



Report to City Council

TO: Mayor and City Council

FROM: Brian Mohan, Assistant City Manager
Steve Quintanilla, Interim City Attorney

AGENDA DATE: August 3, 2021

TITLE: PROPOSED LOCAL MORENO VALLEY ESSENTIAL SERVICES MEASURE (RESO. NO. 2021-58 & ORD. NO. 982)

RECOMMENDED ACTION

Recommendations: That the City Council:

Adopt the attached Resolution No. 2021-58, Placing the Local Moreno Valley Essential Services Measure, a One Cent Local General Tax Measure on the Ballot for voter consideration on the November 2, 2021 Election.

SUMMARY

In response to \$50 million in historical State Takeaways of local funds, the continued and significant increases by the County to provide critical public safety services to our City, and the fiscal crisis caused by the impacts of COVID 19, the City is proposing to place the Local Moreno Valley Essential Services Measure on the ballot for local voter consideration. If approved by the voters, the Local Moreno Valley Essential Services Measure would enact a "One Cent" local sales tax (Transactions and Use Tax) until ended by voters. It is estimated to produce approximately \$20 million per year, which may be used to fund general municipal services and cannot by law be taken by the State.

Since the revenue generated by the proposed one-cent 1¢ increase will be deposited in the City's General Fund to fund general municipal services, it is considered to be a "General Tax" proposal, which requires a two-thirds vote of the City Council to place on the ballot, and approval by at least 50% plus 1 of the voters voting in the respective election.

DISCUSSION

The City of Moreno Valley’s sales tax (Transactions and Use Tax) is 7.75%. The table below illustrates the allocation of sales tax to the various jurisdictions, in which, every sales tax dollar generated in Moreno Valley, the City receives less than 13 cents.

Rate	Jurisdiction	Purpose	Apportioned %
3.69%	State	Goes to State's General Fund	47.58%
0.25%	State	Goes to State's General Fund	3.23%
0.50%	State	Goes to Local Public Safety Fund to support local criminal justice activities (1993)	6.45%
0.50%	State	Goes to Local Revenue Fund to support local health and social services programs (1991 Realignment)	6.45%
1.06%	State	Goes to Local Revenue Fund 2011	13.71%
0.25%	Local	0.25% Goes to county transportation funds	3.23%
0.50%	Local	0.50% Goes to Riverside County Transportation Commission (RCTC)	6.45%
1.00%	Local	1.00% Goes to city or county operations	12.90%
7.75%	State/Local	Total Statewide Base Sales and Use Tax Rate	100.00%

The average sales tax in Southern California is 8.65%. In Western Riverside County, the average sales tax is 8.31%. This means 10 out of 18 cities have a sales tax rate of 8.75% as opposed to 7.75%.

The proposed Local Moreno Valley Essential Services Measure establishes a one-cent (1¢) local sales tax in the City, which is a general tax and cannot be established without a vote of the people pursuant to State law. If the City Council approves the proposed resolutions, the voters of Moreno Valley will have the opportunity to approve this new source of general fund revenue. Under existing law, only a majority is required to pass the tax.

The proposed resolution includes the proposed sales tax ballot measure ordinance. If approved, the resolution will authorize the tax measure to be placed on the ballot. Voters will be asked whether to impose a local one-cent (1¢) per dollar sales tax (Transactions and Use Tax) on the sale and/or use of all tangible personal property sold at retail locations in the City of Moreno Valley. The proposed ballot question is included in the resolution and reads as follows:

Local Moreno Valley Essential Services Measure Shall an ordinance be adopted to maintain 9-1-1 emergency response times, robbery/burglary prevention, neighborhood police patrols/fire engine service levels; address homelessness, repair potholes/streets; keep public areas safe/clean; help retain local businesses; maintain senior services, youth/afterschool programs, other general services by establishing a 1¢ sales tax, generating approximately \$20,000,000 annually until ended by voters, with independent financial audits, public review of expenditures, all funds used locally?

The proposed action is to approve the resolution in order to place the measure on the ballot. The resolution includes the ordinance that would become part of the City’s Municipal Code if the measure is approved by the voters. It also directs the City Attorney to prepare an impartial analysis of the measure and for the Riverside County Registrar of Voters (ROV) to consolidate the local ballot measure with the consolidated general election that will be conducted by ROV on November 2, 2021, based on the Fiscal Emergency declaration unanimously adopted by the City Council. The ROV will

therefore perform the canvass of ballots. The resolution provides for the filing of primary arguments by August 16, 2021, at 5:00 p.m.

ALTERNATIVES

1. Adopt Resolution No. 2021-XX to place the measure on the November 2, 2021 ballot to establish the Local Moreno Valley Essential Services Measure, which is a one-cent (1¢) local sales tax (Transactions and Use Tax) in the City that is estimated to generate \$20,000,000 annually.
2. Not place the measure on the November 2, 2021 ballot.

FISCAL IMPACT

If adopted by the voters, the Local Moreno Valley Essential Services Measure would provide an estimated \$20,000,000 of locally controlled revenues to the General Fund to be used for any lawful expenditure, including but not limited to, preventing robberies and burglaries, maintaining 9-1-1 emergency response times, addressing homelessness, repairing potholes, local streets and roads, maintaining the number of fire engines in service, providing gang and youth violence prevention programs maintaining safe and clean public areas; and enhancing recreation and youth programs and facilities.

PREPARATION OF STAFF REPORT

Prepared By:
Steven B. Quintanilla
Interim City Attorney

Brian Mohan
Assistant City Manager/Chief Financial Officer/City Treasurer

CITY COUNCIL GOALS

Revenue Diversification and Preservation. Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

Public Safety. Provide a safe and secure environment for people and property in the community, control the number and severity of fire and hazardous material incidents, and provide protection for citizens who live, work and visit the City of Moreno Valley.

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

Positive Environment. Create a positive environment for the development of Moreno Valley's future.

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

CITY COUNCIL STRATEGIC PRIORITIES

- 1. Economic Development
- 2. Public Safety
- 3. Library
- 4. Infrastructure
- 5. Beautification, Community Engagement, and Quality of Life
- 6. Youth Programs

ATTACHMENTS

- 1. Resolution (07.28.2021)
- 2. ORDINANCE (07.28.2021)

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	7/28/21 5:24 PM
City Attorney Approval	<u>✓ Approved</u>	
City Manager Approval	<u>✓ Approved</u>	7/28/21 5:37 PM

RESULT: APPROVED [UNANIMOUS]
MOVER: Ulises Cabrera, Council Member
SECONDER: Victoria Baca, Mayor Pro Tem
AYES: Dr. Yxstian A. Gutierrez, Victoria Baca, David Marquez, Ulises Cabrera

RESOLUTION NO. 2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CALLING FOR THE SUBMISSION TO THE VOTERS OF THE CITY AT THE NOVEMBER 2, 2021, CONSOLIDATED ELECTION, A PROPOSED LOCAL MORENO VALLEY ESSENTIAL SERVICES MEASURE TO ESTABLISH A LOCAL ONE-CENT (1¢) SALES TAX

WHEREAS, Moreno Valley strives to provide safe neighborhoods and parks, libraries, programs for children, youth and seniors, and well-maintained roads that make this City a better place to live, work, and raise a family; and

WHEREAS, service priorities identified by residents through a recent customer satisfaction survey and subsequent “Join the Conversation” initiative include: (1) Preventing robberies and burglaries; (2) Maintaining 911 emergency response times; (3) Addressing homelessness; (4) Repairing potholes and roads; (5) Maintaining the number of fire engines in service; (6) Providing gang and youth violence prevention programs; and (7) Maintaining safe and clean parks and public areas; and

WHEREAS, due to the ongoing impacts of the State’s historical takeaways of over \$50 million of local taxpayer dollars from Moreno Valley, and the potential for additional State takeaways, this situation still poses a real and significant threat of presenting a severe economic crisis for the City; and

WHEREAS, the City must have the funding to maintain the rapid response times of our City’s paramedics, firefighters, and emergency medical workers who are the first to respond and save lives; and

WHEREAS, last year alone, there was an increase in robberies, burglaries and car thefts in the City, showing the City must have funds available for additional patrols to keep residents safe, and

WHEREAS, the City continues to contract with the Riverside County Sheriff’s Department for law enforcement services and County for Fire Protection Services, which combined currently account for approximately 61.6% of the City’s General Fund expenditures, and

WHEREAS, the County continues to increase the costs for the public safety services, including most recently the cost of emergency response services (i.e., 911 calls); and

WHEREAS, road engineers recently rated the condition of a majority of Moreno Valley’s streets and roads as just “fair,” “poor,” or “very poor, and the City does not have

the funds to make these critical safety repairs now before conditions get even worse and become more expensive to repair; and

WHEREAS, as children return to school and parents get back to work, it is critical that the City has adequate funding to help maintain supervised after-school park, recreation, and library programs to keep children safe, off the streets and out of trouble; and

WHEREAS, Moreno Valley needs a source of locally controlled funding that is required by law to stay local and cannot be taken by the State; and

WHEREAS, this measure as written includes strict accountability provisions such as annual independent financial audits, which will be available online for public review to ensure that funds are spent properly and used locally for the benefit of the residents of Moreno Valley only; and

WHEREAS, in light of the challenges presented by the COVID-19 Pandemic, the City Council as early as June 2, 2020, adopted Resolution No. 2020-43, unanimously determining and declaring the existence of a Fiscal Emergency within the City of Moreno Valley; and

WHEREAS, it has been necessary to repeatedly extend the Fiscal Emergency declaration to provide the City Manager sufficient time to investigate and recommend further actions to mitigate not only the initial fiscal impacts to the City's annual budgets for Fiscal Years 2019/20 and 2020/21, but also the potential fiscal impacts in Fiscal Year 2021/22 and subsequent fiscal years; and

WHEREAS, the City Council of the City of Moreno Valley ("City") is authorized to levy a sales tax (Transactions and Use Tax) for general purposes pursuant to California Revenue and Taxation Code section 7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII C, section 2 of the California Constitution ("Proposition 218"); and

WHEREAS, since the revenue produced by a one-cent (1¢) sales tax will be placed in the City's general fund and will be used to pay for important general City services, it is considered a general tax; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218, an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, pursuant to Proposition 218 (California Constitution, Article XIII C, § 2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled municipal election for members of the governing body of the local government; and

WHEREAS, pursuant to Government Code section 53724 (“Proposition 62”) and Revenue and Taxation Code section 7285.9, a two-thirds (2/3) vote of all members of the City Council is required to place the Measure on the November 2, 2021 consolidated general election ballot; and

WHEREAS, the proposed ordinance to be considered by the qualified voters and the terms of approval, collection and use of the general sales tax are described and provided for is attached hereto as Exhibit “A” and incorporated herein by this reference in accordance with all applicable laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. INTENT

That pursuant to Government Code Section 53724(d) and Elections Code Section 9222, it is the intent of the City Council that the ballot measure described herein be submitted to the voters of Moreno Valley.

Section 2. FISCAL EMERGENCY

That the Fiscal Emergency initially adopted by a unanimous vote of the City Council on June 2, 2020, remains in place in that it has been extended by subsequent resolutions also unanimously adopted by the City Council on September 1, 2020 (Resolution No. 2020-60), October 20, 2020 (Resolution No. 2020-69), March 16, 2021 (Resolution No. 2021-21), May 4, 2021 (Resolution No. 2021-28) and June 15, 2021 (Resolution No. 2021-48).

Section 3. CALL OF ELECTION

That pursuant to the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Moreno Valley, California on Tuesday, November 2, 2021, a special municipal election for the purpose of submitting to the voters of the City of Moreno Valley, the **Local Moreno Valley Essential Services Measure**, a ballot measure for the purpose of approving an ordinance to amend Section 3.36.020 (Rate) of Chapter 3.36 (Sales and Use Tax) of Title 3 (Revenue and Finance) of the Moreno Valley Municipal Code to increase the rate of the sales and use tax imposed by Chapter 3.36 (Sales and Use Tax) by one percent.

Section 4. NOTICE OF ELECTION

That notice of time and place of holding said election is hereby given and the City Clerk is hereby authorized, instructed and directed to give such further or additional notice of said election in the time, form and manner as required by California law.

Section 5. BALLOT QUESTION

That the question to be submitted to the voters on the ballot shall be as follows:

Local Moreno Valley Essential Services Measure Shall an ordinance be adopted to maintain 9-1-1 emergency response times, robbery/burglary prevention, neighborhood police patrols/fire engine service levels; address homelessness, repair potholes/streets; keep public areas safe/clean; help retain local businesses; maintain senior services, youth/afterschool programs, other general services by establishing a 1¢ sales tax, generating approximately \$20,000,000 annually until ended by voters, with independent financial audits, public review of expenditures, all funds used locally?	YES
	NO

Section 6. PROPOSED ORDINANCE

That the proposed ordinance is attached hereto as Exhibit “A” and incorporated herein by this reference and such ordinance shall be printed in the voter pamphlet.

Section 7. VOTER APPROVAL

That upon approval of the proposed ordinance by the voters of the City of Moreno Valley, Section 3.36.020 (Rate) of Chapter 3.36 (Sales and Use Tax) of Title 3 (Revenue and Finance) of the Moreno Valley Municipal Code shall be amended to increase the rate of sales and use tax imposed by Chapter 3.36 (Sales and Use Tax) by one percent.

Section 8. RIVERSIDE COUNTY REGISTRAR OF VOTERS

That the City Council of the City of Moreno Valley further resolves, declares and orders as follows:

(a) That the City Clerk is directed to file a certified copy of this Resolution with the Riverside County Board of Supervisors and the Riverside County Registrar of Voters.

(b) That pursuant to Sections 10402 and 10403 of the Elections Code, the Riverside County Board of Supervisors is hereby requested to consent and agree to the consolidation of the special municipal election with the consolidated general election that is scheduled to be conducted by Riverside County on Tuesday, November 2, 2021.

(c) That the Riverside County Board of Supervisors is requested to issue instructions to the Riverside County Registrar of Voters to take all necessary steps for holding and conducting the consolidated election.

(d) That the Riverside County Registrar of Voters is hereby authorized to canvass the returns of the special municipal election which shall be held in all respects as if there were only one election.

(e) That the City of Moreno Valley recognizes that additional costs will be incurred by Riverside County Registrar of Voters by reason of this consolidation and agrees to reimburse Riverside County for those costs.

(f) That the City Council authorizes the City Clerk to administer said election, including but not limited to, contracting with the Riverside County Registrar of Voters to assist with conducting the election, and otherwise take all reasonably necessary steps to ensure the proper handling and conduct of the special municipal election authorized by this Resolution, and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted invoice.

Section 9. BALLOT ARGUMENTS

That arguments for and against the ballot measure may be filed in accordance with the applicable provisions of law. The City Council does not authorize the Council as a body or any individual member of the Council to file a written argument or any rebuttal argument for or against the measure. The City Clerk shall consider other written arguments in favor or against the ballot measure filed by bona fide association of citizens or individual residents who are eligible to vote or any combination of voters and associations in accordance with Elections Code Section 9282, 9285 and 9287, that does not exceed 300 words and that shall be distributed to voters in the voter information guide.

Section 11. DEADLINE FOR SUBMISSION OF ARGUMENTS

That arguments in favor or against the measure shall be filed with the City Clerk of the City of Moreno Valley on or before August 16, 2021, after which no arguments for or against the measure may be submitted to the City Clerk.

Section 12. CITY ATTORNEY ANALYSIS

That the City Clerk is hereby directed to transmit a copy of the measure and proposed ordinance to the City Attorney, who shall prepare an impartial analysis of the measure by August 16, 2021, showing the effect of the measure on the existing law and the operation of the measure in accordance with Section 9280 of the Elections Code, which shall not exceed 500 words in length.

Section 13. PUBLIC INSPECTION

That the City Clerk shall make available for public inspection the arguments filed for or against the measure and the City Attorney's Impartial Analysis during the period commencing August 17, 2021, and ending on August 26, 2021.

Section 14. EFFECTIVE DATE

That this Resolution shall take effect upon its adoption.

Section 15. CERTIFICATION

That the City Clerk shall certify to the passage of this Resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this 3rd day of August 2021.

Dr. Yxstian A. Gutierrez
Mayor
City of Moreno Valley

ATTEST:

Pat Jacquez-Nares, City Clerk

APPROVED AS TO FORM:

Steven B. Quintanilla, City Attorney

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Pat Jacquez-Nares, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2021-____ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 3rd day of August 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PAT JACQUEZ-NARES, CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MORENO VALLEY, CALIFORNIA, SECTION 3.36.020 (RATE) OF CHAPTER 3.36 (SALES AND USE TAX) OF TITLE 3 (REVENUE AND FINANCE) OF THE MORENO VALLEY MUNICIPAL CODE SHALL BE AMENDED TO INCREASE THE RATE OF SALES AND USE TAX BY ONE PERCENT (One Cent)

THE PEOPLE OF THE CITY OF MORENO VALLEY ORDAIN AS FOLLOWS:

Section 1. ELECTIONS CODE SECTION 13119 STATEMENT

That the additional one percent increase of the local sales and use tax is estimated to produce approximately \$20 million per year, which may be used to fund general municipal services, and which shall remain in effect unless subsequently repealed by the voters.

Section 2. LOCAL USE OF PROCEEDS

That the additional revenue produced by the additional 1¢ increase of the local sales and use tax may be used for any local general municipal purpose including, but not limited to, maintaining 9-1-1 emergency response times; maintaining robbery and burglary suppression programs; maintaining safe and clean public areas; repairing potholes, local streets and roads; and enhancing recreation and youth programs and facilities within the City of Moreno Valley.

Section 3. ANNUAL INDEPENDENT AUDITS

That the financial records, accounting practices and internal controls related to the collection, deposit and expenditure of the additional revenue produced by the additional one percent increase shall be examined by means of an annual audit conducted by an independent auditor whose services shall be retained by the City through a contract for services as an independent contractor and available to the public for review.

Section 4. ADDITIONAL ONE PERCENT SALES AND USE TAX

That Section 3.36.020 (Rate) of Chapter 3.36 (Sales and Use Tax) of Title 3 (Revenue and Finance) of the Moreno Valley Municipal Code shall be amended to increase the rate of sales and use tax by one percent (one cent) as follows:

Chapter 3.36

SALES AND USE TAX

3.36.010 Short title.

This chapter shall be known as the “uniform local sales and use tax ordinance.”

3.36.020 Rate.

The rate of sales tax and use tax imposed by this chapter shall be two percent.

3.36.030 Purpose.

The city council declares that the ordinance codified in this chapter 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 adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

B. To adopt a sales and use tax ordinance which 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 1.5 of Division 2 of the Revenue and Taxation Code;

C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization 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 State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.36.040 Contract with state.

Prior to the operative date this city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax ordinance; provided, that if this 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 rather than the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter.

3.36.050 Sales tax.

A. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the city at the rate stated in Section 3.36.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date.

B. Any person subject to a sales tax under this section shall be granted a credit against the payment of tax owed under the section in the amount of sales tax paid, if any, to the community redevelopment agency of the city pursuant to the Moreno Valley redevelopment agency sales and use tax ordinance.

C. Any person subject to a use tax under this section shall be granted a credit against the payment of tax owed under the section in the amount of use tax paid, if any, to the community redevelopment agency of the city pursuant to the Moreno Valley redevelopment agency sales and use tax ordinance.

3.36.060 Place of sale.

For the purposes of this chapter, 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.

3.36.070 Use tax.

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city at the rate stated in Section 3.36.020 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.

3.36.080 Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth herein.

3.36.090 Limitations on adoption of state law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. The substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the state of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the city, or any agency thereof rather than by or against the State Board of Equalization, in performing

the functions incident to the administration or operation of this chapter; the substitution shall not be made 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 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 to 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 provisions of that Code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203.

3.36.100 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 seller's permit shall not be required by this chapter.

3.36.110 Exclusions and exemptions.

A. The amount subject to tax shall not include any sales or use tax imposed by the state of California upon a retailer or consumer.

B. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state shall be exempt from the tax due under this ordinance.

C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city 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.

D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property 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 is exempted from the use tax.

3.36.120 Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter.

3.36.130 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 this city, or against any officer of the state or this city, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.36.140 Violations—Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

Section 5. SEVERABILITY

That should any provision, section, paragraph, sentence, or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 6. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Moreno Valley that conflict with the provisions of this ordinance are hereby repealed.

Section 7. AMENDMENTS

That Section 3.36.020 (Rate) of Chapter 3.36 (Sales and Use Tax) of Title 3 (Revenue and Finance) of the Moreno Valley Municipal Code shall not be subsequently amended unless approved by the voters, but the remaining provisions of Chapter 3.36 (Sales and Use Tax) may be amended by the city council unless otherwise provided by applicable law.

Section 8. CERTIFICATION

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

Section 9. OPERATIVE DATE OF ADDITIONAL ONE PERCENT SALES AND USE TAX

That the operative date of the additional one percent sales and use tax shall be April 1, 2022, which is the first day of the first calendar quarter commencing more than 110 days after adoption of this ordinance by the voters on November 2, 2021.

PASSED AND ADOPTED by the People of the City of Moreno Valley at a special municipal election held and conducted with the consolidated general election held on November 2, 2021.

Mayor

ATTESTED BY:

City Clerk