

CITY OF CITRUS HEIGHTS

Measure M

MEASURE M

To protect local control with funding that cannot be taken by the State; maintain 911 emergency response times; crime investigation/prevention; well-trained community police officers; school safety/security; pothole/street repair; homelessness reduction programs; local business/jobs support; and other city services, shall a measure to establish a Citrus Heights 1¢ sales tax generating \$12,000,000 annually until ended by voters be adopted, with independent annual audits and citizen oversight, and all funds spent in Citrus Heights?

CITY ATTORNEY IMPARTIAL ANALYSIS

Measure M is an ordinance authorizing the City of Citrus Heights to levy a one cent (1.0%) transactions and use tax. This type of tax, commonly referred to as a “local sales tax,” is collected along with other state and local sales and use taxes. At the one cent rate, the tax on a \$100.00 taxable purchase would be \$1.00.

The combined rate of all state and local sales taxes applicable to taxable sales in the City of Citrus Heights is currently 7.75%. Of this 7.75%, only a 1.0% sales tax, known as the Bradley-Burns Tax, is imposed by the City of Citrus Heights. The remaining taxes are imposed by the state or by the county or its agencies. The proposed new tax would increase the combined tax rate to 8.75%.

Purchases in Citrus Heights that are exempt from the statewide sales tax would also generally be exempt from the proposed new tax. For example, most groceries, prescription drugs and purchases of services would be exempt from taxation. The primary difference between a transactions and use tax and a sales and use tax is that the tax on the sale of a motor vehicle within California applies based on the location where the motor vehicle will be registered, not on the location where the sale occurs. Thus, someone who purchases a car or other motor vehicle from a dealer anywhere in the state would pay the city’s proposed tax if they will be registering the vehicle in Citrus Heights, while a person who purchases a vehicle in Citrus Heights for registration at a California location outside of the city would not pay the proposed tax.

The tax would be administered by a state agency. Proceeds of the tax, less administration costs, would be deposited to the city’s general fund, controlled by the City Council of the City of Citrus Heights (not the state), and available for any lawful municipal purpose. Examples of permissible uses, as identified by the City Council, are 9-1-1 emergency response times; crime investigation/prevention; well-trained community police officers; contributing to school safety/security; pothole/street repair; homelessness reduction programs; and local business/jobs support.

This tax would remain in effect until terminated by the voters. It is anticipated that this tax will initially generate approximately \$12 million in revenue annually for the city’s general fund. The proceeds of the tax would be audited annually by an independent certified public accountant. The report of this audit would be reviewed annually by a Citizen’s Oversight Committee appointed by the City Council.

This measure was placed on the ballot by the City Council of the City of Citrus Heights.

A YES vote approves the measure and authorizes the proposed tax.

A NO vote rejects the measure and the proposed tax.

s/Ryan Jones

City of Citrus Heights, City Attorney

*****YOU CAN FIND THE MEASURE ARGUMENTS FOLLOWING THE FULL TEXT OF THIS MEASURE*****

ORDINANCE NO. 2020-006

AN ORDINANCE OF THE CITY COUNCIL AND THE PEOPLE OF THE CITY OF CITRUS HEIGHTS, CALIFORNIA ADDING ARTICLE VI (TRANSACTIONS AND USE TAX) TO CHAPTER 86 OF THE CITRUS HEIGHTS MUNICIPAL CODE

THE CITY COUNCIL AND THE PEOPLE OF THE CITY OF CITRUS HEIGHTS, CALIFORNIA, CALIFORNIA DO ORDAIN AS FOLLOWS:

SECTION 1. Article VI (Transactions and Use Tax) is hereby added to Chapter 86 of the Citrus Heights Municipal Code to read as follows:

ARTICLE VI –TRANSACTIONS AND USE TAX

Section 86-171 Title

This Article shall be known as the “City of Citrus Heights Transactions (Sales) and Use Tax Ordinance of 2020.” The City of Citrus Heights hereinafter shall be called “City.” This Article shall be applicable in the incorporated territory of the City.

Section 86-172 Operative Date

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Article.

Section 86-173 Purpose

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

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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 ordinance.

Section 86-174 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.

Section 86-175 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 one percent (1.00%) 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 Article.

Section 86-176 Place of Sale

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

Section 86-177 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 Article for storage, use or other consumption in said territory at the rate of one percent (1.00%) 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 86-178 Adoption of Provisions of State Law

Except as otherwise provided in this Article 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 Article as though fully set forth herein.

Section 86-179 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 Board of Control, California Department of Tax and Fee Administration, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this 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 Article.

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.

C. "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 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.

Section 86-180 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 Article.

Section 86-181 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 Article 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 Article.

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 Article.

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 Article, 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 Article.

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 Article.

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 Article 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.

Section 86-182 Amendment or Repeal

A. All amendments subsequent to the effective date of this Article 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 Article, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Article.

B. The City Council may amend this Article without voter approval only to make minor technical adjustments consistent with the purposes set forth in this Article and applicable laws or as necessary to comply with the law.

Section 86-183 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 Article, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 86-184 Severability

If any provision of this Article or the application thereof to any person or circumstance is held invalid, the remainder of the Article and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 86-185 Use of Proceeds

The proceeds from the transactions and use tax imposed by this Article shall be deposited in the general fund of the City and available for any lawful municipal purpose.

Section 86-186 Fiscal Accountability Provisions

The following fiscal accountability requirements shall apply:

A. Independent Annual Financial Audit. All revenues generated by the tax imposed pursuant to this Article shall be annually audited by an independent accounting firm and included in an annual financial report to the City Council which may be a part of the City's Consolidated Annual Financial Report.

B. Expenditures. All expenditures shall be a matter of public record to the extent required by the California Public Records Act or other applicable law.

Section 86-187 Citizens Oversight Committee

The City Council shall establish a Citizen's Oversight Committee, which shall have no less than five members. The terms, composition, and specific duties of the Committee shall be established by resolution of the City Council; however all members of the Committee shall be residents of the City. The Committee shall review the annual report required by Section 86-186 of this article and may make such recommendations to the City Council as it deems necessary or useful. The Committee may, by a majority vote of its membership, choose to publish a report, in which event such report, if approved by a majority of the members, shall be published on the City's internet page. Members of the Citizen's Oversight Committee shall be appointed by the City Council, and any member may be removed from the Committee prior to the end of his or her term by a two-thirds vote of the Council. In the event the City Council, the Citizen's Oversight Committee, the City, any employee of the City, or any member of the City Council or the Citizen's Oversight Committee fails to take an action required by this Section, any court of competent jurisdiction may order that the action be taken. However, such failure to act shall not invalidate the City's authority to levy any tax or in any way affect the ongoing collection of any tax pursuant to this Ordinance. All meetings of the Committee shall comply with the provisions of the Ralph M. Brown Act (Gov't Code Section 54950, et seq.).

SECTION 2. Effective Date. This Ordinance shall not take effect until it has been approved by a majority of the voters voting at the general municipal election to be held November 3, 2020. The tax imposed by this Ordinance shall become effective as set forth in the new Section 86-171 of the Municipal Code as amended by Section 1 of this Ordinance.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People and City Council of the City of Citrus Heights hereby declare that they would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ARGUMENT IN FAVOR OF MEASURE M

YES on M – Protect Local Control and Public Safety!

YES on M is transparent, accountable and locally-controlled. We have a long history as a self-reliant community – let's keep OUR tax dollars LOCAL for our own quality of life and recovery needs. We are a resilient City and cannot depend on the state or federal government to address our own, unique local needs!

YES on M will maintain:

- Rapid 911 emergency response/disaster preparedness
- Crime investigation/prevention
- Qualified, properly trained police officers
- Homelessness reduction
- Local business support/jobs creation
- Street/pothole repair

We need **YES on M** to keep our community safe and maintain community-based neighborhood patrols and responsive, proactive crime prevention efforts. Our Police Department works hard with already limited resources – we cannot allow crime to increase in Citrus Heights.

YES on M will continue successful efforts to reduce homelessness in Citrus Heights. Now more than ever we need to prevent and reduce homelessness, while ensuring the health and safety of our residents.

YES on M makes our roads safer. We need to maintain our streets and fix potholes for our community's safety, including first responders who need to reach people quickly who need help.

Measure M is fiscally accountable, including Independent Citizens Oversight, mandatory financial audits, and public reporting to ensure funds are spent on OUR priorities. By law, ALL **Measure M** funding must stay here in Citrus Heights, and none can be taken by the State.

Measure M is NOT a tax on your home or property and out-of-town visitors will pay their fair share.

Measure M was developed after receiving input from nearly 2,000 Citrus Heights residents!

Join us in voting **YES on M** to keep our community safe and protect our local control!

More info: citrusheights.net

s/William H. Van Duker
Local Small Business Owner & Chamber of Commerce Member

s/Charles O. McComish
Police Activities League & Public Safety Advocate

s/Jay Rocky Peterson
Director, Sunrise Christian Food Ministry & Homeless Prevention Advocate

s/Kathleen Cook
Lifelong Citrus Heights Resident & Taxpayer

s/Richard Patrick Doyle
Neighborhood Watch Community Leader

REBUTTAL TO THE ARGUMENT IN FAVOR OF MEASURE M

Measure M can be broken down into a simple statement: "We promise."

But Politicians break promises all the time.

Citrus Heights had a long history of fiscal prudence with tens of millions in reserves. Now Citrus Heights is millions in debt, is giving pay raises during a pandemic, and even wants to raise our taxes to equal Sacramento!

Here is the truth about Measure M:

- NO GUARANTEE that higher taxes will be spent on the programs they claim. It can legally be spent on pay raises and pensions.
- MEASURE M IS NOT NEEDED. In two years, the city will receive millions of dollars more in property taxes as agreements with the county expire.
- HURTS BUSINESSES. Measure M will raise our taxes higher than Roseville Galleria and Folsom Palladio, pushing more shoppers and businesses out of our city and killing Sunrise Mall revitalization.
- RAISES COSTS TO RESIDENTS. Measure M will raise the cost of living for every resident.

Citrus Heights COULD HAVE proposed a specific tax with an expiration date to ensure the funds would go to public safety, street repairs, and homeless programs. *Why didn't they?*

Politicians raised gas and local sales taxes and promised to fix roads and highways. Our roads are still a mess. Politicians boosted income taxes on the promise to deal with mental health and homelessness. They collected millions of dollars, but the problems only got worse.

Now they want to raise our taxes in the middle of the worst economic crisis in recent history.

Vote NO on Measure M. www.VoteNoOnM.org

s/W. Bruce Lee
President, Sacramento Taxpayers Association

s/Ted Gaines
Member, California Board of Equalization

s/Sue Frost
Supervisor, County of Sacramento

s/Bret Daniels
Council Member, City of Citrus Heights

s/Betty Williams
President, NAACP of Sacramento

ARGUMENT AGAINST MEASURE M

The response to the Covid-19 crisis has shut down hundreds of Citrus Heights businesses and left thousands of our residents without jobs. In the middle of this financial crisis, the city is proposing a huge tax increase that never expires on residents and businesses. This is absolutely the worst time for the City of Citrus Heights to increase your taxes. We urge you to vote No!

Measure M promises to increase policing, homeless services, and community improvements. But there is absolutely no guarantee that the tax increase will be spent for any of those vital services - they could as easily (and legally) be spent on other things.

Like most taxes, nothing guarantees the money will go where citizens expect. Measure M tax revenue will flow through the general fund, which current and future city leaders can use for any purpose they see fit. When the City of Sacramento pushed Measure U in 2018, city leaders promised the money would go to police and community improvements. But the City of Sacramento broke that promise. *Here in Citrus Heights, nothing prevents Measure M funds from going to salary increases, pensions, or pet projects voters do not even want.*

No one knows when COVID-19 shutdowns will end, but we do know that people are struggling every day. Businesses cannot open and their employees are laid off - and many cannot even get unemployment benefits. But bills are still coming and differed rent payments are adding up and will eventually have to be paid.

In just two years, the City will receive millions of additional dollars from property taxes, yet City leaders are asking FOR AN IMMEDIATE TAX INCREASE on struggling citizens. Our leaders should be working to let people work and earn a living, not piling on new taxes. Vote no on Measure M. VoteNoOnM.org

s/W. Bruce Lee
President, Sacramento Taxpayers Association

s/Sue Frost
Supervisor, County of Sacramento

s/Bret Daniels
Council Member, City of Citrus Heights

s/Jayna Karpinski-Costa
Former Council Member, City of Citrus Heights

s/Jim Monteton
Board Member, American Legion Post 637

REBUTTAL TO THE ARGUMENT AGAINST MEASURE M

Citrus Heights was only established as a City in 1997. If you value our independence and financial stability, vote YES on M.

Measure M was developed after over a year of consultation with the community. Here are the facts the opposition wants you to ignore:

FACT: Citrus Heights only gained cityhood after a tough, 12 -year battle with the County. We fought hard to win independence from regional and state politicians who did not represent us. Your **YES on M** vote ensures we remain firmly in local control of the direction of our city in these challenging times.

FACT: Our City has a proud tradition of strong fiscal stewardship and being responsible with taxpayer dollars. **YES on M** upholds this tradition with Independent Citizen Oversight and audits to ensure funds are used efficiently and as promised to voters. Every penny must be spent locally, and not a dime can be seized by the County or State government.

FACT: **YES on M** prevents devastating cuts to critical services we need in the tough road ahead, including public safety, crime/gang prevention programs, emergency response times, safe streets, and economic recovery efforts. **YES on M** keeps our city stronger and safer in uncertain times.

When we maintain our own local control, all of us – residents and business owners alike – benefit. Keep Citrus Heights independent – Join Mayor Slowey, Vice Mayor Miller, and Councilmembers Bruins, and Middleton in voting **YES on M!**

s/William H. Van Duker
City Founder

s/Charles O. McComish
Police Activities League & Public Safety Advocate

s/Kathleen Cook
Lifelong Citrus Heights Resident & Taxpayer

s/Richard Patrick Doyle
Neighborhood Watch Community Leader

s/Paul A. Reyes
Veteran & Long Time Resident