

ORDINANCE NO. 122 N.S.AMENDED BY ORDINANCE No. 123  
185 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES IMPOSING A LICENSE TAX FOR THE PRIVILEGE OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL, PROVIDING FOR PERMITS TO RETAILERS, PROVIDING FOR THE COLLECTING AND PAYING OF SUCH TAX AND PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS HEREOF.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EL PASO DE ROBLES, AS FOLLOWS:

Section 1. IMPOSITION AND RATE OF TAX. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-half ( $\frac{1}{2}$ ) of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City of El Paso de Robles on or after July 2, 1947. The license tax imposed by the provisions of this ordinance is in addition to any and all other taxes imposed by any other ordinance of the City of El Paso de Robles.

Section 2. TAX LEVIED IN SAME MANNER AS STATE TAX. The tax hereby levied except as otherwise herein provided is levied in the same manner, to the same extent and under the same conditions as sales taxes are levied pursuant to Part 1 of Division 2 of the California Revenue and Taxation Code, known as the "Sales and Use Tax Law," as amended and in force and effect on July 2, 1947.

Section 3. ADOPTION OF STATE SALES TAX LAW BY REFERENCE. EXCEPTIONS. All of the provisions of the "Sales and Use Tax Law," as amended and in force and effect on July 1, 1947, except the provisions thereof pertaining solely to the "Use Tax" and except Sections 6051, 6052, 6053, 6066, 6067, 6068, 6069, 6070, 6071, 6451, 7052, 7056, 7101, 7102, 7103, 7151, 7152, 7153, applicable to sales of property at retail, are hereby adopted and made a part of this ordinance as though fully set forth herein, and all provisions of any other ordinance in conflict therewith are inapplicable to this ordinance and the tax hereby  
/imposed

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO  
CITY OF EL PASO DE ROBLES

} SS.

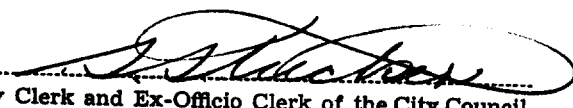
I, S. S. Tucker, City Clerk of the City of El Paso de Robles, California, do hereby certify that the foregoing ORDINANCE No. 122 N.S. was duly and regularly adopted, passed, and approved by the City Council of the City of El Paso de Robles, California, at a regular meeting of said City Council held at the regular meeting place thereof, on the 2nd day, of June 1947, by the following vote:

AYES: Councilmen Bryant, DeChaine, Hirschler, Franscioni & Turner.

NOES: Councilmen None

ABSENT: Councilmen None

Dated this 2nd day of June, 1947.

  
City Clerk and Ex-Officio Clerk of the City Council,  
City of El Paso de Robles, State of California.

provided, however, the term "gross receipts" as used herein, does not include the amount of any tax imposed by the State of California upon or with respect to retail sales whether imposed upon the retailer or upon the consumer.

All of the provisions of the "Sales and Use Tax Law" hereby adopted, providing for the adoption of rules and regulations and for hearings on the part of the State Board of Equalization shall be performed by the City Council of the City of El Paso de Robles. All other provisions of the "Sales and Use Tax Law" hereby adopted, providing for the performance of official action on the part of the State Board of Equalization shall be performed by the City Tax Collector of the City of El Paso de Robles.

The City of El Paso de Robles shall be deemed substituted for the State of California whenever the State is referred to in said "Sales and Use Tax Law."

The City Attorney of the City of El Paso de Robles shall be deemed substituted for the Attorney General whenever the Attorney General is referred to in said "Sales and Use Tax Law."

The City Auditor shall be deemed substituted for the State Controller and the State Board of Control whenever the State Controller or State Board of Control are referred to in said "Sales and Use Tax Law."

The County of San Luis Obispo shall be deemed substituted for the County of Sacramento whenever the County of Sacramento is referred to in said "Sales and Use Tax Law."

Section 4. ADDITIONAL EXEMPTIONS. In addition to the exemptions contained in Part 1 of Division 2 of the Revenue and Taxation Code of the State of California, there shall be excluded from

the computation of the gross receipts from:

1. Sales made to or by the State of California or any agency, department, political subdivision, district or municipal corporation thereof.

2. Sales or purchases of property to be used in connection with the erection, construction, repair or alteration of either public works or buildings belonging to or being constructed by or on behalf of, or for the use of the United States Government, State of California or any agency, department, political subdivision, district or public or municipal corporation of the State.

Section 5. ADOPTION OF RULES AND REGULATIONS BY REFERENCE. The rules and regulations of the State Board of Equalization pertaining to the interpretation, administration and enforcement of the "Sales and Use Tax Law," insofar as applicable, shall supply in the interpretation of this ordinance until specifically abandoned by the rules or regulations adopted by the City Council of the City of El Paso de Robles pursuant to this ordinance.

Section 6. INTERPRETATION. The inclusion of any clause, portion or part of the "State Sales and Use Tax Law," Part 1, Division 2 of the Revenue and Taxation Code of the State of California, verbatim in this ordinance shall not in or of itself be deemed to exclude any of the remaining provisions of said "Sales and Use Tax Law" that are made a part hereof by reference only.

Section 7. APPLICATION FOR PERMIT. Every person desiring to engage in or conduct business as a seller within the City of El Paso de Robles shall file with the City Tax Collector an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the City Tax Collector and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the City Tax Collector may require. The application shall be signed by the owner, if a natural person in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

Section 8. PERMIT FEE. At the time of making an application, the applicant shall pay to the City Tax Collector a permit fee of \$1.00 for each permit.

Section 9. ISSUANCE AND DISPLAY OF PERMIT. After Compliance with Sections 7 and 8 of this Ordinance by the applicant, the City Tax Collector shall grant and issue to each applicant a separate permit for each place of business with the City of El Paso de Robles. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein; provided, however, a change of location may be

endorsed upon the permit by the City Tax Collector upon the payment of a fee of \$1.00. The permit shall at all times be conspicuously displayed at the place for which issued.

Section 10. REVOCATION OF PERMIT. Whenever any person fails to comply with any provisions of this ordinance or any rule or regulation adopted pursuant hereto, the City Council of the City of El Paso de Robles, upon hearing, after giving the person ten day's notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The notice may be served personally or by mail in the manner prescribed for the service of notice of a deficiency determination under the "Sales and Use Tax Law." The City Tax Collector shall not issue a new permit after the revocation of a permit unless the City Council of the City of El Paso de Robles is satisfied that the former holder of a permit will comply with the provisions of this ordinance and the rules and regulations adopted pursuant hereto and directs the City Tax Collector to issue such permit.

Section 11. RENEWAL OF PERMIT. A seller whose permit has been previously suspended or revoked shall pay the City Tax Collector a fee of \$5.00 for the renewal or issuance of permit.

Section 12. DOING BUSINESS WITHOUT A PERMIT. A person who engages in business as a seller in the City of El Paso de Robles without a permit or permits, or after a permit has been suspended or revoked and before the renewal or issuance of a permit, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

Section 13. DUE DATE. The taxes imposed by this ordinance

shall become due and payable to the Tax Collector of the City of El Paso de Robles on or before the 15th day of the month next succeeding each quarterly period, said quarterly periods being from January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31. The first return and payment to be made on or before the 15th day of October, 1947, for the period commencing with the effective date of this ordinance and ending with and including the 30th of September, 1947.

Section 14. MODE OF COLLECTION. The tax hereby imposed shall be collected by the retailer from the consumer insofar as it can be done.

Section 15. UNLAWFUL ADVERTISING. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or that, if added, it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

Section 16. SUIT FOR TAX. All taxes hereby levied shall be payable to the City Tax Collector and any civil suit for the collection thereof may be filed in any civil court of competent jurisdiction in the State of California, and the City Attorney of said City shall prosecute the action.

Section 17. SUIT FOR REFUND. No suit or proceedings shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless

a claim for refund or credit has been duly filed pursuant to Section 6902 of said "Sales and Use Tax Law." Within ninety (90) days after service of the notice of disallowance of a claim filed pursuant to said Section 6902, the claimant may bring an action against the City on the grounds set forth in the claim in a court of competent jurisdiction in the County of San Luis Obispo for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed. Failure to bring action within said time constitutes a waiver of any demand against the City on account of such alleged overpayment. If the City Clerk fails to serve notice of action on a claim within six (6) months after the claim is filed, the claimant may consider the claim disallowed and bring action against the City on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Section 18. RESALE CERTIFICATE. The City Tax Collector may at his option accept a State of California Resale Certificate as evidence that any sale is not a sale at retail, or he may in his discretion require an affidavit from the seller setting forth such information respecting such sale as he deems necessary to determine the nature of such sale.

Section 19. DISPOSITION OF PROCEEDS. All monies collected under and pursuant to the provisions of this ordinance shall be deposited and paid into the General Fund of the City of El Paso de Robles.

Section 20. DIVULGING OF INFORMATION FORBIDDEN. It shall be unlawful for any officer or employee of the City of El Paso de Robles having an administrative duty under this ordinance to make known in any manner whatever the business affairs, operations, or infor-



mation obtained by an investigation of records and equipment of any retailer or any other person visited or examined in discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the City Council may by resolution, authorize examination of the returns by Federal or State officers or employees or by the tax officers of this or any other city if a reciprocal arrangement exists. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

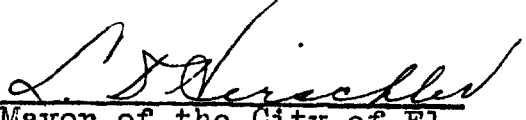
Section 21. PENALTIES. Any person required to make, render, sign or verify any report under the provisions of this ordinance, who makes any false or fraudulent return with intent to defeat or evade the determination of an amount due and required to be paid hereunder, is guilty of a misdemeanor, and upon 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 22. SAME. Any person, firm or corporation violating any of the terms 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 23. 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 Council of this City hereby declares that it would have adopted that ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, sub-sections, clauses, phrases or portions be declared invalid or unconstitutional.

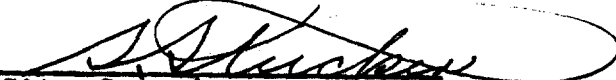
Section 24. EFFECTIVE DATE. This ordinance shall be in full force and effect on and after the 2nd day of July, 1947.

Passed, adopted and approved this 2nd day of June, 1947.

  
 Mayor of the City of El

Paso de Robles, California.

ATTEST:

  
 City Clerk of the City of

El Paso de Robles, California.