

CITY OF SEBASTOPOL CITY COUNCIL
AGENDA ITEM REPORT FOR MEETING OF: December 3, 2024

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To: Honorable Mayor and City Councilmembers
From: Mary Gourley, City Clerk
Subject: Resolution of the City Council of the City of Sebastopol Reciting the Facts of the General Municipal Election Held on November 5, 2024 Declaring the Results and Such Other Matters as Provided by Law

EXECUTIVE SUMMARY: The item is to request the Council to approve the Resolution of the City Council of the City of Sebastopol Reciting the Facts of the General Municipal Election Held on November 5, 2024 Declaring the Results and Such Other Matters as Provided by Law.

BACKGROUND: On June 18, 2024, the City Council by Resolution called a General Municipal Election to be held and conducted In the City of Sebastopol, Sonoma County, California, on Tuesday; November 5, 2024, as required by law for the election of two (2) members of the City Council.

On July 16, 2024, the City Council by Resolution ordered the submission to the qualified electors of the city a measure seeking voter authorization to calling for the placement of a general tax measure on the ballot for the November 5, 2024 general municipal election for the submission to the qualified voters of an ordinance to enact a general transactions and use tax (sales tax) at the rate of half -cent; and requesting that the Sonoma County Board of Supervisors consent to the consolidations of this election with the statewide general election to be held on the same date; and modify the proposed resolution and ordinance to refer uniformly to a half -cent tax to terminate 12 years from operative date. This became Measure U.

Pursuant to Election Code §10264, the City of Sebastopol City Council by resolution must declare the results of the election. The declaration must show:

- 1) the whole number of votes cast in the City; 2) the names of persons voted for; 3) the measures voted upon (City had one measure) 4) what office each person was voted for; 5) the number of votes given at each precinct to each person and 6) the total number of votes given to each person and for and against the measure(s). The purpose of this item is to certify the results of that election and other matters as provided by law.

The City’s General Municipal Election was consolidated with the Statewide General Election, and the Sonoma County Registrar of Voters was authorized to canvass the returns. Sonoma County Registrar of Voters has canvassed the returns of the election and has certified the results. (This assumes the City will have the certification by 6:00 pm on Dec 3rd 2024).

DISCUSSION:

The County of Sonoma Registrar of Voters conducted the election on behalf of the City of Sebastopol and is required to provide to the City a Certification of Election Results. The City of Sebastopol received an email from the County of Sonoma Registrar of Voters indicating that the County hopes to certify the election on December 3, 2024. As of the writing of this staff report, the County has indicated they will provide the certification documentation to the City prior to the December 3rd 2024 Council Meeting if it is certified by this meeting date. A copy of the certification is expected to be provided at the December 3rd 2024 meeting and will be attached to the Resolution. State law requires the City to declare the results of the election no later than the first regular meeting after the City receives the certified results from the Registrar of Voters.

If the Official Canvas of Votes Cast Officially Signed certification is not received by this meeting from the County, Staff requests the City Council set a special City Council Meeting for as soon as possible after the City receives the Official Canvas of Votes Cast from the County of Sonoma for Certification of the Election and all associated actions.

IF CERTIFIED, the following information will be updated:

Upon completion of the canvass of the votes and before installing the new officers, the City Council must adopt a resolution reciting the fact of the election and declaring elected the persons for whom the highest number of votes were cast for each office. A summary of the official election results for City Council members are as follows:

Contest Name	Candidate Name	Total Votes	Percent of votes	Registered Voters in Sebastopol	Total Ballots Cast	Number of Precincts	Total Number of Precincts Reporting
Member, City Council Sebastopol	Neysa Hinton						
Member, City Council Sebastopol	Phill Carter						
Member, City Council Sebastopol	Stanton Kee Nethery						

Measure U: The ballot measure was subject to approval of a majority of the voters voting on the measure. The measure was approved by a simple majority of “yes” votes.

- Votes in Favor:
- Votes Opposed:
- Total Votes Cast:

A Resolution must be adopted by the City Council to officially declare the results of the election. As stated above, A Certificate of the Canvass of the Election Returns is expected to be received by the Registrar of Voters on December 3, 2024. If received, it will be provided to the City Council.

Following adoption of the resolution, the City Clerk will deliver a certification of election certificate to each person elected and administer the oath of office prescribed in the Constitution of the State of California.

After the oaths of office have been administered, the newly elected Councilmembers will take their seats at the dais.

STAFF ANALYSIS:

Based upon certification of the County Registrar of Voters, Staff is requesting the Council adopt the Resolution declaring the results of the election.

FISCAL IMPACT: There is no fiscal impact associated with declaring the results of the election.

RESTATED RECOMMENDATION:

Approve the Resolution of the City Council of the City of Sebastopol Reciting the Facts of the General Municipal Election Held on November 5, 2024 Declaring the Results and Such Other Matters as Provided by Law.

OPTIONS:

1. If the Certification of the results are not received by the County Registrar of Voters by 6:00 pm on December 3, 2024, that the Council call a special city council meeting.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

ATTACHMENTS:

Attachment 1: Resolution Declaring the Results of the November 5, 2024 Election.

APPROVALS:

Department Head Approval: Approval Date: 11-25-2024

CEQA Determination (Planning): Approval Date: 11-25-2024

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA)

Administrative Services/Financial Approval: Approval Date: 11-25-2024

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) _____

City Attorney Approval: Approval Date: 11-25-2024

City Manager Approval: Approval Date: 11-25-2024

Resolution Number XXXX-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL RECITING THE FACTS OF THE CONSOLIDATED GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 5, 2024 DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW

WHEREAS, On June 18, 2024, the City Council by Resolution called a General Municipal Election to be held and conducted In the City of Sebastopol, Sonoma County, California, on Tuesday; November 5, 2024, as required by law for the election of two (2) members of the City Council; and

WHEREAS, On July 16, 2024, the City Council by Resolution ordered the submission to the qualified electors of the city a measure seeking voter authorization to calling for the placement of a general tax measure on the ballot for the November 5, 2024 general municipal election for the submission to the qualified voters of an ordinance to enact a general transactions and use tax (sales tax) at the rate of half - cent; and requesting that the Sonoma County Board of Supervisors consent to the consolidations of this election with the statewide general election to be held on the same date; and modify the proposed resolution and ordinance to refer uniformly to a half -cent tax to terminate 12 years from operative date, and this became Measure U; and

WHEREAS, a General Municipal Election was held and conducted in the City of Sebastopol, Sonoma County, California, on Tuesday; November 5, 2024, as required by law; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received, and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, the City General Municipal Election was consolidated with the Statewide General Election; and

WHEREAS, the Sonoma County Registrar of Voters was authorized and has canvassed the returns of the election and has certified the results to this City Council, the results are received, attached and made a part here of as "Exhibit A", and

WHEREAS, Elections Code 10263 provides that upon the completion of the canvass and before installing the new officers, the governing body shall adopt a resolution reciting the fact of the election and the other matters that are enumerated in Section 10264 as follows:

As soon as the result of the election is declared, the elections official of the governing body shall enter on its records a statement of the result.

The Statement shall show:

- (a) The whole number of votes cast in the city.
- (b) The names of the persons voted for.
- (c) The measures voted upon (City of Sebastopol did not have any measures for this election).
- (d) For what office each person was voted for.
- (e) The number of votes given at each precinct to each person and for and against each measure.
- (f) The number of votes given in the city to each person and for and against each measure; and

WHEREAS, Upon completion of the canvass of the votes and before installing the new officers, the City Council must adopt a resolution reciting the fact of the election and declaring elected the persons for whom the highest number of votes were cast for each office. A summary of the official election results for City Council members are as follows:

Contest Name	Candidate Name	Total Votes	Percent of votes	Registered Voters in Sebastopol	Total Ballots Cast	Number of Precincts	Total Number of Precincts Reporting
Member, City Council Sebastopol	Neysa Hinton						
Member, City Council Sebastopol	Phill Carter						
Member, City Council Sebastopol	Stanton Kee Nethery						

Measure U: The ballot measure was subject to approval of a majority of the voters voting on the measure. The measure was approved by a simple majority of “yes” votes.

Votes in Favor:

Votes Opposed:

Total Votes Cast:

WHEREAS, the governing body shall declare elected the persons for whom the highest number of votes were cast for each office.

NOW, THEREFORE, the City Council of the City of Sebastopol, California, does resolve, declare, determine and order as follows:

Section 1. That the whole number of ballots for the office of Member of the City Council cast in the precinct except absent voter ballots was XXXX as Shown in Exhibit A.

Section 2. That the names of the persons voted for at the election for Member of the City Council are as follows:

- Neysa Hinton
- Phill Carter
- Stanton Kee Nethery

Section 3. The City Council does declare and determine that Phill Carter (Total Votes: XXXX); and Neysa Hinton (Total Votes: XXXX) have been elected to the office of Member of the City of Sebastopol City Council for a four-year term (term ending: 2028)

Section 4. That the Sebastopol Public Safety, Roads, City Services Measure, also known as Measure U, was approved by the Voters at the November 5, 2024 Municipal election.

The measure was approved by a simple majority of “yes” votes.

Votes in Favor: XXXX XXXX%

Votes Opposed: XXXX XXXX%

Section 5. That the number of votes given at each precinct to each person and the respective total votes cast for each person, as well as for and against Measure U, are contained in Exhibit A, Statement of the Votes Cast at the City of Sebastopol Consolidated General Election held on November 5, 2024 and which is hereby attached.

Section 6. The City Clerk shall enter on the records of the City Council of the City of Sebastopol, a statement of the result of the election, showing: 1) the whole number of votes cast in the City; 2) the names of persons voted for; 3) the measures voted upon (City had one measure) 4) what office each person was voted for; 5) the number of votes given at each precinct to each person and 6) the total number of votes given to each person and for and against the measure.

Section 7. The City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the Office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

Section 8. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council.

The above and foregoing Resolution was duly passed, approved, and adopted at a meeting by the City Council on the 3rd day of December, by the following vote:

VOTE:

- Ayes:
- Noes:
- Absent:
- Abstain:

APPROVED: _____

Mayor Diana Gardner Rich

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Alex Mog, City Attorney

Attachment:

- Certification of Election Results
- Ordinance /Measure U

ORDINANCE NO XXXX

AN ORDINANCE OF THE PEOPLE OF THE CITY OF SEBASTOPOL, CALIFORNIA, ADDING CHAPTER 3.70 TO THE SEBASTOPOL MUNICIPAL CODE TO ENACT A ½-CENT GENERAL TRANSACTIONS AND USE TAX (SALES TAX) TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, the City of Sebastopol (“City”) faces major long-term budget challenges within the General Fund, which supports most City functions including police, fire, road repair, maintenance of parks and facilities, support for non-profits, and administrative functions; and

WHEREAS, balancing the City’s annual operating and capital budget has become increasingly challenging given the slow growth of tax revenues and substantial increases in staff, services, contracts, insurance, and many other expenses due to high inflation in recent years; and

WHEREAS, addressing the budget challenges will require a mix of strategies, including reducing expenses and increasing revenue; and

WHEREAS, the City has taken several cost-cutting measures to address the long-term structural deficit, and the City’s adopted FY 24-25 budget includes substantial reductions; and

WHEREAS, failure of the City to increase revenue will result in addition cuts and impact the City’s ability to provide essential services; and

WHEREAS, additional local revenue is needed to maintain public safety response, fire protection, emergency preparedness, safe roads and streets maintenance, City parks/trails, the library, youth and senior services, as well as other services; and

WHEREAS, the City authorized to levy a Transactions and Use Tax (“Sales Tax”) for general purposes pursuant to California Revenue and Taxation Code sections 7285.9 and 7292.8, subject to approval by a majority vote of the electorate pursuant to Article XIIC, section 2 of the California Constitution; and

WHEREAS, California Constitution, Article XIIC, section 2(b) requires that all general taxes which are imposed, extended or increased must be submitted to the electorate, consolidated with a regularly scheduled general election for members of the governing body of the local government, and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, of the ½ cent proposed Sales Tax, the City is authorized to enact a ¼ cent Sales Tax pursuant to Revenue and Taxation Code sections 7251.1 and 7285.9, and enact an additional ¼ cent Sales Tax pursuant to Revenue and Taxation Code section 7292.8; and

WHEREAS, pursuant to California Government Code section 53724 and Revenue and Taxation Code sections 7285.9, this Ordinance was duly approved for placement on the ballot by a minimum two-thirds (2/3) supermajority of all members of the City Council on July 16, 2024.

WHEREAS, the People of the City desire add Chapter 3.70, “2024 Transactions and Use Tax”, to the Sebastopol Municipal Code establishing an additional ½-cent Sales Tax that will terminate after twelve (12) years.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SEBASTOPOL DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by reference.

Section 2. Additional of Chapter 3.70. Chapter 3.70, 2024 Transactions and Use Tax, is hereby added to the Sebastopol Municipal Code to read as set forth in Attachment “1”, attached hereto and incorporated herein by reference.

Section 3. Approval by the Voters. Pursuant to California Elections Code section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Sebastopol voting at the General Municipal Election of November 5, 2024.

Section 4. Authorization for Sales Tax. This Ordinance adopts an additional ½ cent Transactions and Use Tax (“Sales Tax”). The City is authorized to enact a ¼ cent Sales Tax pursuant to Revenue and Taxation Code sections 7251.1 and 7285.9, and enact an additional ¼ cent Sales Tax pursuant to Revenue and Taxation Code section 7292.8. The People of the City of Sebastopol expressly declare that if it is determined by the California Department of Tax and Fee Administration or a court of competent jurisdiction that the City may not collect a ¼ cent Sales Tax pursuant to Revenue and Taxation Code section 7292.8, the People of the City of Sebastopol still authorize the enactment of a ¼ cent Sales Tax pursuant to Revenue and Taxation Code sections 7251.1 and 7285.9, and such Sales Tax shall remain in full force and effect.

Section 5. Adjustment of Appropriations Limit. Pursuant to Article XIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the City is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-25 and each year thereafter.

Section 6. Severability. If any provision of this Ordinance or the application thereof 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.

Section 7. Effective date. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

I HEREBY CERTIFY that the foregoing ordinance was adopted by a two-thirds vote of all members of the City Council of the City of Sebastopol, subject to voter approval, at the meeting of the City Council held on the 16th day of July 2024.

I, the undersigned, hereby certify that the foregoing Ordinance was duly adopted by City of Sebastopol City Council following a roll call vote.

City of Sebastopol Council:

VOTE:

Ayes: Councilmembers Hinton, Maurer, McLewis, Vice Mayor Zollman and Mayor Rich

Noes: None

Absent: None

Abstain: None

MAYOR:  Signed by: Diana Rich
24BD41281D2746F...
Diana Gardner Rich, Mayor, City of Sebastopol

ATTEST:  DocuSigned by: Mary C. Gourley
077C01E9...
Mary C. Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO CONTENT:  Signed by: Don Schwartz
4EB87ED724BC48B...
Don Schwartz, City Manager

APPROVED AS TO FORM:  Signed by: Alex Mog
66BDB79D572A4EB...
City Attorney

Ordinance No. XXXX was submitted to the People of the City of Sebastopol at the November 5, 2024 General Election. It is hereby certified that this ordinance was passed and approved by following vote of the People of the City of Sebastopol:

YES:

NO:

This ordinance was thereby adopted by the voters at the November 5, 2024 General Election and shall take effect as provided by law.

Chapter. 3.70 2024 Transactions and Use Tax

- 3.70.010 Title**
- 3.70.020 Operative Date**
- 3.70.030 Purpose**
- 3.70.040 Contract with State**
- 3.70.050 Transactions Tax Rate**
- 3.70.060 Place of Sale**
- 3.70.070 Use Tax Rate**
- 3.70.080 Adoption of Provisions of State Law**
- 3.70.090 Limitations on Adoption of State Law and Collections of Use Taxes**
- 3.70.100 Permit Not Required**
- 3.70.110 Exemptions and Exclusions**
- 3.70.120 Amendments**
- 3.70.130 Enjoining Collection Forbidden**
- 3.70.140 Amendments by City Council**
- 3.70.150 Annual Audit**
- 3.70.160 Citizen Oversight**

3.70.010 Title.

This ordinance shall be known as the City of Sebastopol 2024 Transactions and Use Tax Ordinance. The City of Sebastopol hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.70.020 Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.70.030 Purpose.

This ordinance 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 Sections 7285.9 and 7292.8 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance 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 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 therefore 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 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 ordinance 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 ordinance.

3.70.040 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 transactions and use tax 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.

3.70.050 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 (0.5%) 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 ordinance.

3.70.060 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. 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 California Department of Tax and Fee Administration.

3.70.070 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 ordinance for storage, use or other consumption in said territory at the rate of 0.5% 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.

3.70.080 Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance 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 ordinance as though fully set forth herein.

3.70.090 Limitations on Adoption of State Law and Collections 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 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 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 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.

1. "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 combined 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.

3.70.100 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 ordinance.

3.70.110 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 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 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 ordinance.

5. For the purposes of subparagraphs (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.

3.70.120 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 a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.70.130 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 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.

3.70.140 Amendments by City Council.

Chapter 3.70 of the Sebastopol Municipal Code may be repealed or amended by the City Council without a vote of the People. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment of any provision that would increase the tax rate or revising the methodology for calculating the tax such that a tax increase would result, or imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of California law). The People of the City of San Sebastopol affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this Ordinance if the City Council has acted to reduce the rate of the tax; and

B. The collection of the tax imposed by this Ordinance, even if the City had for some period of time failed to collect the tax.

3.70.150 Annual Audit

A. Each year, as part of the audit of the City's financial statements, the City's independent auditors shall complete a report reviewing the collection, management, and expenditure of revenue from the special tax.

B. Each year, as part of the adoption of the annual budget, the City Manager, or designee, shall account for the revenue anticipated to be received from the tax imposed pursuant to this Chapter, and how such funds are proposed to be expended.

3.70.160 Termination Date.

The authority to levy the tax imposed by this ordinance shall terminate twelve (12) years after the Operative Date.