

RESOLUTION NUMBER: 6602-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL, CALIFORNIA 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 ½-CENT; AND REQUESTING THAT THE SONOMA COUNTY BOARD OF SUPERVISORS CONSENT TO THE CONSOLIDATION OF THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE

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 section 7285.9 and 7292.8, subject to approval by a majority vote of the electorate pursuant to Article XIII C, section 2 of the California Constitution; and

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place local measures on the ballot to be considered at a Municipal Election; and

WHEREAS, the City Council would like to submit to the voters at the November 5, 2024 General Municipal Election a measure to adopt an additional local Sales Tax at the ½-cent rate that will terminate after twelve (12) years; 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 7285.9 and 7251.1, and enact an additional ¼ cent Sales Tax pursuant to Revenue and Taxation Code section 7292.8; and

WHEREAS, the proposes sales tax is a general tax, the revenue of which will be placed in the City's General Fund and will be used to pay for general City services; 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, the next regularly scheduled general election at which City Council members will be elected is November 5, 2024; and

WHEREAS, pursuant to Revenue and Taxation Code section 7285.9, a two-thirds (2/3) vote of all members of the City Council is required to place the Measure on the November 5, 2024 ballot; and

WHEREAS, the ordinance to be considered by the qualified voters and the terms of approval, collection and use of the general sales tax are described and provided for in the ordinance attached hereto as Exhibit "A" and by this reference made an operative part hereof, in accordance with all applicable laws.

WHEREAS, the City Council desires that the proposed Measure be consolidated with the November 5, 2024 general election, to be held on the same date, and that within the City, the polling places and election officers of the two elections be the same, and that the Sonoma County Election Department canvass the returns of the general election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEBASTOPOL:

Section 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. The City Council is authorized to present a measure to the voters for their consideration pursuant to Elections Code Section 9222 and Government Code Section 53724.

Section 3. Pursuant to California Constitution Article XIIC, Section 2, Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of Sebastopol hereby calls an election at which it shall submit to the qualified voters of the City, the City of Sebastopol Public Safety, Roads, City Services Measure Transactions and Use Tax Ordinance ("Ordinance"), which if approved, such tax measure would adopt a ½-cent general transactions and use (sales) tax, as authorized by Revenue and Taxation Code sections 7285.9 and 7292.8. This measure shall be designated by letter by the Sonoma County Registrar of Voters. Pursuant to Election Code

Section 10400 *et.seq.*, the election for this measure shall be consolidated with the general election to be conducted on November 5, 2024.

Section 4. The City Council does hereby submit for adoption by the qualified voters of the City of Sebastopol at the General Municipal Election of November 5, 2024, the following question:

<p>Sebastopol Public Safety, Roads, City Services Measure: To maintain Sebastopol's City services such as 911 emergency medical/police/fire response, wildfire/emergency preparedness, maintenance of streets/roads, parks/trails, library, youth and senior services, retaining/attracting local businesses; and for general government use, shall the measure establishing a ½-cent sales tax generating approximately \$1,520,000 annually, terminating after 12 years, requiring audits, public spending disclosure, all funds used locally, be adopted?</p>	YES	
	NO	

Section 5. The full text of the proposed measure to be submitted to the voters is attached as Exhibit A (the "Measure") hereto. If a simple majority of the qualified voters voting on the Measure vote in favor therefor, the Measure shall be deemed adopted and shall be in full force and effect ten (10) days after the date the vote is declared by the City Council of the City of Sebastopol. The City Council hereby approves the Measure, attached as Exhibit A, the form thereof, and its submission to the voters of Sebastopol at the November 5, 2024 election.

Section 6. The Board of Supervisors of Sonoma County is hereby requested to order the Sonoma County Registrar of Voters to provide such services as may be necessary to properly and lawfully hold and conduct a Consolidated General Municipal Election in the City on November 5, 2024, pursuant to this Resolution, including but not restricted to the providing and printing of ballots and polling place cards, election supplies, voting booths, flags, registration lists and any other materials and services required to lawfully conduct the election. The City recognizes that additional costs will be incurred by the County by reason of this Consolidated General Municipal Election, and the City agrees to reimburse the County based on the County's established rates. This request is made pursuant to California Elections Code Sections 10002 and 10403.

Section 7. The City Clerk is authorized, instructed and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Sonoma County and the Registrar of Voters of Sonoma County.

Section 8. Unless otherwise specified in this Resolution, the General Municipal Election shall be held and conducted as provided by law for holding municipal elections.

Section 9.

(a) The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on August 6, 2024.

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on August 16, 2024.

(c) Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.

(e) Pursuant to California Elections Code Section 9282, the City Council is hereby authorized to designate, by motion, up to two Council Members to submit a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. At the designated Council Members' discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the designated Council Members are also authorized to submit a rebuttal argument on behalf of the City Council, which may also be signed by bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.

(f) Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by August 16, 2024.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.

Section 10. (a) The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Sonoma County and the Sonoma County Elections Department. The City Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to cause a synopsis of the Measure attached as Exhibit A to be published once in a newspaper of general circulation in accordance with California Elections Code Section 12111 and California Government Code Section 6061. A copy of the Measure shall be made available to any voter upon request. The City Clerk is authorized and directed to give further additional notice of the Measure in the time, form, and manner required by law.

(b) In all particulars not recited in this Resolution, and except as provided for in Elections Code Sections 10403 and 10418, the election shall be held and conducted as provided by law for holding municipal elections.

Section 11. The City Manager, City Attorney and City Clerk are authorized to make all approvals, expend funds, enter into any agreements, and take any and all actions necessary or appropriate to carry out and implement the terms of this Resolution and to administer the City’s obligations, responsibilities and duties to be performed herein.

Section 12. The jurisdictional boundaries of the City of Sebastopol have not changed since the last general municipal election.

Section 13. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et. seq.*, “CEQA,” and 14 Cal. Code Reg. §§ 15000 *et. seq.*, “CEQA Guidelines”). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. Accordingly, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project.

Section 14. This Resolution shall become effective upon its adoption.

Section 15. The City Clerk shall certify to the adoption of this Resolution.

IN COUNCIL DULY APPROVED AND ADOPTED this 16th day of July, 2024.

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

City of Sebastopol Council:

VOTE:

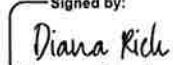
Ayes: Councilmembers Hinton, Maurer, McLewis, Vice Mayor Zollman and Mayor Rich

Noes: None

Absent: None

Abstain: None

MAYOR:

Signed by:

Diana Rich, Mayor, City of Sebastopol

ATTEST:  Signed by:
E295A57143F8473...
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO CONTENT:  Signed by:
4E887FD724BC48B...
Don Schwartz, City Manager

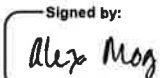
APPROVED AS TO FORM:  Signed by:
668DB79D57244EB...
City Legal Counsel

EXHIBIT A

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
007C011E...
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.

ATTACHMENT 1

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.