

**RESOLUTION NO. 2018-**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY  
OF LASSEN CALLING FOR THE PLACEMENT OF A GENERAL TAX  
MEASURE AND AN ADVISORY MEASURE ON THE BALLOT OF THE  
JUNE 5, 2018 PRIMARY ELECTION**

**WHEREAS**, the Board of Supervisors of the County of Lassen holds the authority to levy a Transactions and Use Tax ("Sales Tax") for unrestricted general revenue purposes pursuant to California Revenue and Taxation Code Section 7285, subject to approval by a majority vote of the electorate pursuant to Article XIIC, Section 2 of the California Constitution ("Proposition 218"); and

**WHEREAS**, the Board of Supervisors desires to place a ballot measure before the voters at the June 5, 2018 primary election to adopt a Sales Tax of three-quarters of one percent on the sale of all tangible personal property sold at retail in the County, including within the City of Susanville, as set forth in the proposed Ordinance attached hereto as "Exhibit A" and incorporated herein (the "Ordinance"); and

**WHEREAS**, in order for the Sales Tax to become effective, it must be approved by a majority vote of the electorate; and

**WHEREAS**, the Sales Tax is a general tax, the revenue from which will be placed in the County's general fund and will be used for unrestricted general revenue purposes; and

**WHEREAS**, pursuant to Elections Code Section 9603, the Board of Supervisors has also determined to submit to the voters of the County of Lassen, including those within the City of Susanville, concurrent with the proposed Ordinance, an advisory measure concerning the potential use of the proceeds of the Sales Tax, if approved; and

**WHEREAS**, pursuant to Proposition 218, any general tax measure submitted to the voters must be consolidated with a regularly scheduled statewide primary or statewide general election; and

**WHEREAS**, the next regularly scheduled statewide primary election is June 5, 2018; and

**WHEREAS**, the board of supervisors is authorized to request that this election be consolidated with other elections to be held on June 5, 2018, in the same territory (California Elections Code Section 10400 *et seq.*); and

**WHEREAS**, to minimize the expense of conducting this election, the board of supervisors desires to consolidate this election with the June 5, 2018, statewide primary election; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Supervisors of the County of Lassen as follows:

**Section 1.** The foregoing recitals are true and correct, and the Board of Supervisors of the County of Lassen so finds and determines.

**Section 2.** The Board of Supervisors of the County of Lassen, pursuant to its right and authority, does call an election and orders submitted to the voters of the County of Lassen, including within the City of Susanville, at that election to be held and consolidated with the Statewide Primary Election, on Tuesday, June 5, 2018, the following questions:

<b><u>BALLOT MEASURE #</u></b>	<b>YES</b>
Shall an ordinance be adopted authorizing the County of Lassen to collect a three-quarters of one percent sales tax (Transactions and Use Tax) for unrestricted general revenue purposes?	<b>NO</b>
<b><u>ADVISORY VOTE ONLY</u></b>	<b>YES</b>
If the voters of the County of Lassen approve a three-quarters of one-percent general sales tax increase, should public safety services be the exclusive use of seventy-five percent of the revenues received to add to, not replace, current spending for public safety?	<b>NO</b>

**Section 3.** The Ordinance authorizing the Sales Tax to be submitted to the voters is set forth in Exhibit A. The Board of Supervisors of the County of Lassen hereby approves the ordinance, the form thereof, and its submission to the voters of the County at the June 5, 2018, statewide primary election, as required by Revenue and Taxation Code Section 7285. If a simple majority of the qualified voters voting on the Ordinance shall vote in favor thereof, the Ordinance shall be deemed adopted and shall be effective in accordance with its terms.

**Section 4.** The Auditor of the County of Lassen is hereby authorized and directed to prepare and file with the elections official, pursuant to Elections Code section 9160(c), a statement of the fiscal impact to the County government if the measure contained in Section 2 hereof is adopted by the voters.

The foregoing Resolution was adopted at a regular meeting of the Board of Supervisors of the County of Lassen, State of California, held on the 20<sup>th</sup> day of February, 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
CHRIS GALLAGHER, Chairman  
Lassen County Board of Supervisors

ATTEST:

JULIE BUSTAMANTE  
Clerk of the Board

BY: \_\_\_\_\_

Michele Yderraga, Deputy Clerk of the Board

I, Michele Yderraga, Deputy Clerk of the Board of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing resolution and Agreement was adopted, by two-thirds vote, by the said Board of Supervisors at a regular meeting thereof held on the 20th day of February, 2018.

\_\_\_\_\_  
Deputy Clerk of the County of Lassen  
Board of Supervisors

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF LASSEN  
IMPOSING A TRANSACTIONS AND USE TAX TO BE  
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE  
ADMINISTRATION

The Board of Supervisors of the County of Lassen ordains as follows:

Section 1. TITLE. This ordinance shall be known as the Lassen County Supplemental Transactions and Use Tax Ordinance. The County of Lassen shall hereinafter be called "County." This ordinance shall be applicable in the incorporated and unincorporated territory of the County.

Section 2. 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.

Section 3. 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 of Part 1.7 of Division 2 which authorizes the County 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. The proceeds of this increase in the retail transactions and use tax shall be for unrestricted general revenue purposes.

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 therefor 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 4. CONTRACT WITH STATE. Prior to the operative date, the County 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 County 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 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of 0.75% (three quarters of one percent) 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 6. 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 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the County 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 0.75% (three quarters of one percent) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 8. 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 9. 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 County 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, California Department of Tax and Fee Administration, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this County 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 "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 10. 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 11. 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 County which is shipped to a point outside the County, 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 County 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-County 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-County 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 County 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 County 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 County or participates within the County 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 County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7. "A retailer engaged in business in the County" 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 County.

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 County 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 12. AMENDMENTS. 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.

Section 13. 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 County, or against any officer of the State or the County, 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 14. 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.



Section 15. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the County transactions and use taxes shall take effect immediately.

Section 16. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire upon repeal.

PASSED AND ADOPTED by the Board of Supervisors of the County of Lassen, State of California, on February 20, 2018, by the following vote:

AYES:

NOES:

ABSENT:

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MR. CHRIS GALLAGHER, Chairman  
Lassen County Board of Supervisors

ATTEST:  
JULIE BUSTAMANTE  
Clerk of the Board

I, Michele Yderraga, Deputy Clerk of the Board of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing ordinance was adopted by the said Board of Supervisors at a regular meeting thereof held on the day of February 20, 2018.

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Deputy Clerk of the Board of Supervisors  
County of Lassen