responsibilities, administration, indebtedness, and general obligations of the city. The tax imposed by this chapter is intended to be and is, a general tax, the proceeds of which are to be spent as the city council shall in its discretion, from time to time, determine.

Section 3.14.100. Revenue expended for unrestricted uses. Revenues from the transaction and use tax enacted under this ordinance shall be expended by the city for unrestricted general revenue uses.

Section 3.14.110. Adoption of provisions of state law. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 3.14.120. Limitations on adoption of state law and collections of use taxes. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted 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 Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

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

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

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

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

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203 of the Revenue and Taxation Code.

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.

Section 3.14.130. Permit not required. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 3.14.140. Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and

county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

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

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

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

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

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

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

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

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

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

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

Section 3.14.150 Changes in law. All amendments subsequent to the effective date of this chapter 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 chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

Section 3.14.160. 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.

Section 3.14.170. 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. In addition the city's independent auditor shall complete a general transactions and use tax compliance and internal control audit report. Such report shall review whether the tax revenues collected pursuant to this chapter are collected, managed, and expended in accordance with this chapter.

Section 3.14.180. All funds staying local. All tax revenues collected under the authority of this chapter shall be expended solely on local municipal services, and shall not be used for any other purposes.

Section 3.14.190. Effective date. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately as provided by law.

Section 3.14.200. Termination date. The authority to levy the tax imposed by this ordinance shall continue until the fifteenth anniversary of its operative date.

Section 3.14.210 Penalties. Without limiting any remedies available at law or equity, any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

Section 3.14.220. 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 provisions to other persons or circumstances shall not be affected thereby.

Section 3.14.230. Suisun City Oversight Committee. The city council shall establish a city general tax oversight committee to review the expenditure of the revenues collected pursuant to this ordinance. The terms of the committee members, as well as their specific duties shall be set forth in a resolution adopted by the city council. Such resolution may be amended by resolution of the city council.”

SECTION 3. COUNCIL AUTHORITY TO AMEND. This is a City Council-sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City. However, pursuant to Elections Code Section 9217, the City Council shall have and retain the right and authority to amend the Ordinance to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council) in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

SECTION 4. CEQA EXEMPTION. 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 5. APPROPRIATIONS LIMIT. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Suisun City is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this general tax.

PASSED AND ADOPTED by the voters of the City of Suisun City at an election held on November 5, 2024.

CERTIFICATION:

I, Anita Skinner, City Clerk of the City of Suisun City, California, do hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Suisun City, California voting at the General Municipal Election held on the 5th day of November 2024. It was approved by the following vote of the electors:

YES: 7,716

NO: 2,983