

**RESOLUTION NO. 69-20**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
SUBMITTING TO THE VOTERS A MEASURE, ENTITLED  
MORRO BAY'S LOCAL RECOVERY/EMERGENCY PREPAREDNESS  
MEASURE, WHICH INCREASES THE CITY'S TRANSACTIONS AND  
USE TAX RATE FROM .5% TO 1.5%**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, the City has faced a daunting long-term budget challenge with the closure of the Morro Bay Power Plant in 2013 and increasing costs of doing business that are outside of the City's control; and

**WHEREAS**, City Council responded by making achieving financial and economic sustainability the City's top priority over the past several years; and

**WHEREAS**, many efforts have been made to better project the City's financial picture, control costs, and explore revenue opportunities; and

**WHEREAS**, as part of the annual budget planning process, the City developed a ten-year financial forecast in 2015; and

**WHEREAS**, since that time, in February each year staff updates that forecast as the City begins the budget development cycle for the upcoming fiscal year, and the forecast includes developing assumptions for the City's revenues and expenditures with the goal of identifying expenditure limitations for the forthcoming budget year and future years; and

**WHEREAS**, prior to the COVID-19 pandemic, the City has taken action to control its costs, including adopting measures with extensive expenditure impacts, examples including:

1. From FY 2009/10 to FY 2018/19 staff reductions of 2.5 Full Time Equivalents (FTEs);
2. Eliminated Deputy City Manager Position (FY 2017/18) – savings of \$120,000 annually;
3. Eliminated Capital Projects Manager/Senior Engineer position in Public Works;
4. Harbor Department, through restructuring, eliminated a position and reduced a position from full-time to part-time;
5. Reorganized the Utility Division in Public Works, reducing FTE count from 18 to 16;
6. Recreation Services Office Assistant reduced to a part-time position;

7. Outsourced Dispatch service (FY 2014/15) reducing accrual of long-term pension and compensated absences balances;
8. Contracted City Attorney services reducing accrual of long-term pension and compensated absences balances;
9. Layoffs and reductions in workforce due to economic downturn (FY 2010/11);
10. Early payoff of City's Fire Safety Classic Formula pension side fund (FY 2017/18 – saving \$10,000 and reducing future expenditures by \$163,000);
11. Lump Sum payment of unfunded accrued liability in July (FY 2018/19 and 2019/20) – total interest savings of \$139,908;
12. Negotiated Pension participation, i.e. cost sharing, with City's Police Officers Association (FY 2018/19);
13. Negotiated labor agreements that included revenue targets to obtain cost of living allowances (FY 2017/18 – FY 2019/20);
14. Payoff of Pension Tier II and Tier III unfunded accrued liability – interest savings of \$160,000;
15. Partnership Policy implementation, which matches community groups and the City to provide services to the community at lower costs; and

**WHEREAS**, prior to the COVID-19 pandemic, the City has taken action to control its costs, including adopting measures with extensive revenues impacts, examples including:

1. A comprehensive fee study update to determine actual cost to provide services and associated fees to recover those costs;
2. Permitted two medical cannabis shops to open in summer/fall 2020;
3. Partnered with Chamber of Commerce to provide economic development stewardship and ombudsman services to assist with enhancing the City's economic development efforts;
4. In the process of implementing new RV camping;
5. Exploring paid parking; and

**WHEREAS**, the City's already challenging financial situation took on an entirely new depth in the wake of the COVID-19 pandemic and resulting shelter at home orders; and

**WHEREAS**, the adopted FY 2020/21 Budget was developed under the umbrella of the City's Economic and Financial Recovery Plan entitled "Rock Solid Together," in which the Council's identified goals are balanced against the economic realities associated with the COVID-

19 pandemic, and it begins to position the City for what will likely be the nation's first recession since 2008; and

**WHEREAS**, the health and well-being of our residents remains our utmost concern and residents can rest assured, the City is taking all necessary action to maintain essential City services and provide resources to our most vulnerable residents; and

**WHEREAS**, on April 28, 2020, the City Council convened a special meeting to discuss the City's economic and financial recovery plan referred to as "Rock Solid Together"; and

**WHEREAS**, with budget deficit projections ranging between \$4M to \$5M or nearly a 27% to 34% loss of overall General Fund revenues, the City customized a comprehensive approach to stem the financial fallout from COVID-19 and begin the long road to fiscal health; and

**WHEREAS**, "Rock Solid Together" is built on the foundation that the City wishes to retain local control over core, essential government services and work towards being locally self-sufficient in the event of a future catastrophic emergency rather than awaiting aid that may never come from the state or federal governments; and

**WHEREAS**, with this foundation, Rock Solid Together is comprehensive and attempts to assist the local business community where feasible and administer fiscal first aide to City finances in light of the significant economic wound inflicted by the pandemic; and

**WHEREAS**, to offset this deficit and present a balanced budget for Council consideration, staff defunded contributions to the City's internal service funds (to later be supplanted with new revenues expected to be derived from cannabis tax revenue per Resolution 19-19); and

**WHEREAS**, in addition, significant reductions to salary and benefits were made, mostly due to defunding of vacant positions and staff layoffs (8 full-time employees and 70 part-time employees); and

**WHEREAS**, these measures, combined with salary concessions from most employees, will save the City over \$1.4 million (net of the CalPERS Tier II and Tier III UAL payoffs and lump sum payments to employees) for FY 2020/21; and

**WHEREAS**, in addition, staff has significantly reduced non-personnel operating expenditures by over \$600,000; and

**WHEREAS**, the budget was prepared with a concentrated focus on maintaining front line services where possible, with reduced staffing and expenditures. However, there will be service impacts related to these cuts, from response to processing times being delayed and ability to complete any discretionary street, trees and sidewalk work; and

**WHEREAS**, the remainder of the budget was balanced through the use of General Fund emergency reserves. The City is not in a position to use the reserves beyond FY 2020/21, as they are projected to be largely depleted by the end of this fiscal year; and

**WHEREAS**, despite these efforts, the City cannot sustain its current service levels for public safety and other priority services without consideration of additional revenue; and

**WHEREAS**, the City must ensure that we are prepared for any medical or catastrophic emergency including preparing our local Police and Fire Departments by preventing service reductions, updating emergency communication systems and maintaining rapid 911 emergency response times; and

**WHEREAS**, Morro Bay has its own locally controlled Police and Fire Departments and the City strives to maintain these local Police and Fire Departments rather than contract these public safety services with outside agencies; and

**WHEREAS**, an additional source of locally controlled revenue is needed to maintain City services and no money should be taken by Sacramento; and

**WHEREAS**, nearly 70% of calls to the Morro Bay Fire Department are related to emergency rescue and medical emergencies and the pandemic only shows the need to be prepared for any medical crisis; and

**WHEREAS**, the City must continue to prevent significant reduction to service of the local Morro Bay Fire Department so skilled, local firefighter-paramedics can continue to respond to emergencies; and

**WHEREAS**, protecting Morro Bay's character and keeping streets and the waterfront safe and clean and preserving open space will also protect local property values; and

**WHEREAS**, the City of Morro Bay currently has a general transactions and use tax (commonly known as a "sales tax") pursuant to the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code (commencing with Section 7251) and Chapter 2.3 of Part 1.7 of Division 2 of the Revenue and Taxation Code (commencing with Section 7285.9), with a rate of one half of one percent (0.5%), as established in Chapter 3.22 of the Morro Bay Municipal Code ("Sales Tax"); and

**WHEREAS**, on June 23, 2020, the City Council of the City of Morro Bay called a General Municipal Election to be held in the City of Morro Bay on November 3, 2020 ("General Municipal Election"); and

**WHEREAS**, the City Council of the City of Morro Bay desires to submit to the voters at the General Municipal Election a ballot measure that would increase the Sales Tax rate to one and one half percent (1.5%) ("Sales Tax Measure"); and

**WHEREAS**, pursuant to Revenue and Taxation Code section 7285.9, approving the Sales Tax Measure requires approval by a majority vote of the qualified voters of the City voting in an election on the issue; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** The ordinance attached hereto as Exhibit A, which increases the City's transactions and use tax rate from .5% to 1.5% ("Ordinance No. 635"), shall be submitted to the

voters of the City of Morro Bay as part of the General Municipal Election. As required by Elections Code Section 13247, the abbreviated form of the Sales Tax Measure to appear on the ballot is specified below in Section 2 of this Resolution. The Sales Tax Measure shall be entitled the “Morro Bay’s Local Recovery/Emergency Preparedness Measure.”

**Section 2.** The abbreviated form of the Measure to be placed on the ballot and submitted to the voters at the General Municipal Election is as follows:

<b>MORRO BAY’S LOCAL RECOVERY/EMERGENCY PREPAREDNESS MEASURE</b>	YES
To protect City of Morro Bay’s financial stability, local property values and City services, such as maintaining Morro Bay’s local Fire/Police Departments, 24/7 paramedics, 911 emergency response, health emergency/disaster preparedness; keeping beaches, public areas safe/clean; retaining/attracting businesses; and other general City services, shall the measure establishing 1¢ sales tax providing approximately \$2,000,000 annually until ended by voters be adopted, requiring independent audits, public oversight, all funds used locally?	NO

**Section 3.** The City Council hereby approves the form of the Ordinance and approves its submission to the voters at the General Municipal Election.

**Section 4.** The City Clerk is hereby directed to file a certified copy of this Resolution with the San Luis Obispo County Board of Supervisors and the San Luis Obispo County Registrar of Voters.

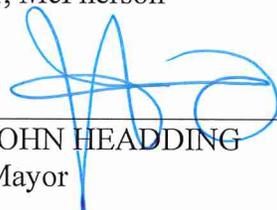
**Section 5.** The City’s designated elections official is hereby authorized and directed to make any changes to the text of the Ordinance or this Resolution as required to conform to any requirements of law.

//  
 //  
 //  
 //  
 //  
 //  
 //  
 //

**Section 6.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

**PASSED, APPROVED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 14th day of July, 2020 by the following vote.

AYES: Headding, Addis, Davis, Heller, McPherson  
NOES: None  
ABSENT: None



---

JOHN HEADDING  
Mayor

ATTEST:



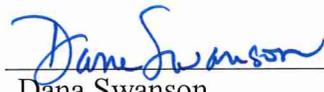
---

DANA SWANSON  
City Clerk

STATE OF CALIFORNIA                    )  
COUNTY OF SAN LUIS OBISPO    ) SS:  
CITY OF MORRO BAY                    )

I, Dana Swanson, City Clerk of the City of Morro Bay, do hereby certify that the foregoing Resolution, being Resolution No. 69-20 was passed and approved by the City Council of the City of Morro Bay, at a regular meeting of said Council held on July 14, 2020 and that said Resolution was adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

  
\_\_\_\_\_  
Dana Swanson  
City Clerk

**EXHIBIT A**  
**ORDINANCE**

**ORDINANCE NO. 635**

**AN ORDINANCE OF THE PEOPLE  
OF THE CITY OF MORRO BAY, CALIFORNIA  
REPEALING CHAPTER 3.22 AND ADOPTING CHAPTER 3.26 OF THE  
MORRO BAY MUNICIPAL CODE TO INCREASE THE CITY'S  
TRANSACTIONS AND USE TAX RATE FROM .5% TO 1.5%**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, the City has faced a daunting long-term budget challenge with the closure of the Morro Bay Power Plant in 2013 and increasing costs of doing business that are outside of the City's control; and

**WHEREAS**, City Council responded by making achieving financial and economic sustainability the City's top priority over the past several years; and

**WHEREAS**, many efforts have been made to better project the City's financial picture, control costs, and explore revenue opportunities; and

**WHEREAS**, as part of the annual budget planning process, the City developed a ten-year financial forecast in 2015; and

**WHEREAS**, since that time, in February each year staff updates that forecast as the City begins the budget development cycle for the upcoming fiscal year, and the forecast includes developing assumptions for the City's revenues and expenditures with the goal of identifying expenditure limitations for the forthcoming budget year and future years; and

**WHEREAS**, prior to the COVID-19 pandemic, the City has taken action to control its costs, including adopting measures with extensive expenditure impacts, examples including:

1. From FY 2009/10 to FY 2018/19 staff reductions of 2.5 Full Time Equivalents (FTEs);
2. Eliminated Deputy City Manager Position (FY 2017/18) – savings of \$120,000 annually;
3. Eliminated Capital Projects Manager/Senior Engineer position in Public Works;
4. Harbor Department, through restructuring, eliminated a position and reduced a position from full-time to part-time;
5. Reorganized the Utility Division in Public Works, reducing FTE count from 18 to 16;
6. Recreation Services Office Assistant reduced to a part-time position;

7. Outsourced Dispatch service (FY 2014/15) reducing accrual of long-term pension and compensated absences balances;
8. Contracted City Attorney services reducing accrual of long-term pension and compensated absences balances;
9. Layoffs and reductions in workforce due to economic downturn (FY 2010/11);
10. Early payoff of City's Fire Safety Classic Formula pension side fund (FY 2017/18 – saving \$10,000 and reducing future expenditures by \$163,000);
11. Lump Sum payment of unfunded accrued liability in July (FY 2018/19 and 2019/20) – total interest savings of \$139,908;
12. Negotiated Pension participation, i.e. cost sharing, with City's Police Officers Association (FY 2018/19);
13. Negotiated labor agreements that included revenue targets to obtain cost of living allowances (FY 2017/18 – FY 2019/20);
14. Payoff of Pension Tier II and Tier III unfunded accrued liability – interest savings of \$160,000;
15. Partnership Policy implementation, which matches community groups and the City to provide services to the community at lower costs; and

**WHEREAS**, prior to the COVID-19 pandemic, the City has taken action to control its costs, including adopting measures with extensive revenues impacts, examples including:

1. A comprehensive fee study update to determine actual cost to provide services and associated fees to recover those costs;
2. Permitted two medical cannabis shops to open in summer/fall 2020;
3. Partnered with Chamber of Commerce to provide economic development stewardship and ombudsman services to assist with enhancing the City's economic development efforts;
4. In the process of implementing new RV camping;
5. Exploring paid parking; and

**WHEREAS**, the City's already challenging financial situation took on an entirely new depth in the wake of the COVID-19 pandemic and resulting shelter at home orders; and

**WHEREAS**, the adopted FY 2020/21 Budget was developed under the umbrella of the City's Economic and Financial Recovery Plan entitled "Rock Solid Together," in which the Council's identified goals are balanced against the economic realities associated with the COVID-

19 pandemic, and it begins to position the City for what will likely be the nation's first recession since 2008; and

**WHEREAS**, the health and well-being of our residents remains our utmost concern and residents can rest assured, the City is taking all necessary action to maintain essential City services and provide resources to our most vulnerable residents; and

**WHEREAS**, on April 28, 2020, the City Council convened a special meeting to discuss the City's economic and financial recovery plan referred to as "Rock Solid Together"; and

**WHEREAS**, with budget deficit projections ranging between \$4M to \$5M or nearly a 27% to 34% loss of overall General Fund revenues, the City customized a comprehensive approach to stem the financial fallout from COVID-19 and begin the long road to fiscal health; and

**WHEREAS**, "Rock Solid Together" is built on the foundation that the City wishes to retain local control over core, essential government services and work towards being locally self-sufficient in the event of a future catastrophic emergency rather than awaiting aid that may never come from the state or federal governments; and

**WHEREAS**, with this foundation, Rock Solid Together is comprehensive and attempts to assist the local business community where feasible and administer fiscal first aide to City finances in light of the significant economic wound inflicted by the pandemic; and

**WHEREAS**, to offset this deficit and present a balanced budget for Council consideration, staff defunded contributions to the City's internal service funds (to later be supplanted with new revenues expected to be derived from cannabis tax revenue per Resolution 19-19); and

**WHEREAS**, in addition, significant reductions to salary and benefits were made, mostly due to defunding of vacant positions and staff layoffs (8 full-time employees and 70 part-time employees); and

**WHEREAS**, these measures, combined with salary concessions from most employees, will save the City over \$1.4 million (net of the CalPERS Tier II and Tier III UAL payoffs and lump sum payments to employees) for FY 2020/21; and

**WHEREAS**, in addition, staff has significantly reduced non-personnel operating expenditures by over \$600,000; and

**WHEREAS**, the budget was prepared with a concentrated focus on maintaining front line services where possible, with reduced staffing and expenditures. However, there will be service impacts related to these cuts, from response to processing times being delayed and ability to complete any discretionary street, trees and sidewalk work; and

**WHEREAS**, the remainder of the budget was balanced through the use of General Fund emergency reserves. The City is not in a position to use the reserves beyond FY 2020/21, as they are projected to be largely depleted by the end of this fiscal year; and

**WHEREAS**, despite these efforts, the City cannot sustain its current service levels for public safety and other priority services without consideration of additional revenue; and

**WHEREAS**, the City must ensure that we are prepared for any medical or catastrophic emergency including preparing our local Police and Fire Departments by preventing service reductions, updating emergency communication systems and maintaining rapid 911 emergency response times; and

**WHEREAS**, Morro Bay has its own locally controlled Police and Fire Departments and the City strives to maintain these local Police and Fire Departments rather than contract these public safety services with outside agencies; and

**WHEREAS**, an additional source of locally controlled revenue is needed to maintain City services and no money should be taken by Sacramento; and

**WHEREAS**, nearly 70% of calls to the Morro Bay Fire Department are related to emergency rescue and medical emergencies and the pandemic only shows the need to be prepared for any medical crisis; and

**WHEREAS**, the City must continue to prevent significant reduction to service of the local Morro Bay Fire Department so skilled, local firefighter-paramedics can continue to respond to emergencies; and

**WHEREAS**, protecting Morro Bay's character and keeping streets and the waterfront safe and clean and preserving open space will also protect local property values; and

**WHEREAS**, the City of Morro Bay currently has a general transactions and use tax (commonly known as a "sales tax") pursuant to the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code (commencing with Section 7251) and Chapter 2.3 of Part 1.7 of Division 2 of the Revenue and Taxation Code (commencing with Section 7285.9), with a rate of one half of one percent (0.5%), as established in Chapter 3.22 of the Morro Bay Municipal Code ("Sales Tax"); and

**WHEREAS**, on July 14, 2020, the City Council of the City of Morro Bay adopted Resolution No. 69-20, submitting the Morro Bay General Transactions and Use Tax Measure ("Sales Tax Measure") to the voters at the General Municipal Election to be held in the City of Morro Bay on November 3, 2020 ("General Municipal Election"), which, if approved, would increase the City's Sales Tax rate to 1.5%; and

**WHEREAS**, as part of Resolution No. 69-20, on July 14, 2020, the City Council also approved this Ordinance, pursuant to Revenue & Taxation Code Section 7285.9, subject to the City voters' approval; and

**WHEREAS**, the General Municipal Election was also a regularly scheduled general election for members of the Morro Bay City Council; and

**WHEREAS**, Article XIII C, Section 2, of the California Constitution requires that an increase in a general tax must be submitted to the electorate and approved by a majority vote of the electorate; and

**WHEREAS**, Article XIII C, Section 2, of the California Constitution requires that the election at which a general tax increase is submitted to the electorate shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

**NOW THEREFORE, ON THE BASIS OF THE FORGOING, THE PEOPLE OF THE CITY OF MORRO BAY, AT THE NOVEMBER 3, 2020, GENERAL MUNICIPAL ELECTION, DO HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Adoption of Chapter 3.26.** Chapter 3.26 of the Morro Bay Municipal Code, attached hereto as Exhibit A, is hereby adopted.

**Section 2. Repeal of Chapter 3.22.** Chapter 3.22 of the Morro Bay Municipal Code is hereby repealed, effective on the Operative Date of Chapter 3.26 of the Morro Bay Municipal Code, as defined in Section 3.26.020 of the Morro Bay Municipal Code.

**Section 3. Environmental Review.** 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 4. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The People of the City of Morro Bay hereby declared that they would have passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

**Section 5. Appropriations Limit.** Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Morro Bay is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

**Section 6. City 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 of Morro Bay. However, pursuant to Section 9217 of the California Elections Code, the city council expressly reserves the right and authority to amend the Ordinance to further the purposes and intent of the Ordinance (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 7. Date of Adoption; Effective Date.** Pursuant to Election Code Section 9217, this Ordinance shall be considered as *adopted* on the date that the City Council declares that the voters of the City of Morro Bay have approved the Ordinance by a vote of no less than a majority of the votes cast by the electors voting on the Sales Tax Measure at the General Municipal Election held on Tuesday, November 3, 2020, and shall go into *effect* ten (10) days thereafter.

**Section 8. Execution.** The Mayor of the City of Morro Bay is hereby authorized and ordered to attest to the adoption of the Ordinance by the voters of the City of Morro Bay by signing where indicated below.

**INTRODUCED** at this regular meeting of the City Council held on the 14th day of July 2020, by motion of Council Member McPherson and seconded by Council Member Davis.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED and ADOPTED** by the People of the City of Morro Bay, California voting on the 3<sup>rd</sup> day of November, 2020.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, California, on \_\_\_\_\_ by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING  
Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS F. NEUMEYER  
City Attorney

STATE OF CALIFORNIA )  
COUNTY OF SAN LUIS OBISPO )  
CITY OF MORRO BAY )

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number 635 was duly adopted by the City Council of the City of Morro Bay at a regular meeting of said Council on the \_\_\_\_ day of \_\_\_\_ 2020, and that it was so adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

DANA SWANSON, City Clerk

## EXHIBIT A

### Chapter 3.26 – Transactions and Use Tax

#### 3.26.010 – Title.

This chapter shall be known as the Transactions and Use Tax Ordinance. The City of Morro Bay hereinafter shall be called “City.” This chapter shall be applicable in the incorporated territory of the City.

#### 3.26.020 – Operative date.

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance codified in this chapter, unless modified pursuant to Section 3.26.040.

#### 3.26.030 – Purpose.

This chapter is intended to achieve the following purposes, among others, and the provisions hereof shall be interpreted in order to accomplish such 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 a 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 chapter.

#### 3.26.040 – Contract with state.

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

#### 3.26.050 – Transactions 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 1.5% 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.

#### 3.26.060 – 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 California Department of Tax and Fee Administration.

#### 3.26.070 – 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 for storage, use or other consumption in said territory at the rate of 1.5% 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.

#### 3.26.080 – Adoption of provisions of state law.

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

#### 3.26.090 – Limitations of 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 City of Morro Bay shall be substituted therefor. However, the substitution shall not be made:

1. When 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. When 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 chapter.

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.

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

3.26.100 – 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 transactor’s permit shall not be required by this chapter.

3.26.110 – 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.

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.

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 chapter, 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.

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.

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

3.26.120 – Citizens oversight committee.

A. Citizens Oversight Committee Established. There shall be a permanent citizens' advisory committee called the "citizens oversight committee" (hereinafter "committee"), which shall semi-annually review revenues and expenditures from the collection of the tax imposed by this chapter.

B. Committee Membership. The committee shall have seven citizen-members appointed by the city council for staggered four-year terms. Appointees shall be residents of the city; however, no member of the committee shall be an elected official. Each unanticipated vacancy shall be filled only for the duration of the unexpired term for that vacancy.

C. Committee Organization Procedures. The committee shall select one of its members as chairperson. The committee shall follow the rules of procedure of the city unless and until, upon the report and recommendation from the committee, the city council adopts a specific set of procedural rules for the committee.

D. Regular Meeting; Provision of Support Services and Information. The committee shall be subject to the provisions of the Brown Act (California Government Code Sections 54950 et seq.) and shall meet at least once each calendar year. A regular meeting schedule shall be determined in accordance with the Brown Act and thereafter meetings shall be noticed by the city clerk. The city manager or his/her designee shall serve as executive staff to the committee. In addition to receiving materials directly related to the functioning of the committee, the committee members shall also receive all agenda material and other primary staff reports (other than those which are confidential) as are provided to the city council.

E. Semi-Annual Report. The committee shall review a semi-annual expense report of the city relative to activities funded with the additional general purpose local sales tax monies. Not later than the last day of the sixth month following the end of the each city fiscal year, the committee will present its findings and conclusions to the city council for its review.

### 3.26.130 – State Law Amendments.

All amendments subsequent to the effective date of the ordinance first adopting 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.

### 3.26.135 – City Amendments.

The city council has the right and authority to amend this chapter, 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, pursuant to Section 9217 of the California Elections Code.

3.26.140 – Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, 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.