

EMERGENCY ORDINANCE NUMBER O- 16092  
(New Series)

Adopted on DEC 12 1983

AN EMERGENCY ORDINANCE AMENDING CHAPTER III,  
ARTICLE 2, OF THE SAN DIEGO MUNICIPAL BY  
REPEALING SECTIONS 32.52.5, 32.52.6(b),  
32.53.3(c) AND (d) AND 32.53.4(c), AND  
RENUMBERING SECTIONS 32.52.6 AND 32.53.4,  
RELATING TO THE SALES AND USE TAX ADMINISTERED BY  
THE STATE BOARD OF EQUALIZATION.

WHEREAS, changes in Section 7202 and 7203 of the Revenue  
and Taxation Code of the State of California deleting the  
exemption from sales and use taxes for waterborne vessels become  
operative on January 1, 1984 and necessitate the immediate  
adoption of similar changes to the San Diego Municipal Code; and

WHEREAS, such changes to the Municipal Code if not  
immediately effective would result in the City being ineligible  
to have its sales and use tax collected through the State Board  
of Equalization; and

WHEREAS, such a result would have disastrous consequences  
to the public peace, property, health and safety of the City,  
the immediate preservation of which requires the adoption of  
this ordinance as an emergency measure; and

WHEREAS, the Governor of the State of California has  
indicated a willingness to extend the operative effect of the  
current law for two years and would sign such extension if one  
were adopted by the Legislature in 1984; and

WHEREAS, therefore it is incumbent on the City to provide for this contingency in this ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

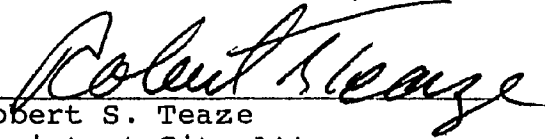
Section 1. Sections 32.52.5, 32.52.6(b), 32.53.3(c) and (d) and 32.53.4(c) of Chapter III, Article 2 of the San Diego Municipal Code be and the same are hereby repealed and Section 32.52.6(c) is hereby renumbered 32.52.6(b) and Section 32.53.4(d) is renumbered 32.53.4(c).

Section 2. In the event the Legislature of the State of California amends Section 7202 of the Revenue and Taxation Code or repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i)(7) and (i)(8) of Section 7202 of the Revenue and Taxation Code as those subdivisions read on October 1, 1983, Chapter III, Article 2 of the San Diego Municipal Code is hereby amended by readopting Section 32.52.6(b) as it read prior to the adoption of this ordinance and by renumbering 32.52.6(b) to 32.52.6(c), and by readopting Section 32.53.4(c) as it read prior to the adoption of this ordinance and renumbering Section 32.53.4(c) to Section 32.53.4(d); the aforementioned changes to become operative on the operative date of the aforementioned State legislation.

Section 3. This emergency ordinance shall become effective immediately on the date of its introduction and adoption and Section 1. hereof shall become operative as of January 1, 1984, and Section 2. hereof shall become operative on the operative date of any legislative changes as recited in said Section 2.

APPROVED: John W. Witt, City Attorney

By

  
Robert S. Teaze  
Assistant City Attorney

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Or.Dept:Atty.  
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CITY OF SAN DIEGO

SALTS & USE TAX

ORDINANCE

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SEC. 32.15.2

ARTICLE 2  
SALES TAX

SEC. 32.01 ALLOCATION OF REVENUE FOR CAPITAL OUTLAY EXPENDITURES

(Amended 8-11-55 by Ord. 6618 N.S.)  
(Amended 12-12-61 by Ord. 8560 N.S. - formerly Sec. 32.02.1.)  
(Amended 5-26-66 by Ord. 9445 N.S.)  
(Amended 4-21-76 by Ord. 11832 N.S.)  
(Amended 5-12-76 by Ord. 11842 N.S.)  
(Amended 11-17-76 by Ord. 11949 N.S.)  
(Repealed 11-7-78 by Ord. 12483 N.S.)

SEC. 32.02 USE TAX IMPOSED

(Amended 8-11-55 by Ord. 6618 N.S.)  
(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.02.1 ONE-HALF OF REVENUE FOR PERMANENT PUBLIC IMPROVEMENTS

(Amended 8-11-55 by Ord. 6618 N.S.)  
(Repealed 12-12-61 by Ord. 8560 N.S. - now Sec. 32.01.)

SEC. 32.03 TAXES COLLECTIBLE BY RETAILER

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.04 PROHIBITS RETAILER FROM ABSORBING TAX - PROHIBITS ADVERTISING SUCH

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.05 PAYMENT OF TAXES - TAX RETURNS REQUIRED - DELINQUENT TAXES - EXTENSION OF TIME

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.06 REGISTRATION OF RETAILERS - PERMIT REQUIRED - APPLICATION FOR PERMIT

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.07 REVOCATION OF PERMIT - NOTICE AND HEARING - APPEAL TO COUNCIL

(Amended 8-11-55 by Ord. 6617 N.S.)  
(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.08 ENGAGING IN BUSINESS AS SELLER WITHOUT PERMIT - PENALTY

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.09 EVASION OF TAX - PRESUMPTION OF USE IN CITY - OTHER PRESUMPTIONS, CERTIFICATE OF RESALE - USE BY PURCHASER

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.10 STATE OF CALIFORNIA RESALE CERTIFICATE

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.11 REVENUE AND TAXATION CODE OF STATE OF CALIFORNIA ADOPTED

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.12 GROSS RECEIPTS - INCLUSIONS AND EXCLUSIONS

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.13 EXEMPTIONS OF REVENUE AND TAXATION CODE APPLICABLE TO THIS ARTICLE - OTHER EXEMPTIONS

(Amended 6-19-56 by Ord. 7032 N.S.)  
(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.14 CITY TREASURER ADMINISTERS PROVISIONS OF ARTICLE - PRESCRIBES RULES AND REGULATIONS

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.15.1 DEFICIENCY DETERMINATIONS

(Repealed 12-12-61 by Ord. 8560 N.S.)

SEC. 32.15.2 INTEREST

(Repealed 12-12-61 by Ord. 8560 N.S.)

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**SEC. 32.15.3**

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**SEC. 32.15.3 OFFSETS**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.15.4 10% PENALTY**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.15.5 25% PENALTY**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.15.6 NOTICE OF DETERMINATION**

(Amended 8-11-55 by Ord. 6617 N.S.)  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.15.7 LIMITATIONS**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.16 DETERMINATIONS IF NO RETURN MADE**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.16.1 OFFSETS**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.16.2 INTEREST**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.16.3 PENALTIES**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.16.4 NOTICE OF DETERMINATION**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.17 JEOPARDY DETERMINATION**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.17.1 INTEREST AND PENALTY**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.17.2 PETITION FOR DETERMINATION--AFTER JEOPARDY**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.18 PETITION FOR REDETERMINATION**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.18.1 ORAL HEARING--DECREASE OR INCREASE OF DETERMINATION**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.18.2 FINALITY DATE**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.18.3 DUE DATE OF DETERMINATIONS: PENALTY**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.18.4 SERVICE OF NOTICE**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.18.5 APPEAL TO CITY COUNCIL**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.19 TREASURER AUTHORIZED TO EXAMINE BOOKS AND RECORDS--  
INVESTIGATION--UNLAWFUL TO REFUSE EXAMINATION OR  
CONCEAL RECORDS.**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.20 DEPOSIT WITH TREASURER TO INSURE COMPLIANCE--SALE OF  
SECURITY DEPOSITED**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.21 DELINQUENT PAYMENTS--UNPAID DETERMINATIONS, NOTICE  
TO PERSONS HOLDING CREDITS OR PROPERTY OF DELINQUENT**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.22 TREASURER AUTHORITY TO BRING COURT ACTION TO  
COLLECT DELINQUENCY, PENALTIES AND INTEREST**

(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.23 MANNER OF COLLECTION OR DELINQUENCY**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.23.1 NOTICE OF SALE**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.23.2 CONDUCT OF SALE-BILL OF SALE OR DEED**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.23.3 DISPOSITION OF EXCESS MONEY**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.24 SUCCESSOR OR ASSIGN OF DELINQUENT OR PERSON LIABLE**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.24.1 LIABILITY OF SUCCESSOR, ASSIGN, OR PURCHASER**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.25 TAX LEVIED AS PROVIDED IN CALIFORNIA REVENUE AND TAXATION CODE**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.26 CONSTRUCTION OF ARTICLE**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.27 OFFICERS PROHIBITED FROM DIVULGING INFORMATION-CITY COUNCIL MAY AUTHORIZE**  
(Repealed 12-12-61 by Ord. 8560 N.S.)

**SEC. 32.50 SHORT TITLE**

Sections 32.50 and including Section 32.59 shall be known as the Uniform Local Sales and Use Tax Ordinance of the City of San Diego.  
(Added 2-28-56 by Ord. 6870 N.S.)

**SEC. 32.51 PURPOSE**

The City Council of The City of San Diego hereby declares that these sections are adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To adopt sales and use tax requirements which comply with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California;

(b) To adopt sales and use tax requirements which incorporate 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 1.5 of Division 2 of the said Revenue and Taxation Code;

(c) To adopt a sales and use tax law which imposes one per cent (1%) tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practical to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

(d) To adopt sales and use tax requirements which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of these sections.

(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.52 SALES TAX**

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the City at the rate of One percent (1%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in The City of San Diego on and after the operative date of the adoption of these provisions.

(Added 2-28-56 by Ord. 6870 N.S.)

**SEC. 32.52.1 SALES TAX-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

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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 Board of Equalization.

(Added 2-28-56 by Ord. 6870 N.S.)

(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.52.2 SALES TAX - STATE LAW ADOPTED BY REFERENCE**

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on April 1, 1956, applicable to sales taxes are hereby adopted and made a part of this section as though fully set forth herein.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.52.3 SALES TAX - STATE LAW - SUBSTITUTION OF NAMES**

Wherever, and to the extent that, in Part 1 of Division 2 of the said Revenue and Taxation Code the State of California is named or referred to as the taxing agency, The City of San Diego shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of The City of San Diego for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the City shall not be substituted for that of the State in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code as adopted.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.52.4 SALES TAX - ONLY ONE SELLER'S PERMIT REQUIRED**

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

(Added 2-28-56 by Ord. 6870 N.S.)

(Amended 10-25-73 by Ord. 11148 N.S.)

**SEC. 32.52.5 SALES TAX - EXCLUSIONS FROM GROSS RECEIPTS**

~~There shall be excluded from the gross receipts by which the tax is measured:~~  
~~(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer;~~

~~(b) Receipts from sales to operators of common carrier and waterborne vessels of property to be used or consumed in the operation of such common carriers or waterborne vessels principally outside of this City.~~

(Added 2-28-56 by Ord. 6870 N.S.)

(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.52.6 SALES TAX - EXCLUSIONS FROM GROSS RECEIPTS**

There shall be excluded from the gross receipts by which the tax is measured:

(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

~~(b) The gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made~~

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~~and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.~~  
(b) (g) The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city 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.  
(Added 10-25-73 by Ord. 11148 N.S.)

**SEC. 32.53 USE TAX**

An excise tax is hereby imposed on the storage, use or other consumption in The City of San Diego of tangible personal property purchased from any retailer on or after the operative date of this ordinance, for storage, use or other consumption in the city at the rate of One percent (1%) 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.  
(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.53.1 USE TAX - ADOPTION OF STATE LAW BY REFERENCE**

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on April 1, 1956, applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.  
(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.53.2 USE TAX-STATE LAW-SUBSTITUTION OF NAMES**

Wherever, and to the extent that, in Part 1 of Division 2 of the said Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this City for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this section or subsections; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; and in addition, the name of the City shall not be substituted for that of the State in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code as adopted, and the name of the City shall not be substituted for the word 'State' in the phrase 'retailer engaged in business in this State' in Section 6203 nor in the definition of that phrase in Section 6203.  
(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.53.3 USE TAX-EXCLUSIONS FROM TAXES DUE**

There shall be exempt from the tax due under this section:  
(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.  
(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State.  
(c) ~~The storage or use of tangible personal property in the transportation or transmission of persons, property or communications, or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State of California.~~  
(d) ~~The use or consumption of property purchased by operators of common~~

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~~carrier and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside the City.~~  
(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.53.4 USE TAX - EXCLUSIONS FROM TAXES DUE**

There shall be exempt from the tax due under this section:  
(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state.

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~~(c) The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.~~

(c)

(d) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property 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.  
(Added 10-25-73 by Ord. 11148 N.S.)

**SEC. 32.54 AMENDMENTS**

All amendments of the said Revenue and Taxation Code enacted subsequent to the effective date of this ordinance which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the said Revenue and Taxation Code shall automatically become a part of these sections.  
(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.55 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 this City, or against any officer of the State or this City, to prevent or enjoin the collection under these sections or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.  
(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.56 EXISTING SALES AND USE TAX SECTIONS SUSPENDED**

At the time this ordinance goes into operation, the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall be suspended and shall not again be of any force or effect until and unless for any reason the State Board of Equalization ceases to perform the functions incident to the administration and operation of the sales and use tax hereby imposed; provided, however, that if for any reason it is determined that The City of San Diego is without power to adopt this ordinance, or that the State Board of Equalization is without power to perform the functions incident to the administration and operation of the taxes imposed by this ordinance, the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall not be deemed to have been suspended, but shall be deemed to have been in full force and effect at the rate of One percent (1%) continuously from and after April 1, 1956. Upon the ceasing of the State Board of Equalization to perform the functions incident to the administration and operation of the taxes imposed by these sections the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall again be in full force and effect at the rate of One percent (1%). Nothing in this ordinance shall be construed as relieving any person of the obligation to pay to The City of San Diego any sales or use tax accrued and owing by reason of the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code in force and effect prior to and including March 31, 1956.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.57 PENALTIES**

Any person violating any of the provisions 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 (6) months in the City jail, or by both such fine and imprisonment.  
(Added 2-28-56 by Ordinance 6870 N.S.)

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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 Board of Equalization.

(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.52.2 SALES TAX - STATE LAW ADOPTED BY REFERENCE**

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on April 1, 1956, applicable to sales taxes are hereby adopted and made a part of this section as though fully set forth herein.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.52.3 SALES TAX - STATE LAW - SUBSTITUTION OF NAMES**

Wherever, and to the extent that, in Part 1 of Division 2 of the said Revenue and Taxation Code the State of California is named or referred to as the taxing agency, The City of San Diego shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of The City of San Diego for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the City shall not be substituted for that of the State in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code as adopted.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.52.4 SALES TAX - ONLY ONE SELLER'S PERMIT REQUIRED**

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

(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 10-25-73 by Ord. 11148 N.S.)

**SEC. 32.52.5 SALES TAX EXCLUSIONS FROM GROSS RECEIPTS**

~~There shall be excluded from the gross receipts by which the tax is measured:~~  
~~(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer;~~

~~(b) Receipts from sales to operators of common carrier and waterborne vessels of property to be used or consumed in the operation of such common carriers or waterborne vessels principally outside of this City.~~

~~(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)~~

**SEC. 32.52.6 SALES TAX - EXCLUSIONS FROM GROSS RECEIPTS**

There shall be excluded from the gross receipts by which the tax is measured:  
(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made

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and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(c) The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city 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.  
(Added 10-25-73 by Ord. 11148 N.S.)

**SEC. 32.53 USE TAX**

An excise tax is hereby imposed on the storage, use or other consumption in The City of San Diego of tangible personal property purchased from any retailer on or after the operative date of this ordinance, for storage, use or other consumption in the city at the rate of One percent (1%) 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.  
(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.53.1 USE TAX - ADOPTION OF STATE LAW BY REFERENCE**

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on April 1, 1956, applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.  
(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.53.2 USE TAX-STATE LAW-SUBSTITUTION OF NAMES**

Wherever, and to the extent that, in Part 1 of Division 2 of the said Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this City for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this section or subsections; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; and in addition, the name of the City shall not be substituted for that of the State in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code as adopted, and the name of the City shall not be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 nor in the definition of that phrase in Section 6203.

(Added 2-28-56 by Ord. 6870 N.S.)  
(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

**SEC. 32.53.3 USE TAX-EXCLUSIONS FROM TAXES DUE**

There shall be exempt from the tax due under this section:

- (a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- (b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State.
- ~~(c) The storage or use of tangible personal property in the transportation or transmission of persons, property or communications, or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State of California.~~
- ~~(d) The use or consumption of property purchased by operators of common~~

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~~carrier and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside the City.~~

(Added 2-28-56 by Ord. 6870 N.S.)

(Amended 12-12-61 by Ord. 8561 N.S., effective 1-1-62.)

#### SEC. 32.53.4 USE TAX - EXCLUSIONS FROM TAXES DUE

There shall be exempt from the tax due under this section:

(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state.

(c) The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(d) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property 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.

(Added 10-25-73 by Ord. 11148 N.S.)

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#### SEC. 32.54 AMENDMENTS

All amendments of the said Revenue and Taxation Code enacted subsequent to the effective date of this ordinance which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the said Revenue and Taxation Code shall automatically become a part of these sections.

(Added 2-28-56 by Ordinance 6870 N.S.)

#### SEC. 32.55 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 this City, or against any officer of the State or this City, to prevent or enjoin the collection under these sections or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

(Added 2-28-56 by Ordinance 6870 N.S.)

#### SEC. 32.56 EXISTING SALES AND USE TAX SECTIONS SUSPENDED

At the time this ordinance goes into operation, the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall be suspended and shall not again be of any force or effect until and unless for any reason the State Board of Equalization ceases to perform the functions incident to the administration and operation of the sales and use tax hereby imposed; provided, however, that if for any reason it is determined that The City of San Diego is without power to adopt this ordinance, or that the State Board of Equalization is without power to perform the functions incident to the administration and operation of the taxes imposed by this ordinance, the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall not be deemed to have been suspended, but shall be deemed to have been in full force and effect at the rate of One percent (1%) continuously from and after April 1, 1956. Upon the ceasing of the State Board of Equalization to perform the functions incident to the administration and operation of the taxes imposed by these sections the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall again be in full force and effect at the rate of One percent (1%). Nothing in this ordinance shall be construed as relieving any person of the obligation to pay to The City of San Diego any sales or use tax accrued and owing by reason of the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code in force and effect prior to and including March 31, 1956.

(Added 2-28-56 by Ordinance 6870 N.S.)

#### SEC. 32.57 PENALTIES

Any person violating any of the provisions 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 (6) months in the City jail, or by both such fine and imprisonment.

(Added 2-28-56 by Ordinance 6870 N.S.)

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**SEC. 32.58 SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance, including but not limited to any exemption, 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 The City of San Diego 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.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.59 OPERATIVE DATE - CONTRACT WITH STATE**

This ordinance shall become operative on April 1, 1956, and prior thereto this City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax; provided, that if this City shall not have contracted with the said State Board of Equalization, as above set forth, prior to April 1, 1956, this ordinance shall not be operative until the first day of the first calendar quarter following the execution of such a contract by the City and by the State Board of Equalization, provided further that this ordinance shall not become operative prior to the operative date of the Uniform Local Sales and Use Tax Ordinance of the County of San Diego.

(Added 2-28-56 by Ordinance 6870 N.S.)

**SEC. 32.60 APPLICATION OF PROVISIONS RELATING TO EXCLUSIONS AND EXEMPTIONS**

(a) Sections 32.52.6 and 32.53.4 of the San Diego Municipal Code shall become operative on January 1st of the year following the year in which the State Board of Equalization adopts an assessment ratio for state-assessed property which is identical to the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Section 32.52.5 and 32.53.3 of the San Diego Municipal Code shall become inoperative.

(b) In the event that Sections 32.52.6 and 32.53.4 of the San Diego Municipal Code become operative and the State Board of Equalization subsequently adopts an assessment ratio for state-assessed property which is higher than the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, Sections 32.52.5 and 32.53.3 of the San Diego Municipal Code shall become operative on the first day of the month following the month in which such higher ratio is adopted, at which time Sections 32.52.6 and 32.53.4 of the San Diego Municipal Code shall become inoperative until the first day of the month following the month in which the Board again adopts an assessment ratio for state-assessed property which is identical to the ratio required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Sections 32.52.6 and 32.53.4 shall again become operative and Sections 32.52.5 and 32.53.3 shall become inoperative.

(Added 10-25-73 by Ord. 11148 N.S.)

*Repealed  
by separate  
Ordinance*

**ARTICLE 3  
BUSINESS REGULATIONS**

**DIVISION 1**

**GENERAL PROVISIONS**

**SEC. 33.0101 POLICE REGULATED**

That the occupations and businesses in The City of San Diego, listed in this Chapter and licensed by said City are deemed to be subject to such Police power, and are hereby designated by the classification, "POLICE REGULATED."

All occupations and businesses so designated, and all persons conducting or proposing to conduct the same, shall be subject to such investigation, rules and regulations as are required by this or other regulatory provisions of said City, as a prerequisite to the granting of a license for, or the conducting of such occupation or business.

Passed and adopted by the Council of The City of San Diego on DEC 12 1983,  
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK  
 Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By Barbara Berridge, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on  
DEC 12 1983, said ordinance being of the kind and character  
 authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not  
 less than a majority of the members elected to the Council, and that there was available for the consideration  
 of each member of the Council and the public prior to the day of its passage a written or printed copy of said  
 ordinance.

(Seal)

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By Barbara Berridge, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-16032</u>	Adopted <u>DEC 12 1983</u>
	<b>01416</b>

CERTIFICATE OF PUBLICATION

CITY OF SAN DIEGO  
ATTN: BARBARA BERRIDGE  
202 C St., 12th Floor  
SAN DIEGO, CA 92101

RECEIVED  
CITY CLERK'S OFFICE  
1983 DEC 29 AM 10:42  
SAN DIEGO, CALIF.

IN THE MATTER OF

NO.

EMERGENCY ORDINANCE NO. O-16092

EMERGENCY ORDINANCE NO. O-16092  
(New Series)

AN EMERGENCY ORDINANCE AMENDING CHAPTER  
ARTICLE 2 OF THE SAN DIEGO MUNICIPAL  
ORDINANCES BY AMENDING SECTIONS 22.52.2, 22.52.2(b), 22.52.2(c) AND  
22.52.2(d) AND RENUMBERING SECTIONS 22.52.2  
AND 22.52.4 RELATING TO THE SALES AND USE TAX AD-  
JUSTED BY THE STATE BOARD OF EQUALIZATION.

This Ordinance deletes the sales and use tax exemptions in  
the San Diego Municipal Code applying to waterborne vessels ef-  
fective January 1, 1984, due to changes in State law. It further  
amends them if the Legislature does so during 1984. It is enacted  
as an emergency ordinance because the changes need to be ef-  
fective January 1, 1984 in order for the State Board of Equaliza-  
tion to continue to collect the taxes and the City to avoid the  
unpleasant consequences that would follow if that did not happen.  
A complete copy of the Ordinance is available for inspection in  
the office of the City Clerk of the City of San Diego, 12th Floor, Ci-  
ty Administration Building, 202 "C" Street, San Diego, CA 92101.

Enacted and adopted by the Council of the City of San Diego  
on December 12, 1983, by the following vote:

AYES: Mitchell, Cleator, McColl, Jones, Gotch, Murphy, Mar-  
shall, Hedgecock  
NAYS: None  
PRESENT: Struikema  
CERTIFICATED BY:  
ROBERT HEDGECOCK,  
Mayor of the City of San Diego, California.  
CHARLES G. ABDELNOUR,  
City Clerk of the City of San Diego, California.

BY BARBARA BERRIDGE,  
Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed  
and the day of its introduction, to wit, on December 12, 1983, said  
ordinance being of the kind and character authorized for passage  
and its production by Section 16 of the Charter.

I FURTHER CERTIFY that the reading of said ordinance in full  
was witnessed with a vote of not less than a majority of the  
members elected to the Council, and that there was available for  
the consideration of each member of the Council and the public  
present the day of its passage a written or printed copy of said or-  
dinance.

CHARLES G. ABDELNOUR,  
City Clerk of The City of San Diego, California.

BY BARBARA BERRIDGE,  
Deputy  
Publish Dec. 26, 1983 60-3518

I, Charlene Land, am a citizen  
of the United States and a resident of the County aforesaid; I am over the  
age of eighteen years, and not a party to or interested in the above-entitled  
matter. I am the principal clerk of the San Diego Daily Transcript, a  
newspaper of general circulation, printed and published daily, except  
Saturdays and Sundays, in the City of San Diego, County of San Diego, and  
which newspaper has been adjudged a newspaper of general circulation by  
the Superior Court of the County of San Diego, State of California, under  
the date of January 23, 1909, Decree No. 14894; and the

EMERGENCY ORDINANCE NO. O-16092  
(NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was  
published in said newspaper on the following date(s), to wit:

December 26, 1983

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 26th day of Dec., 19 83.

Charlene Land  
(Signature)

8 1/2" X 8.87 = 75.40

01417