

City of Sonoma

RESOLUTION # 53 - 2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO A TRANSACTIONS AND USE TAX AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTION CODE

WHEREAS, as authorized by state law, the City imposes a transactions and use tax, commonly known as a local sales tax, through Chapter 3.13 of the Sonoma Municipal Code (Rev. & Tax. Code, § 7251 et seq.); and

WHEREAS, this tax is currently set at 0.5 percent; and

WHEREAS, the City Council wishes to increase this tax to 1 percent to close budget deficits and expand the City's services to its residents; and

WHEREAS, the City Council further wishes to make other updates to Chapter 3.13 to reflect changes in state law; and

WHEREAS, the proposed ordinance implementing these amendments to Chapter 3.13 is attached hereto as Exhibit A (the "Ordinance") and is incorporated by this reference; and

WHEREAS, the Ordinance increases a general tax and, accordingly, it must be approved by a majority (50% plus 1) of the City's voters (Cal. Const., art. XIII C, § 2(b); Rev. & Tax. Code, § 7285.9); and

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on November 5, 2024 (the "Election"); and

WHEREAS, the City Council therefore wishes to submit the Ordinance to the voters at the Election (Elec. Code, § 9222); and

WHEREAS, it is desirable that the General municipal election be consolidated with the Statewide General election to be held on the same date and that within the city the precincts, polling places (voting centers) and election officers of the two elections be the same, and that the county election department of the County of Sonoma canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election; and

WHEREAS, the City has an agreement in place with the County of Sonoma to perform these services.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Sonoma as follows:

SECTION 1.

That pursuant to the requirements of section 10403 of the Elections Code, the Board of Supervisors of the County of Sonoma is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General election on Tuesday, November 5, 2024, for the purpose of submitting to the voters a question pertaining to a Transactions and Use Tax.

SECTION 2.

The City Council hereby orders the Ordinance attached hereto as Exhibit A to be submitted to the City's voters at the Election, and it further orders the following question concerning the Ordinance to be placed on the ballot for the Election:

| | |
|---|---|
| Shall the City of Sonoma measure to increase funding for essential city services, such as public safety, prompt emergency response times/ safe evacuation routes; improving traffic safety for pedestrians; maintaining streets/ sidewalks; enhancing youth recreation and parks; and funding affordable housing programs, by adopting a ½ percent sales tax, providing about \$3,000,000 yearly for general governmental use until ended by voters, with independent audits, public disclosure of all spending, and all funds staying local, be adopted? | YES NO |
|---|---|

SECTION 3.

That the vote requirement for the measure to pass is majority (50% + 1) of the votes cast.

SECTION 4.

The City Attorney is hereby authorized and directed to prepare an impartial analysis of the Ordinance by such deadline as the City Clerk may establish. (Elec. Code, § 9280.)

SECTION 5.

The City Clerk is authorized, instructed, and directed to give further or additional notice of the Election in the time, form, and manner required by law. The Clerk is further directed to file a certified copy of this Resolution with the Sonoma County Board of Supervisors and with the Sonoma County Clerk-Recorder-Assessor-Registrar of Voters no later than 88 days before November 5, 2024.

SECTION 6.

The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's share of costs to place the Ordinance on the ballot for the Election.

SECTION 7.

The City Clerk is hereby authorized, instructed, and directed to implement applicable procedures concerning arguments in favor of or against the Ordinance, including but not limited to Elections Code section 9280 et seq. The Clerk may work with the County elections official as necessary to complete this task.

Rebuttal arguments are hereby authorized. This authorization applies only to the Election and lapses when the Election's results are certified. (Elec. Code, § 9285.)

The City Council hereby authorizes Council Members Gurney and Farrar-Rivas to prepare and file the argument in support of the Ordinance and to prepare and file a rebuttal to any argument against the Ordinance. (Elec. Code, § 9282(b).)

SECTION 8.

That the county election department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide or special election.

SECTION 9.

That the Board of Supervisors is requested to issue instructions to the county election department to take any and all steps necessary for the holding of the consolidated election.

SECTION 10.

The adoption of this Resolution is exempt from the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq. and California Code of Regulations, title 14, section 15000 et seq. (CEQA Guidelines). The calling of a municipal election is not a project within the meaning of CEQA Guidelines section 15378. Further, the general tax proposed by this Resolution is a government funding mechanism that does not "involve any commitment to any specific project which may result in a potentially significant physical impact on the environment," and thus adopting this Resolution is not a project under CEQA Guidelines section 15378(b)(4).

SECTION 11.


This Resolution shall take effect immediately upon its adoption.

SECTION 12.

The City Clerk shall certify the passage and adoption of this Resolution as required by law.

PASSED, APPROVED, AND ADOPTED, at a Regular Council Meeting of the City Council of the City of Sonoma on this 17th day of July 2024, by the following vote:

- AYES:** FARRAR-RIVAS, WELLANDER, DING, LOWE, GURNEY
NOES:
ABSENT:
ABSTAIN:



John Gurney, Mayor



Rebekah Barr, MMC, City Clerk

ATTEST:

City of Sonoma

ORDINANCE # _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA AMENDING SONOMA MUNICIPAL CODE CHAPTER 3.13, GOVERNING THE CITY'S TRANSACTIONS AND USE TAX, SUBJECT TO APPROVAL BY THE VOTERS, OF A ONE-HALF CENT GENERAL TRANSACTIONS AND USE TAX

The People of the City of Sonoma, State of California, do ordain as follows:

SECTION 1.

Title 3, Chapter 3.13 of the Sonoma Municipal Code, entitled "2012 Transactions and Use Tax," is amended as stated below. Deletions are indicated by ~~strikethroughs~~, and additions are indicated by underlines.

Chapter 3.13

~~2012~~ 2024 Transactions and Use Tax

Sections:

- 3.13.010 Title.
- 3.13.020 Operative date.
- 3.13.030 Purpose.
- 3.13.040 Contract with state.
- 3.13.050 Transactions tax rate.
- 3.13.060 Place of sale.
- 3.13.070 Use tax rate.
- 3.13.080 Adoption of provisions of state law.
- 3.13.090 Limitations on adoption of state law and collection of use taxes.
- 3.13.100 Permit not required.
- 3.13.110 Exemptions and exclusions.
- 3.13.120 Amendments.
- 3.13.130 Enjoining collection forbidden.

3.13.010 Title.

This chapter shall be known as the city of Sonoma transactions and use tax ordinance. The city of Sonoma hereinafter shall be called "city." This chapter shall be applicable in the incorporated territory of the city.

3.13.020 Operative date.

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance codified in this chapter, ~~the date of such adoption being July 2, 2012.~~

3.13.030 Purpose.

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

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

B. To adopt a retail transactions and use tax chapter 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 therefor that can be administered and collected by the ~~State Board of Equalization~~ 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 sales and use taxes.

D. To adopt a retail transactions and use tax chapter that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.13.040 Contract with state.

Prior to the operative date, the city shall contract with the ~~State Board of Equalization~~ California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided, that if the city shall not have contracted with the ~~State Board of Equalization~~ 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.

3.13.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of ~~one-half of one~~ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.

3.13.060 Place of sale.

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

3.13.070 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 and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of ~~one-half of one~~ percent 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.

3.13.080 Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.13.090 Limitations on adoption of state law and collection of use taxes.

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

A. Wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, ~~State Board of Control, State Board of Equalization,~~ State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the ~~State Board of Equalization~~ California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter.

3. In those sections, including but not necessarily limited to sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. 1. 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.

2. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combines sales of tangible personal property in this state or for delivery in the state by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.13.100 Permit not required.

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

3.13.110 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 subsection, 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 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 chapter.

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 chapter.

5. For the purposes of subsections (B)(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 chapter 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 chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.

5. For the purposes of subsections (C)(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 subsection (C)(7) of this section, 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.

3.13.120 Amendments.

All amendments subsequent to the effective date of the ordinance codified in this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the

Revenue and Taxation Code, shall automatically become a part of this chapter; provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

3.13.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer of the state or the city, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 2.

If this Ordinance would otherwise cause the transactions and use tax in Chapter 3.13 of the Sonoma Municipal Code to exceed the limit provided in Revenue & Taxation Code § 7251.1, the City hereby invokes its authority under Revenue & Taxation Code § 7292.8 to impose a transactions and use tax exceeding that limit.

SECTION 3.

The adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq. and California Code of Regulations, title 14, section 15000 et seq. (CEQA Guidelines). The general transactions and use tax this Ordinance adopts does not “involve any commitment to any specific project which may result in a potentially significant physical impact on the environment,” and thus it is not a project under CEQA Guidelines section 15378(b)(4).

SECTION 4.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is 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 City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5.

If at least a majority (50% plus 1) of City voters cast votes in favor of this Ordinance in the election held on November 5, 2024, this Ordinance shall be considered adopted and may be executed below on the date that the vote is declared by the City Council.

SECTION 6.

As soon as practicable after this Ordinance is adopted pursuant to Section 13, the City Clerk shall certify to the passage and adoption of this Ordinance, cause it to be published according to law, transmit it to the California Department of Tax and Fee Administration.

SECTION 7.

This Ordinance and Chapter 3.13 of the Sonoma Municipal Code may be amended or repealed by the City Council or the voters. However, as required by Article XIII C of the California Constitution, no amendment to this Ordinance or to Chapter 3.13 of the Sonoma Municipal Code may increase any tax rate above those hereby authorized unless such amendment is submitted to and approved by the voters.

SECTION 8.

The taxes imposed by this Ordinance are general taxes, the proceeds of which may be used for any lawful purpose of the City. They are not special taxes within the meaning of Article XIII C, § 1(d) of the California Constitution.

APPROVED:

John Gurney, Mayor

ATTEST:

Rebekah Barr, MMC, City Clerk

I HEREBY CERTIFY the foregoing ordinance was duly adopted at a Regular Meeting of the City Council of the City of Sonoma held on the _____, 2024 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Rebekah Barr, MMC, City Clerk