

ORDINANCE NO. - 2000-4

AN URGENCY ORDINANCE IMPOSING A SALES AND
USE TAX TO BE ADMINISTERED BY THE
STATE BOARD OF EQUALIZATION AND
PROVIDING PENALTIES FOR VIOLATIONS

The City Council of the City of Elk Grove does ordain as follows:

Section 1. SHORT TITLE. This ordinance shall be known as the Uniform Local Sales and Use Tax Ordinance.

Section 2. RATE. The rate of sales tax and use tax imposed by this ordinance shall be one percent (1 %).

Section 3. OPERATIVE DATE. This ordinance shall be operative on July 1, 2000.

Section 4. PURPOSE. The City Council of the City of Elk Grove hereby declares that 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 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 ordinance.

Section 5. CONTRACT WITH STATE. The City of Elk Grove 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 date of the first calendar quarter following the adoption of this ordinance.

Section 6. SALES TAX. 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 2 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.

Section 7. 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 State Board of Equalization.

Section 8. USE TAX. An excise tax is hereby 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 2 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 9. 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 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1.5 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 10. LIMITATIONS ON ADOPTION OF STATE LAW. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the Constitution of 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 ordinance; 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 said 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.

Section 11. 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 ordinance.

Section 12. 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.

Section 13. AMENDMENTS. All subsequent amendments of Part 1 of Division 2 of the Revenue and Taxation Code which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become part of this ordinance. This ordinance also shall be deemed to adopt by reference the provisions of Sections 7202 to 7203, inclusive, of the Revenue and Taxation Code, as now in effect or as later amended, which are required to be included in this ordinance.

Section 14. 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 ordinance, 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.

Section 15. PENALTIES. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$500.00 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

Section 16. 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 17. EFFECTIVE DATE. This ordinance relates to taxes for the usual and current expenses of the City and shall take effect immediately.

Section 18. FINDINGS. The Council of the City of Elk Grove finds that the ballot measure

regarding incorporation of the City of Elk Grove specifically included authorization by the voters for the City to continue to levy and collect within the City the same general taxes, fees, charges, assessments and rates as are presently levied and collected by the County of Sacramento, and that in adopting this ordinance it is the intent of the Council to exercise such authorization. In light of said approval by the voters, no further approval is required pursuant to Government Code section 57135, Proposition 62, or Proposition 218 prior to the adoption of the general taxes levied by this ordinance.

Section 19. URGENCY ORDINANCE. This ordinance shall take effect immediately as an urgency ordinance. Commencing July 1, 2000, the City of Elk Grove will be required to provide services to its citizens. The City is also required to make “revenue-neutrality” payments to Sacramento County. In order to meet these obligations, the City must ensure that it begin receiving revenue from all sources to which it is entitled. For these reasons, the City Council finds that the immediate passage of this ordinance is necessary for the immediate preservation of the public peace, health, and safety and the fiscal integrity of the City.

Section 20. This Ordinance is intended to, and hereby does, supersede Chapter 3.04 of the Sacramento County Code as adopted by the City of Elk Grove, unless this Ordinance is found to be invalid. This ordinance is merely a transfer of Sales and Use Tax from Sacramento County to the City and will effect no increased tax burden.

Section 21. The City Clerk may post a copy of this ordinance in at least three public places in the City within fifteen days after its final passage, in lieu of publication.

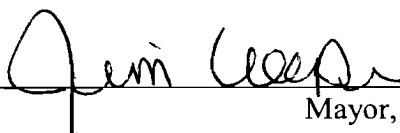
PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 1st day of July, 2000, by the following vote:

AYES: Cooper, Soares, Leary, Scherman, Briggs

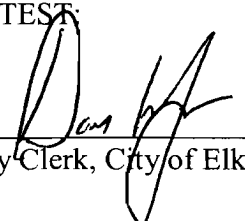
NOES: 0

ABSENT: 0

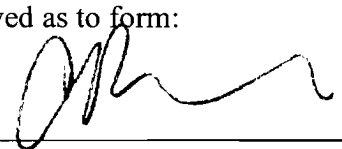
ABSTAIN: 0



Mayor, City of Elk Grove

ATTEST:


City Clerk, City of Elk Grove

Approved as to form:


City Attorney, City of Elk Grove