

Ordinance No. _____

An ordinance proposed by initiative petition to add Article 1.20 to Chapter II of the Los Angeles Municipal Code, establishing the “Los Angeles Fire and Emergency Preparedness and Response Ordinance.”

2020 JUN 25 PM 3:51
ELECTION DIVISION

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

SECTION 1. Name

This measure shall be known as the “Los Angeles Fire and Emergency Preparedness and Response Ordinance.”

SECTION 2. Article 1.20 is added to Chapter II of the Los Angeles Municipal Code to read:

Sec. 21.20.1 - Title.

This article shall be known as the “Los Angeles Fire and Emergency Preparedness and Response Ordinance” (the “Ordinance”). The City of Los Angeles hereinafter shall be called “City.” For purposes of this article, the Los Angeles City Fire Department hereinafter shall be referred to as “LAFD.” This Ordinance shall be applicable in the incorporated territory of the City.

Sec. 21.20.2 - Purpose.

This Ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To establish a supplemental funding source for the LAFD for the purposes and uses set forth in this Ordinance.
- B. 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 7285.91 of Part 1.7 of Division 2 of the Revenue and Taxation Code, which authorizes the City of Los Angeles (“City”) to adopt this tax ordinance provided that a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- C. This ordinance is further adopted under the City’s home-rule authority as a charter city (Cal. Const., art. XI, § 5), which permits municipal taxation for local purposes consistent with applicable law.
- D. 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.

- E. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration on behalf of the City 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.
- F. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record-keeping upon persons subject to taxation under the provisions of this Ordinance.
- G. To ensure that the revenues generated by this Ordinance shall be used exclusively for the purposes and uses approved by the voters, consistent with the City Charter, the California Constitution, and applicable law, and that such revenues shall be subject to annual independent audit and oversight.

Sec. 21.20.3 - 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.

Sec. 21.20.4 - 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 0.50 percent (0.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Ordinance.

Sec. 21.20.5 - Place of sale.

For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and

regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

Sec. 21.20.6 - Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage, use or other consumption in said territory at the rate of 0.50 percent (0.50%) 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.

Sec. 21.20.7 - 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.

Sec. 21.20.8 - Limitations on adoption of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
 - 1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
 - 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
 - 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

- b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
- 4. In reference to 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 of the Revenue and Taxation Code and in the definition of that phrase in Section 6203.
 - 1. “A retailer engaged in business in the district” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds \$500,000.00. 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.

Sec. 21.20.9 - Permit not required.

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

Sec. 21.20.10 - Exemptions and exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 - 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
 - 2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

- a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.
 5. For the purposes of paragraphs (3) and (4) of this subsection, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such

property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.

5. For the purposes of paragraphs (3) and (4) of this subsection, 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 paragraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

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

Sec. 21.20.11 - Amendments.

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Ordinance, provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

Sec. 21.20.12 - Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this Ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Sec. 21.20.13 – Purpose and use of tax.

- A. The purpose of the special tax authorized by this Ordinance is to provide funding support for the LAFD. All revenues generated by the special tax shall be used for purposes that support the core functions of the LAFD, including, but not limited to these priorities: hiring and maintaining sufficient firefighters and paramedics and civilian LAFD staff to meet the fire safety/rescue needs of the City; purchasing and maintaining vehicles to support firefighting and rescue needs, such as fire trucks, fire engines, ambulances, aircraft, and helicopters; purchasing and maintaining equipment to support firefighting and rescue services; to replace, upgrade, and build additional fire stations and EMS facilities to meet the growing demand for service; purchasing and maintaining emergency communication systems; and improving brush clearance and wildfire readiness.
- B. All proceeds of the tax levied and imposed hereunder shall be deposited into a special fund or account and used only for purposes authorized by this Ordinance. Unexpended balances shall remain in the fund or account and shall continue to be available for authorized uses in subsequent fiscal years until fully expended.

Sec. 21.20.14 - Citizens’ oversight committee.

- A. Committee Established. There is hereby established in the City a citizen’s oversight committee to monitor the expenditures of revenue collected pursuant to this Ordinance only and shall provide reports to the people, the Board of Fire Commissioners, the City Council, and Mayor.
- B. Selection of Members. The committee shall consist of five members. One member of the committee shall be appointed by each of the following officials: (1) the Mayor, (2) the LAFD Fire Chief, (3) City Controller, (4) City Administrative Officer, and (5) the Chair of the City Council Public Safety Committee. Citizens’ oversight committee members must be City residents and shall not be current City employees, officials, contractors, or vendors of the City. Past employees, officials, or vendors shall be eligible to serve on the committee, provided that there are no conflicts of interest as determined by the City Attorney.

Of the members of the committee first appointed, the members appointed by the Mayor, the LAFD Fire Chief, the City Controller, the City Administrative Officer and the Chair of the City Council Public Safety Committee shall be appointed for terms of three years. No member may serve more than two consecutive terms.

- C. Purpose and Jurisdiction. The citizens' oversight committee shall review expenditures of revenue collected pursuant to this Ordinance only to determine whether such funds are expended for the purposes specified in Section 21.20.13 and shall issue reports on their findings to the Mayor, City Council, Board of Fire Commissioners, and public at least annually. Committee members may also review the annual financial or performance audits performed by an independent auditor. The committee shall confine its oversight specifically to revenues generated under this Ordinance. Revenue generated through other sources shall be outside the jurisdiction of the citizens' oversight committee.

In order to preserve the integrity and independence of the oversight process, committee members will not play a formal role in contracting, project management, or any other aspect of LAFD management or funding.

The committee is not charged with decision-making on spending priorities, schedules, project details, funding source decisions, financing plans, or tax rate assumptions. The committee shall serve in an advisory-only role only. The committee shall have no jurisdiction other than that delegated to it pursuant to this Ordinance.

The Mayor or designee shall provide any reasonable administrative or technical assistance required by the committee to fulfill its responsibilities or publicize its findings.

- D. Meetings. The citizens' oversight committee shall meet three times each fiscal year (or as otherwise provided for in approved or amended bylaws) with specific meeting dates to be determined by committee members. Citizens' oversight committee meetings are subject to the Brown Act. Meetings shall be agendized and open to the public. Committee minutes and reports are a matter of public record and shall be posted on a website provided by the City. Additional meetings may be scheduled by the committee, as necessary. All committee members shall attend a training and orientation session prior to attending their first regular committee meeting.

Committee members are expected to attend all regular meetings. Failure to attend two consecutive meetings may result in removal from the committee at the discretion of the City officer who appointed the committee member.

- E. Committee Operations and Funding. The citizens' oversight committee will select members to serve as chair and vice chair of the committee. A City staff person will be appointed by the Mayor or designee to serve as secretary. The secretary will be responsible for preparing, posting, and distributing agendas and taking minutes at each meeting. Approved minutes shall be made available to the public. Committee decisions, positions, findings, and procedures shall require a simple majority vote of those members in attendance. The quorum requirement for any meeting shall be a minimum of three members. The ongoing cost of the citizens' oversight committee shall be paid using revenue generated from the special tax authorized by this Ordinance.
- F. Vacancies. Committee members may be removed from the committee by the City official who appointed them for repeated absence (see subsection D of this section), for

malfeasance, for failing to meet the qualifications set forth in this section or for inability or unwillingness to fulfill the duties of a member. In the event of removal, resignation, or death, the City official that appointed the committee member whose seat has been vacated shall appoint a person to fill the vacant seat.

G. Miscellaneous. With the exception of those items specifically addressed in these guiding principles, the committee may draft and adopt its own standard procedures and bylaws by majority vote. All citizens' oversight committee procedures and bylaws remain subject to review and approval by the City Council and Mayor. Citizens' oversight committee reports and audits are subject to review and approval of the City Council and Mayor.

H. Duration. The Citizens' oversight committee will remain in place until a vote of the City Council, subject to approval from the Mayor, takes place to disband the committee. This disbandment cannot take place within the first 10 years of the implementation of this Ordinance.

Sec. 21.20.15 - Fiscal accountability provisions.

The amount generated by this special purpose revenue source and how it was used shall be included in the annual audit of the City's financial operations by an independent certified public accountant. The cost of this annual audit shall be paid using revenue generated from the special tax authorized by this Ordinance.

Sec. 21.20.16 – Duration of tax.

The authority to levy the tax imposed by this Ordinance shall remain in effect until repealed by the voters.

Sec. 21.20.17 – Severability.

If any provision, section, subsection, paragraph, sentence, phrase, or word of this Ordinance is rendered or declared invalid, illegal, or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, such unconstitutionality, illegality or invalidity shall only affect such provision, section, subsection, paragraph, sentence, phrase, or word and shall not affect or impair any remaining provisions, sections, subsections, paragraphs, sentences, phrases, or words, or the application of this Ordinance to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to be the intention of the People of the City that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, section, subsection, paragraph, sentence, phrase, or word not been included herein.

Sec. 21.20.18—Amendments.

The City Council shall have no authority to amend this Ordinance except as expressly provided herein. An amendment may be enacted without a vote of the people only if it: (1) is strictly necessary to implement or administer the Ordinance; (2) does not alter the amount, rate, or

duration of the tax; (3) furthers the purposes of this Ordinance; and (4) is approved by a two-thirds vote of all members of the City Council following at least 30 days of public notice and review.

Sec. 21.20.19-- Maintenance of Effort (MOE).

- A. It is the intent of the People that revenues collected under this Ordinance shall supplement and not supplant existing expenditures by the City for LAFD services. To that end, the City shall maintain, at a minimum, the average percentage of total discretionary budget funding to the LAFD during the ten fiscal years immediately preceding the operative date of this Ordinance (the “baseline period”). The baseline period shall be fixed as of the operative date of this Ordinance and shall not be recalculated downward in subsequent years.
- B. If at any time, the City fails to budget to meet the funding level provided by this section, the City shall not impose and levy the special tax established pursuant to this Ordinance during that fiscal year.
- C. To promote transparency and accountability, the City shall annually certify its compliance with this Maintenance of Effort requirement as part of the budget process, and such certification shall be made available to the public.
- D. Nothing in this section shall preclude the City from increasing General Fund support to the LAFD above the average percentage for the baseline period.

Sec. 21.20.20—New Construction and Local Hiring Opportunities.

- A. All new fire station construction and replacement fire station projects that receive funding from this Ordinance shall be subject to the operative City of Los Angeles Department of Public Works Project Labor Agreement (“Department of Public Works PLA”). The City Council may, at its discretion, include within the Department of Public Works PLA other construction, rehabilitation, and replacement projects that receive funding from this Ordinance.
- B. If a specific Project Labor Agreement (“PLA”) is approved by the City Council to apply to fire facilities construction, rehabilitation, and replacement projects that receive funding from the Ordinance, contractors performing construction, rehabilitation, and replacement work on such fire facilities projects shall be required to comply with such specific PLA, rather than the Department of Public Works PLA.
- C. Any fire station construction, rehabilitation, and replacement project receiving funding from this Ordinance shall constitute public works for which prevailing wages shall be paid commensurate with the California Labor Code.
- D. For LAFD projects that receive funding from this Ordinance, the City Council may require the establishment of a workforce development program to increase access to

construction careers for local Los Angeles City residents. Any such program shall promote the use of apprenticeship and pre-apprenticeship programs, job fairs, and other workforce development initiatives to ensure that LAFD projects aim to create pathways to good middle-class jobs for City residents.

SECTION 3. Conflicting Measures.

This measure is intended to operate within the limitations of state law governing transactions and use taxes. If this measure and any other City measure appearing on the same ballot each impose a transactions and use tax, and the combined adoption of such measures would cause the total district tax rate applicable within the City to exceed the limitation established by Section 7251.1 of the California Revenue and Taxation Code or any successor statute, then the provisions of this measure shall be deemed to conflict with such other measure(s) to that extent.

Pursuant to Article II, Section 10(b) of the California Constitution, if this measure and any conflicting measure are approved by the voters at the same election, the measure receiving the greater number of affirmative votes shall prevail in all respects as to the conflicting portions. If this measure receives a majority of affirmative votes but fewer than any such other conflicting measure, it shall take effect to the extent it may do so without exceeding the statutory limitation or conflicting with the prevailing measure.

SECTION 4. Effective Date; Operative Date.

This Ordinance shall be effective ten (10) days after the City Council or other governing body certifies that this Ordinance has been duly approved by the voters voting in the election of the measure enacting this Ordinance. The transactions and use tax imposed hereunder shall be operative the first day of the first calendar quarter commencing more than one hundred ten (110) days after the adoption of this Ordinance (“Operative Date”) or as otherwise provided by law.

SECTION 5. Legal Defense.

If approved by a simple majority of voters, and thereafter challenged in court of competent jurisdiction, the City shall defend this Ordinance in such court of competent jurisdiction. The People of the City by approving this Ordinance by a simple majority of voters hereby declare that the proponent(s) of this Ordinance have a direct and personal stake in defending this Ordinance from constitutional or statutory challenges to this Ordinance’s validity or implementation. In the event the City fails to defend this Ordinance, or the City fails to appeal an adverse judgment against this Ordinance, in whole or in part, in any court of competent jurisdiction, this Ordinance’s proponent(s) shall be entitled to assert his, her, or their direct personal stake by defending this Ordinance’s validity and implementation in any court of competent jurisdiction and shall be empowered by the People through this Ordinance to act as agents of the People of the City, and the City shall indemnify the proponent(s) for reasonable attorneys’ fees.

SECTION 6. Codification; Numbering; Non-substantive Edits.

If approved by the voters, this Ordinance shall be codified in the City of Los Angeles Municipal Code. The chapter, article, and section numbers set forth in this Ordinance are for reference only and the City Clerk is authorized to assign alternative chapter, article, and section numbers, and to make non-substantive formatting, typographical, and cross-reference corrections as necessary to effectuate this Ordinance without changing its substance.