



**CERTIFICATE OF APPOINTMENT & OATH OF OFFICE**

I, Shonna Oneal, City Clerk of the City of Exeter, State of California, do hereby certify that **DAVE HAILS** was confirmed by the Exeter City Council, to the office of Member, Exeter City Council, District A, for the Short-Term ending November 2022 by Resolution 2020-36 as the only certified candidate by the City Council of City of Exeter pursuant to Elections Code §10229 on August 18, 2020.

Witness my hand and official seal this 8<sup>TH</sup> day of December 2020

\_\_\_\_\_  
SHONNA ONEAL, CITY CLERK

STATE OF CALIFORNIA        )  
COUNTY OF TULARE        )ss.  
CITY OF EXETER             )

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.)

I, **DAVE HAILS**, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Member, Exeter City Council, District A

Subscribed and sworn to before me this 8<sup>th</sup> day of December 2020.

\_\_\_\_\_  
SHONNA ONEAL, CITY CLERK



**CERTIFICATE OF APPOINTMENT & OATH OF OFFICE**

I, Shonna Oneal, City Clerk of the City of Exeter, State of California, do hereby certify that **JUSTIN MILLS** was confirmed by the Exeter City Council, to the office of Member, Exeter City Council, District E, by Resolution 2020-38 as the only certified candidate by the City Council of the City of Exeter pursuant to Government Code §10229 on August 18, 2020.

Witness my hand and official seal this 8<sup>TH</sup> day of December 2020

\_\_\_\_\_  
SHONNA ONEAL, CITY CLERK

STATE OF CALIFORNIA        )  
COUNTY OF TULARE        )ss.  
CITY OF EXETER             )

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.)

I, **JUSTIN MILLS**, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Member, Exeter City Council, District E

Subscribed and sworn to before me this 8<sup>TH</sup> day of December 2020.

\_\_\_\_\_  
SHONNA ONEAL, CITY CLERK



CERTIFICATE OF APPOINTMENT & OATH OF OFFICE

I, Shonna Oneal, City Clerk of the City of Exeter, State of California, do hereby certify that **BARBARA SALLY** was confirmed by the Exeter City Council, to the office of Member, Exeter City Council, District B, by Resolution 2020-37 as the only certified candidate by the City Council of the City of Exeter pursuant to Government Code §10229 on August 18, 2020.

Witness my hand and official seal this 8<sup>TH</sup> day of December 2020

\_\_\_\_\_  
SHONNA ONEAL, CITY CLERK

STATE OF CALIFORNIA        )  
COUNTY OF TULARE        )ss.  
CITY OF EXETER             )

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.)

I, **BARBARA SALLY**, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Member, Exeter City Council, District B

Subscribed and sworn to before me this 8<sup>TH</sup> day of December 2020.

\_\_\_\_\_  
SHONNA ONEAL, CITY CLERK

**City of Exeter  
Agenda Item Transmittal**

**Meeting Date:** December 8, 2020

**Agenda Item Number:** E3

**Wording for Agenda:** Reorganization of the City Council – Mayor and Mayor Pro Tem Selection.

**Submitting Department:** Administration  
**Contact Name:** Adam Ennis, City Administrator  
Shonna Oneal, City Clerk  
**Phone Number:** 559-592-9244  
**Email:** [adam@exetercityhall.com](mailto:adam@exetercityhall.com)  
[soneal@exetercityhall.com](mailto:soneal@exetercityhall.com)

**For action by:**

City Council

**Regular Session:**

Consent Calendar

Regular Item

Public Hearing

**Review:**

**City Administrator  
(Initials Required)**

*ABE.*

**Department Recommendation:**

Staff recommends following nominations the Council, by majority vote, select a representative for the Mayor and Mayor Pro Tem positions.

**Summary/Background:**

Pursuant to the City's Charter, Mayor and Mayor Pro Tem selection is provided by Ordinance. The City has not adopted an Ordinance outlining this process. Typically, regular reorganization is considered after each general municipal election (where council members are subject to election) and then at other times at the discretion of the Council. With nothing otherwise specified on the subject, Council reorganization should be considered after each municipal election (every two years). This is the process that Council has followed in the past with those selected serving a period of two years.

The Mayor is recognized as the official head of the City of Exeter for all ceremonial purposes, acts as the Presiding Officer at meetings, performs such other duties consistent with the office as may be imposed by the City Council, and preserves strict order and decorum at all times. The Mayor signs ordinances, resolutions and other such items as agreements, contracts, etc., except where otherwise instructed or set forth by policy. In the absence of the Mayor, the Mayor Pro Tem shall perform the duties of the Mayor as outlined above.

Staff will bring an item to Council in the coming months to discuss developing an Ordinance that would call out procedures and criteria for selection of Mayor and Mayor Pro Tem. Once Council adopts an ordinance, Mayor and Mayor Pro Tem selection procedures and criteria could also be called out in the finalized Council Handbook of Rules and Procedures.

**Financial Impact:** None.

**Prior Council/Board Actions:** Previous Mayor and Mayor Pro Tem appointments by the Council.

**Attachments:** None.

**Recommended motion to be made by Council/Board:** I move to appoint \_\_\_\_\_ to the position of Mayor. I move to appoint \_\_\_\_\_ to the position of Mayor Pro Tem.

**City of Exeter  
Agenda Item Transmittal**

**Meeting Date:** December 8, 2020

**Agenda Item Number:** **E4**

**Wording for Agenda:** Review and discussion to select and update City Council representation on outside Agency Boards and Committees.

**Submitting Department:** Administration  
**Contact Name:** Shonna Oneal, City Clerk  
Adam Ennis, City Administrator  
**Phone Number:** 559-592-9244  
**Email:** [soneal@exetercityhall.com](mailto:soneal@exetercityhall.com)  
[adam@exetercityhall.com](mailto:adam@exetercityhall.com)

**For action by:**

City Council

**Regular Session:**

Consent Calendar

Regular Item

Public Hearing

**Review:**

**City Administrator  
(Initials Required)**

*abe*

**Department Recommendation:**

Staff recommends the Council review and consider selections and update representation on the outside Agency Boards and Committees list.

**Summary/Background:**

Every two years following elections, or more often if necessary, the Council reviews and discusses City Council representation on various outside Agency Boards and Committees. A list of the current outside Agency Board and Committee assignments are attached hereto. Specific information regarding meeting dates, times and locations are mentioned on the attachment. City staff will notify the Boards and Committees of changes, if any, in representation. The City Council representative will be added to the email distribution list of the applicable Boards and Committees to be notified of meetings and to receive agenda materials.

**Financial Impact:** None.

**Prior Council/Board Actions:** Previous appointments to outside Agency Boards and Committees.

**Attachments:** Current Outside Agency Board and Committee assignments list

**Recommended motion to be made by Council/Board:** I move to select the representatives for each Agency Board/Committee as discussed.

# Exeter City Council



## Assignments to Boards and Committees

(Revised July 2020)

**Council of Cities** (Third Wednesday at 3:00 p.m. in Visalia – every other month)

Primary Representative: Council Member Alves

Alternate Representative: Mayor Mary Waterman-Philpot

Staff Representative: City Administrator Adam Ennis

**Chamber of Commerce Liaison** (Third Thursday of each month at 4:00 p.m. in Exeter)

Mayor Pro Tem Sally

**San Joaquin Valley Air Pollution Control District – Special Selection Committee** (As needed in Fresno)

Primary Representative: Council Member Hails

Alternate Representative: Public Works Director Daymon Qualls

**Tulare County Association of Governments Board & Tulare County Transportation Agency** (Third Monday of each month at 1:00 p.m. – Rotating locations within Tulare County)

Primary Representative: Council Member Petty

Alternate Representative: Council Member Alves

**Tulare County Regional Transit Agency Board** – (Third Monday of each month at 3:00 p.m. – Tulare County Board of Supervisors Chambers or Via Zoom)

Primary Representative: Mayor Waterman-Philpot

Alternate Representative: Council Member Hails

**Greater Kaweah Sustainable Groundwater Agency – Rural Communities Committee** (Last Monday each month at 1:30 p.m. in Farmersville)

Primary Representative: Mayor Pro Tem Barbara Sally

Alternate: City Administrator Adam Ennis

**City of Exeter  
Agenda Item Transmittal**

**Meeting Date:** December 8, 2020

**Agenda Item Number:** E5

**Wording for Agenda:** Discussion and direction for appointment or re-appointment of Jim Tyler and Joe Stewart to Planning Commission due to current terms of these two positions expiring at the end of January of 2021.

**Submitting Department:** Administration  
**Contact Name:** Adam Ennis, City Administrator  
**Phone Number:** (559) 592-4539  
**Email:** adam@exetercityhall.com

**Department Recommendation:**  
Staff recommends that Council discuss and provide staff direction for the appointment or re-appointment of Planning Commissioners due to current terms of two positions expiring at the end of January of 2021.

**Summary/Background:**

At the end of January of 2021 two Planning Commissioners, Jim Tyler and Joe Stewart, have their current terms expiring. Both Mr. Tyler and Mr. Stewart have expressed a willingness to be re-appointed to the Planning Commissioner positions if it is the Council's desire. Alternatively, Council could choose to appoint other members of the community to the positions through individual selection or advertising and interviews.

Since the two terms expire at the end of January there is some time to re-appoint the existing members or appoint new members. However, if the Council chooses to advertise for either or both of the positions and interview the applicants to make a selection/s, the process should begin soon since there are only two regular Council meetings between now and the end of January to make the appointments. Re-appointment of the existing members or appointment of new members is done by the Mayor with approval of the Council.

**Fiscal Impact:** None

**Prior Council/Board Actions:** City Council has made the previous appointments to the Planning Commission.

**Attachments:** None

**For action by:**

City Council

**Regular Session:**

Consent Calendar

Regular Item

Public Hearing

**Review:**

**City Administrator  
(Initials Required)**



**Recommended motion to be made by Council/Board;**

-1.) I move to re-appoint Jim Tyler to a new 4-year term on the Planning Commission.

-2.) I move to re-appoint Joe Stewart to a new 4-year term on the Planning Commission.

AND/OR,

3.) I move to provide staff direction for appointment to fill one or both of the two Planning Commissioner positions with current commissioner terms expiring at the end of January 2021

**City of Exeter  
Agenda Item Transmittal**

**Meeting Date:** December 8, 2020

**Agenda Item Number:** E6

**Wording for Agenda:** Adopt Resolution 2020-45 of the City Council of the City of Exeter Declaring Canvass of Returns and Result of General Municipal Elections.

**Submitting Department:** Administration  
**Contact Name:** Adam Ennis, City Administrator  
Shonna Oneal, City Clerk  
**Phone Number:** 559-592-9244  
**Email:** [adam@exetercityhall.com](mailto:adam@exetercityhall.com)  
[soneal@exetercityhall.com](mailto:soneal@exetercityhall.com)

**For action by:**

City Council

**Regular Session:**

Consent Calendar

Regular Item

Public Hearing

**Review:**

**City Administrator  
(Initials Required)**



**Department Recommendation:**

Staff recommends the Council adopt Resolution 2020-45 as presented.

**Summary:**

The General Municipal Election was held in the City of Exeter on November 3, 2020 in accordance with law, and the votes thereat (including absentee voters) received cast, and canvassed, and the returns thereof ascertained, determined and declared in all respects as required by law.

The sole item related to the City of Exeter on the ballot this year was Measure P. It asked voters the following question:

**“Measure P. City of Exeter Local Control/Essential Services Protection Measure. To protect Exeter’s long-term financial stability; maintain 911 emergency response; keep the community safe; prevent crime; repair streets/potholes; help retain local businesses; keep public areas and parks clean/safe; support youth/senior programs, and other general City services; shall the measure establishing a 1 cent sales tax providing approximately \$800,000 annually until ended by voters; requiring public disclosure of spending, audits, all funds used locally, be adopted? YES/NO”**

A total of 3,968 votes were cast on Measure P. The following details the results of the election:

	<b>NUMBER OF VOTES</b>	<b>% OF VOTES CAST</b>
YES	2,769	69.78
NO	1,199	30.22

Pursuant to the certified election results, Exeter voters approved Measure P, the one-cent general sales tax measure. With Council’s approval of the certified election results, the Ordinance implementing Measure P (see attached) will go into effect upon declaration of the vote by the City Council, and/or in accordance with applicable law. Staff recommends Council adopt Resolution 2020-XX Declaring Canvass of Returns and Results of General Municipal Elections.

**Background:**

On December 10, 2019, Council approved a process and schedule for development of a proposed revenue measure based on placement on the November 2020 election. At the January 28, 2020 meeting, Council established the 2020 Proposed Revenue Measure Advisory Committee (PRMAC) along with committee rules and procedures. The PRMAC was established to review information regarding potential details of a proposed revenue measure and provide findings and recommendations to the Council. The Council formed the PRMAC with a group of seven members; Patricia Thompson (Co-Chairperson), Ted Macaulay (Co-Chairperson), Wes Grim, Alicia Handley, Bob Dickie, Jr., Sandy Blankenship and Jim Tyler.

The PRMAC reviewed staff presentations similar to those presented to Council, with some additional background information. The group received the presentations, asked questions and had discussions at their meetings every Wednesday night beginning February 5, 2020 through March 4, 2020. On March 11, 2020 the PRMAC met and discussed their findings and developed their recommendations for the Council regarding proposed revenue measure details. Due to the COVID-19 pandemic, Council discussion with the PRMAC was postponed to May 19, 2020 to allow time for a clearer vision forward and to continue to meet deadlines for potential placement on the November 2020 election.

On May 19, 2020, the 2020 Proposed Revenue Measure Advisory Committee (PRMAC) presented their findings and recommendations to the City Council regarding the proposed revenue measure. After discussion, Council gave staff direction and authorization to contract with FM3 Research to conduct a community survey to determine the resident's desires regarding the potential revenue measure being placed on the November 2020 ballot.

Through June 2020 staff completed execution of a contract with FM3 Research and provided information to FM3 Research for development of a draft survey and ballot language. After a couple of reviews and discussions between FM3 Research and City staff the survey language was finalized. Surveying of the residents began online in the last week of June and continued by phone into the first two weeks of July. On July 22, 2020 the results of the survey were presented to the Council. Among other findings, the survey found that residents highly value the services provided by the City, and give government and the City Council good favorability ratings. By a 2 to 1 margin, respondents feel that the City is going in the right direction. Priorities identified by the community, which form the basis of staff's recommendation to proceed, included:

- ✓ Requiring transparent, public disclosure of funding
- ✓ Maintaining 911 emergency response
- ✓ Protecting local water supplies
- ✓ Requiring any funds generated by a voter-approved measure, be used locally for local needs
- ✓ Keeping the community safe and preventing crime
- ✓ Keeping public areas and parks clean and safe
- ✓ Fixing deteriorating streets/roads

Further, the survey found that as much as 77% of voters would support a simple majority requirement local funding measure.

At the July 28, 2020 meeting, Council adopted Resolution 2020-35 approving final ballot language, presenting the Ordinance that would be established by approval of the voters and authorization to consolidate the Revenue Measure with the November 2020 General Election.

**Financial Impact:** No financial impact due to this action. The financial impact of the measure passage itself will be brought to Council at a later date.

**Prior Council/Board Actions:** Various previous Council discussions and direction on developing the Proposed Revenue Measure and staff presentations on City needs that could be funded by a revenue measure.

February through May of 2020 - Review and development of findings and recommendations by the 2020 PRMAC.

July 28, 2020 – Adopted Resolution 2020-35 approving the final ballot language, presenting the Ordinance, and authorizing the consolidation of the Revenue Measure with the November 2020 General Election.

**Attachments:** Resolution 2020-45  
Ordinance 694

**Recommended motion to be made by Council/Board:** I move to adopt Resolution 2020-45 as presented.

**RESOLUTION 2020-45**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EXETER DECLARING  
CANVASS OF RETURNS AND RESULT OF GENERAL MUNICIPAL ELECTIONS**

**WHEREAS**, by proceedings heretofore duly had and taken, the General Municipal Election was held in the City of Exeter (hereinafter called the “City”) on November 3, 2020; and

**WHEREAS**, the General Municipal Election was held on said date in accordance with law, and the votes thereat (including absentee voters) received, cast, and canvassed, and the returns thereof ascertained, determined and declared in all respects as required by law.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND DECLARED** by the City Council of the City of Exeter, as follows:

1. The foregoing recitals are, and each of them is true and correct and this Council so determines.
2. The City Clerk of the City be and is hereby instructed to enter this resolution on the minutes of this Council as a statement of the result of said election.
3. The total number of ballots received and cast in the City (including absentee ballots) at said general municipal election for **Measure P** are attached and made a part hereof as Exhibit “A”.
4. That the majority of the voters voting on **Measure P** did vote in favor of it and thereby Measure P was carried, and Ordinance 694 is deemed adopted and ratified.

**PASSED, ADOPTED AND APPROVED** this 8<sup>th</sup> day of December 2020 by the following vote:

AYES:

NOS:

ABSTAIN:

ABSENT:

---

MAYOR

ATTEST:

---

CITY CLERK Shonna Oneal

**ORDINANCE 694**

**AN ORDINANCE ADDING CHAPTER 3.22 TO TITLE 3 OF THE EXETER CODE OF ORDINANCES TO PROVIDE FOR AN ADDITIONAL ONE PERCENT (ONE CENT) LOCAL TRANSACTIONS AND USE (SALES) TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, TO PROVIDE FUNDS TO MAINTAIN LOCAL CITY SERVICES INCLUDING POLICE, STREET MAINTENANCE, PARK MAINTENANCE, YOUTH RECREATIONAL PROGRAMS AND OTHER SERVICES**

**WHEREAS**, in the last several years, State government has taken hundreds of thousands of dollars from Exeter;

**WHEREAS**, as cities Exeter's size will not be getting any significant help from the State or Federal governments during this pandemic, our City and community must continue to be self-reliant and self-sufficient;

**WHEREAS**, voter-approved local funding requires that all funds raised stay in Exeter, and not one penny can be taken by the Federal, State or County governments;

**WHEREAS**, people choose to live in Exeter because of its small-town character, high quality of life, and quality City services, and the City seeks to maintain streets, quality parks, youth recreational programs and senior services, while ensuring Exeter neighborhoods and public areas are clean and safe, making the community a more desirable place to live, do business, and raise a family;

**WHEREAS**, engineering experts have found Exeter's streets and roads to be below average, or "very poor," and the City must address these safety road repairs before they get even worse and more expensive in the future;

**WHEREAS**, the Exeter Police Department has reduced crime, with over 500 fewer incidents in the last year alone--and the City wants to keep this momentum going in maintaining response times, solving crimes and keeping the city safe;

**WHEREAS**, the proposed measure includes fiscal accountability provisions such as public disclosure of all spending and annual independent financial audits; and

**WHEREAS**, all funds remain in the City of Exeter and cannot be taken by the Federal, State and County government;

**THE PEOPLE OF THE CITY OF EXETER DO ORDAIN AS FOLLOWS:**

**SECTION I. AMENDMENT OF CODE.**

The City of Exeter Code of Ordinances is hereby amended by the addition of a new Chapter to Title 3 (Revenue and Finance) to read as follows:

## CHAPTER 3.22 TRANSACTIONS AND USE TAX

### Sec. 3.22.010 Title.

This ordinance shall be known as the City of Exeter Transactions and Use Tax Ordinance of 2020.

### Sec. 3.22.020 Definitions.

The following words and phrases shall be defined as set forth in this Ordinance, except that any term or phrase not defined in this Ordinance shall have the same meaning as that term or phrase is defined in Parts 1.6 and 1.7 of the California Revenue and Taxation Code:

- (a) "City" means City of Exeter.
- (b) "Operative date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance by vote of the electorate on November 3, 2020.
- (c) "Ordinance" means the City of Exeter Transactions and Use Tax Ordinance of 2020.
- (d) "State" means the State of California.

### Sec. 3.22.030 Purpose.

This Chapter of the Exeter Code of Ordinances is adopted for the following (and among other) purposes, and directs that the provisions hereof be interpreted liberally in order to accomplish all of its lawful purposes:

- (a) To impose a retail transactions and use tax in accordance with the provisions of California Revenue and Taxation Code Sections 7251 et seq., and Section 7285.9, which authorizes the City to adopt this Ordinance 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 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 State Board of Equalization/California Department of Tax and Fee Administration in administering and collecting the California State Transactions and Use Taxes.

(d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will, to the degree possible consistent with the provisions of Parts 1.6 of Division 2 of the California 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.

(e) To provide transactions and use tax revenue to the City to be used for the general governmental purposes of the City and with any transactions and use tax revenue received being placed into the City's general fund.

**Sec. 3.22.040 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 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. 3.22.050 Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a transactions tax is imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1.0%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail within the territory of the City on and after the Operative Date of this Ordinance.

**Sec. 3.22.060 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, or unless as otherwise required by applicable law. The gross receipts from the sale shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State.

**Sec. 3.22.070 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 or after the Operative Date of this Ordinance for storage, use or other consumption in said territory of the City at the rate of one percent (1.0%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State transactions or use tax regardless of the place to which delivery is made.

**Sec. 3.22.080 Adoption of Provisions of State Law.**

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Parts 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 adopted, incorporated and made a part of this Ordinance as though fully set forth in it.

**Sec. 3.22.090 Limitations on Adoption of State Law and Collection of Use Taxes.**

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

(a) Wherever the State of California is named or referred to as the taxing agency, the name of the City of Exeter shall be substituted. 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 Equalization (or refers to the 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 the City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization/ 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 Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the California 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.

**Sec. 3.22.100 Permit Not Required.**

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

**Sec. 3.22.110 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 Chapter 2 of 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 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 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 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 subsections (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 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. 3.22.120 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 adopted and a part of this Ordinance without further action of the City Council of the City of Exeter or the City's electorate, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance. The City Council may amend this Ordinance to comply with applicable law or as may be otherwise necessary in order to further the Ordinance's stated purposes.

**Sec. 3.22.130 Prohibition on Enjoining Collection.**

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 under this Ordinance.

**Sec. 3.22.140 Severability.**

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

**Sec. 3.22.150 Effective Date.**

This Ordinance relates to the levying and collection of the City's transactions and use taxes and shall become effective only if approved by a majority of the voters voting

on the measure at the November 3, 2020, Special Municipal Election. The Operative Date of this Ordinance shall then be as defined in Section 3.22.020(b).

**Sec. 22-9.16. Accountability and Oversight.**

This ordinance authorizes the City Council to form a Transactions and Use Tax Oversight Committee, to act as an independent citizen's oversight committee for the expenditure of tax revenue collected. The Committee's specific responsibilities shall be established by Resolution of the City Council.

**SECTION III. SEVERABILITY.**

Any provision of the Exeter Code of Ordinances or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance, except that any existing, duly adopted transactions and use tax existing as of the date of adoption of this Ordinance shall remain in effect and the transactions and use tax imposed by this Ordinance shall be additive thereto.

**APPROVED** by the following vote of the People of the City of Exeter on November 3, 2020:

	<b>NUMBER OF VOTES</b>	<b>% OF VOTES CAST</b>
YES	2,769	69.78
NO	1,199	30.22

**ADOPTED** by Declaration of the vote by the City Council of the City of Exeter on \_\_\_\_\_ day of \_\_\_\_\_ 2020, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK