

*uniform copy
City Clerk should be
City Tax Collector*

2

CITY OF SAN ANSELMO

ORDINANCE NO. 403

AN ORDINANCE OF THE CITY OF SAN ANSELMO IMPOSING AN
EXCISE TAX ON THE USE OR OTHER CONSUMPTION OF TANG-
IBLE PERSONAL PROPERTY.

The Council of the City of San Anselmo does ordain as follows:

Section 1. "USE" DEFINED. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, subject, however, to the following exemptions:

- (a) It does not include the sale of that property in the regular course of business;
- (b) It does not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into this City and which is thereafter transported outside the City for principal use or consumption outside the City, and where property is actually so used or consumed;
- (c) It does not include the use of such property for the purpose of being processed, fabricated, or manufactured into, attached or incorporated into, other tangible personal property which is to be transported outside the City, or which is to be subsequently sold or resold in the regular course of business;
- (d) It does not include the exercise of any right or power over tangible personal property incident to ownership of that property if such property was purchased for principal use or consumption outside the City and is so used or consumed.
- (e) It does not include the use of tangible personal property actually employed in the transportation or transmission of persons, property, gas, electricity or communications in intra-state, inter-state or foreign commerce by public utilities regulated by the

Public Utilities Commission of the State of California.

Section 2. IMPOSITION AND RATE OF TAX. An excise tax is hereby imposed on the use or other consumption in the City of San Anselmo of tangible personal property purchased from any retailer on or after the effective date of this ordinance for use or other consumption in said City at the rate of one per cent (1%) of the sales price of the property.

Section 3. USE 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 use taxes are levied pursuant to Part I 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 October 1, 1951.

Section 4. ADOPTION OF STATE USE TAX LAW BY REFERENCE. EXEMPTIONS. All of the provisions of the "Sales and Use Tax Law" as amended and in force and effect on October 1, 1951, except the provisions thereof pertaining solely to the "Sales Tax" and Sections 6008, 6201, 6204, inclusive, 6207, 6226 to 6246, inclusive, 6402, 6453, 7052, 7056, 7057, 7101, 7102, 7151, 7152, and 7153, 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; provided that the term "sales price" shall not include the amount of any California State sales tax or use tax, and that the word "storage" shall for the purpose of this ordinance be deemed deleted from those provisions of the California Revenue and Taxation Code adopted by reference, it being the intent of The Council that the tax imposed by this ordinance shall not apply to the storage of tangible personal property.

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 Council of the City of San Anselmo. 2.

All other provisions of the State "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 ~~Clerk~~^{Tax Collector}.

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

The City Controller shall be deemed substituted for the State Controller and 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 Marin 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 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 apply to the interpretation of this ordinance until specifically abandoned by the rules and regulations adopted by The Council pursuant to this ordinance .

Section 6. INTERPRETATION. The inclusion of any clause, portion or part of the "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. DUTY TO COLLECT TAX. Every retailer maintaining a place of business in this City shall apply to the City ~~Clerk~~^{Tax Collector} for authorization to collect the tax imposed by this ordinance. Any retailer not maintaining a place of business in this City may apply to the City ~~Clerk~~^{Tax Collector} for authorization to collect the tax hereby imposed. Upon receipt of any application in such form as required by him, the City ~~Clerk~~^{Tax Collector}, in the case of a retailer maintaining a place of business in the City, shall authorize, and in the case of a retailer not maintaining a place of business in the City, may authorize the applicant to make such collections and to forward the same to the City ~~Clerk~~^{Tax Collector}.

Section 8. PERSONS LIABLE TO TAX. Every person using or otherwise consuming in this City tangible personal property purchased from a retailer, is liable for the tax; provided, however, no tax shall be due hereunder if the tax imposed by Ordinance No. 407 of the City of San Anselmo has been paid on the sale of such property. The liability of such person is not extinguished until the tax has been paid to the City of San Anselmo except that a receipt from a retailer authorized pursuant to Section 7 hereof to collect the tax, given to the purchaser pursuant to Section 9 hereof, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Section 9. COLLECTION OF TAX BY RETAILER. Every retailer who is authorized by the City ~~Clerk~~^{Tax Collector} to collect the tax imposed by this ordinance and who makes sales of tangible personal property for use or other consumption in this City, not exempted under the provisions of this ordinance, shall collect the tax from the purchaser at the time of making the sale, or, if the use or other consumption of the tangible personal property is not then taxable hereunder, at the time the use or other consumption becomes taxable. Upon collecting the tax, the retailer, on demand, shall give to

the purchaser a receipt therefor in the manner and form prescribed by the City ~~Clerk~~^{Tax Collector}. The tax so collected by the retailer shall be held in trust by him for the City and shall be paid to the City by the retailer in the manner and at the times elsewhere provided in this ordinance.

Section 10. SEPARATE DISPLAY OF TAX FROM LIST OR OTHER PRICE. The tax so collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price or other price on the sales check or other proof of sale.

Section 11. PERSONAL PROPERTY TO WHICH TAX APPLIES. Except as otherwise specifically exempted, the tax hereby imposed applies to all tangible personal property located in this City and purchased from a retailer; provided, however, that if the retailer in good faith takes from the purchaser a certificate that the property was purchased prior to the effective date of this ordinance or was not purchased for use or consumption in this City and has not been nor will be so used or consumed, he shall be relieved of liability to collect and pay the tax. The certificate shall be signed by and bear the name of the purchaser, shall indicate the address of the purchaser and the place where such tangible personal property will be used or consumed, the date of purchase, and shall be substantially in such form as the City ~~Clerk~~^{Tax Collector} may prescribe.

Section 12. EXEMPTIONS. In addition to those exemptions contained in Part 1 of Division 2 of the California Revenue and Taxation Code which are incorporated into this ordinance by reference, there shall be excluded from the computation of the tax the sales price of:

(a) Purchases made by the State of California or by any agency, department, political subdivision, district or municipal corporation thereof;

(b) Purchases of tangible personal 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, the State of California or any agency, department, political subdivision, district or public or municipal corporation of the State;

(c) Purchases made pursuant to contracts actually executed in good faith prior to MARCH 13, 1956;

(d) Purchases of property upon which a sales tax, purchase tax, use tax, purchase and use tax, or any of them, has been legally imposed by and paid on the same transaction to any city of the State of California.

Section 13. REGISTRATION OF RETAILERS. Every retailer selling tangible personal property for use or other consumption in the City of San Anselmo and which retailer maintains a place of business in said city or acts through agents located in said city and which retailer is not licensed under the provisions of ordinance No. 402, shall register with the City ^{Tax Collector} ~~Clerk~~ and give the name and address of such agent or agents and office or other place of business in the city.

Section 14. DUE DATE OF TAXES. Taxes imposed by this ordinance are due and payable to the City ^{Tax Collector} ~~Clerk~~ on or before the last day of the month next succeeding each quarterly period, the first quarterly payment to be due and payable under this ordinance on or before the last day of July, 1956. The City ^{Tax Collector} ~~Clerk~~ may require returns and payment of the amount of taxes for quarterly periods other than calendar quarters depending upon the principal place of or the nature of the business of the seller or retailer or may require returns and payment of the amount of taxes for other than quarterly periods.

Section 15. RETURNS. Each return filed by a retailer shall show the total sale price of the property sold by him during the reporting period in respect of which he collected the tax hereby imposed. Each return filed by a purchaser shall show the total

sale price of the property purchased by him during the reporting period, in respect of which a tax is due under this ordinance. All returns shall also show the amount of the taxes for the period covered by the return and such other information as the City ~~Clerk~~^{Tax Collector} deems necessary to the proper administration of this ordinance.

Section 16. EXTENSION OF TIME. WAIVER OR COMPROMISE. The City ~~Clerk~~^{Tax Collector} shall have power, for good cause shown, to extend for a period of not to exceed thirty-one (31) days the time for making any return or paying any amount required to be paid under this ordinance, when requested so to do in writing, before the same becomes delinquent. The City ~~Clerk~~^{Tax Collector} may, with the written approval of the City Attorney, waive or compromise any penalty or interest that would otherwise accrue under the provisions of this ordinance. The City ~~Clerk~~^{Tax Collector} shall make and transmit to The Council quarterly, a detailed report of any sums so waived or compromised with the reasons therefor.

Section 17. SCHEDULES FOR PAYMENT OF TAX. The Council, by resolution, shall adopt rules prescribing methods and schedules for the collection and payment of the tax. Such schedules shall be so determined as to facilitate collection of this tax at the same time that the retailer collects the tax imposed under the California Sales and Use Tax Law and so as to produce an average tax return of one per cent (1%) on all purchases subject to the use tax.

Section 18. SUIT FOR TAX. All taxes hereby levied shall be payable to the City ~~Clerk~~^{Tax Collector} and any civil suit for the collection thereof may be filed in any court of competent jurisdiction in the State of California, and the City Attorney of said City shall prosecute the action.

Section 19. RESALE CERTIFICATE. The City ~~Clerk~~^{Tax Collector} may at his option accept a State of California Resale Certificate as evidence that any sale is not a sale for use or consumption in the City of San Anselmo, 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. 7.

Section 20. 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 San Anselmo.

Section 21. DIVULGING OF INFORMATION FORBIDDEN. No officer or employee of the City of San Anselmo having an administrative duty under this ordinance shall make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particulars thereof, set forth or disclosed in any return, or permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, The 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 22. FALSE AND FRAUDULENT RETURNS. No person required to make, render, sign or verify any report under the provisions of this ordinance, shall make any false or fraudulent return, with intent to defeat or evade the determination of an amount due and required to be paid hereunder.

Section 23. FAILURE TO MAKE RETURN OR FURNISH DATA. No retailer or other person shall fail or refuse to furnish any return required to be made or fail or refuse to furnish a supplemental return or other data required by the City ^{Tax Collector} Clerk, or render a false or fraudulent return.

Section 24. PENAL PROVISIONS. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than Five Hundred (\$500.00) Dollars, or by imprisonment in the County Jail of the County of Marin for a period of not more than six (6) months or by both such fine and imprisonment.

Section 25. VALIDITY. 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 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.


Section 26. EFFECTIVE DATE. This ordinance, inasmuch as it provides for a tax levy for the usual current expenses of the city, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately, provided, however, the provisions of Section 2 shall become effective April 1, 1956.

Section 27. PUBLICATION. This ordinance shall be published once in full within fifteen days from and after its final passage in the SAN ANSELMO TIMES, a weekly newspaper printed, published and circulated in the City of San Anselmo, and hereby designated for that purpose.

The foregoing ordinance was duly and regularly introduced, at a regular adjourned meeting of the City Council at the City

of San Anselmo held in said city on the 23rd day of February, 1956, and was thereafter on the 13th day of March, 1956, at a regular meeting of said City Council duly passed and adopted by the following votes:

AYES: COUNCILMEN *Booth, Bell, Martin, Washburn, Smith*
NOES: COUNCILMEN *none*
ABSENT: COUNCILMEN *none*


ARTHUR W. SMITH, Mayor

ATTEST:


ANITA GANNON, City Clerk