



Local Ballot Measure: S

Full Text of Measure S

ORDINANCE NO. 2024-145

AN ORDINANCE OF THE VOTERS OF THE CITY OF GONZALES

ADDING CHAPTER 3.30 TO THE GONZALES CITY CODE IMPOSING A NEW GENERAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION AND TAX REVENUES TO BE SPENT FOR CITY OF GONZALES SERVICES, PROGRAMS AND INFRASTRUCTURE, SUBJECT TO ANNUAL AUDITS AND ANNUAL PUBLIC EXPENDITURE REPORTS

BE IT ORDAINED BY THE VOTERS OF THE CITY OF GONZALES:

SECTION 1. FINDINGS. The voters of the City of Gonzales hereby find as follows:

- a. The City of Gonzales continues to address ongoing challenges to its efforts to maintain infrastructure and provide a range of services to its residents, including programs and activities that serve public needs but that have limited funding.
- b. Over the last decade, stagnant growth has produced little to no revenue resulting in a disequilibrium between operating costs and revenue creating an extremely tight budget with no room for unexpected and unbudgeted expenditures or for projects that require upgrades. Maintenance of infrastructure has been deferred, worsening the conditions of city facilities, roads, sidewalks, and City parks.
- c. The City's financial condition continues to be adversely impacted by sluggish growth in property taxes, sales tax, and the limited and competitive availability of grant proceeds. In the current financial environment, tax revenues and other sources of City income are not keeping pace with inflation, City expenditures and needs. The cost of supplies and equipment has increased dramatically in recent years due to supply chain constraints, general inflation, and strong demand for consumer goods. The Producer Price Index, the metric reflecting the price that manufacturers charge dealers and distributors for their products, indicates that prices for machinery and equipment increased by 19% between January of 2020 and March of 2023. There was also a significant increase in such costs during the Covid 19 Pandemic, and although the impacts of the Pandemic are largely considered to be under control in the U.S., COVID's negative impacts on the economy remain unabated. Despite a fiscally conservative approach to budgeting, all of the foregoing hamper the City's ability to address capital projects, programs and services required and expected by the Community.
- d. Because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue.
- e. The voters of the City of Gonzales have previously approved two tax measures, Measure K and Measure X, (known collectively as the "Gonzales Quality of Life Temporary Tax Measure") setting the rate of the City's current Temporary Transactions and Use Tax (or "TUT"), as codified in Chapter 3.29 in the Gonzales City Code, at one percent (1.0%). The 1.0% TUT, administered as Measure X but accounted for as two separate funds, Measure K and Measure X, each of which receives one-half percent (0.5%) of all Measure X tax proceeds and is overseen by a separate oversight committee, has established a sales tax rate in Gonzales at 8.75%, one of the lowest tax rates in Monterey County. With guidance provided by Measure K and Measure X TUT Advisory Committees, TUT revenues in Gonzales have been used for a variety of projects, including but not limited to funding debt service for the Community Pool, award-winning youth services and leadership programs, park improvements (restrooms, tot lot, playground equipment), Dennis and Janice Caprara Community Center Complex Project costs, grant programs, senior programs, and internet accessibility for all citizens. The Gonzales Transaction and Use Tax Measure currently generates approximately \$1,600,000 annually in tax revenues.
- f. Despite the City's prudent spending and cost savings efforts, as well as the collection of the aforesaid Transaction and Use Tax, a number of infrastructure projects and matters important to the Community, such as maintenance of the Fire House and its restroom and sleeping facilities, purchase of fire equipment, street and road maintenance, maintenance of public parks and open spaces, and programming for all ages are currently not funded but are critical to the overall health and well-being of the community. Reallocation of existing funds to meet these needs will have an adverse impact on existing projects and programs and projects and programs that are currently being funded by the City's existing one percent (1.0%) Transactions and Use Tax. Absent a new funding source, the City will have to reset priorities which may result in continued deterioration of public infrastructure, potential reduction of qualified staff, and the inability to continue current programs and services.
- g. Pursuant to California Revenue and Taxation Code Sections 7285.9 and 7290, the City of Gonzales has the authority to levy a



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Transactions and Use Tax for unrestricted general revenue purposes. Pursuant to Part 6.1 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and Part 1.7 of Division 2, the City may seek voter approval for a general transaction and use tax.

- h. In light of the foregoing, the City Council is proposing to increase the rate of the existing Transactions and Use Tax by imposition of a new one-half percent (0.5%) Transactions and Use Tax to be approved by the voters. Revenues from the new Transactions and Use Tax shall be available for unrestricted general revenues purposes, although a preference will be shown for the use of said revenues for Fire Department needs, streets and road repair and maintenance, City park maintenance, and youth and senior programs and services.
- i. The City desires to raise revenue by transmitting this measure to the voters in an effort to generate revenue to meet service needs and desires in the community referenced in subparagraph f.
- j. The City Council has proposed a City Code amendment that will increase the existing Transactions and Use Tax in Gonzales by establishing a new one-half percent (0.5%) Transactions and Use Tax that when added to the existing one percent (1.0%) Transaction and Use Tax will result in a total one and one-half percent (1.5%) Transition and Use Tax rate in the City.
- k. Revenues generated by the proposed ordinance amendment would provide the City with greater financial flexibility to maintain public infrastructure, such as the Fire house, city streets and roads, and parks, and provide a range of services to its residents.

SECTION 2. AMENDMENT TO TITLE 3-REVENUE AND FINANCE OF THE GONZALES CITY CODE. Upon the approval of a majority of the voters in the City of Gonzales at a consolidated general election to be held on November 5, 2024, new "Chapter 3.30 - 2024 Transactions and Use Tax" shall be added to Title 3- Revenue and Finance of the Gonzales City Code and shall read as follows:

"3.30.010 Title.

This ordinance codified in this Chapter shall be known as the "Gonzales 2024 Transactions and Use Tax Measure." This ordinance shall be applicable in the incorporated territory of the City.

3.30.020 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.

3.30.030 Purpose.

The City Council declares that the ordinance codified in 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 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.

3.30.040 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



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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.

3.30.050 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 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.

3.30.060 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.

3.30.070 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 one-half percent (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.

3.30.080 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.

3.30.090 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, 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 the state or for delivery in the State by the retailer and



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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.”

3.30.100 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.

3.30.110 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



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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.

3.30.120 Amendments

All amendments subsequent to the effective date of this ordinance to Part I 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. The foregoing amendments shall not require voter approval.

The following amendments to this ordinance must be approved by the voters of the City of Gonzales: increasing 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 the preceding paragraph). The City Council may otherwise amend this ordinance without submitting the amendment to voters for approval.

3.30.130 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.

3.30.140 Annual audits, expenditure report and oversight committee.

Annually, the City retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the council at a public meeting and made available to the public. The City Manager and City Finance Director shall annually prepare and present to the council and the public a report in conjunction with the budget that reviews the status and performance of the programs and services funded wholly or partially with proceeds of the tax. Additionally, the Mayor and each member of the City Council shall each annually appoint one City resident to serve on an oversight committee for the revenue that the City receives from the tax enacted by this article and to recommend the use thereof. The City Manager shall provide staff for the committee, and the Finance Director shall provide all relevant data regarding revenue from the tax and expenditure thereof.

3.30.150 Refunds and credits; suits and legal proceedings.

A. Refunds of and credits for any tax paid pursuant to this article may be made only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

B. Suits and proceedings for the recovery of any amount alleged to have been erroneously or illegally determined or collected pursuant to this article may be maintained in any court only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code. A judgment shall not be rendered in favor of the plaintiff in any action brought against the California



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Department of Tax and Fee Administration to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

3.30.160 Effect of tax.

The tax established herein is meant to be imposed and collected in addition to any existing tax established by the City and is not meant to supersede or otherwise impact the tax established in Chapters 3.28 and/or 3.29 of this Code. This tax will remain in effect until otherwise ended by the voters.

SECTION 3. USE OF TAX REVENUE. The tax approved by this ordinance is a general tax. The City may use the revenue from the tax for any general governmental purpose, including without limitation, Fire Department infrastructure maintenance and equipment needs, streets and road maintenance, the maintenance and enhancement of our City parks and open space, and program and service needs. The revenue from the tax shall only be used for purposes maintenance, equipment, services and programs that benefit the residents of the City.

SECTION 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The voters of the City of Gonzales hereby declare that they would have adopted each and every provision of this ordinance regardless of the invalidity of any other provision.

SECTION 5. CODIFICATION. Upon adoption of this ordinance pursuant to the voter approval referenced in Section 2, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Gonzales City Code.

SECTION 6. EFFECTIVE DATE. If this ordinance is approved by a majority of the voters voting on the issue at the November 5, 2024, election, pursuant to Elections Code Section 9217, this ordinance shall become effective ten (10) days after the Council declares the results of the election, and the tax shall become operative on the "operative date," as defined in Section 2 of this ordinance.

SECTION 7. PUBLICATION. The Clerk of the City of Gonzales is hereby directed to cause the following summary of the ordinance to be published by one (1) insertion in The Salinas Valley Tribune, a newspaper of general circulation published and circulated in the City of Gonzales:

Contingent upon majority voter approval, this ordinance adopts a new one-half percent (0.5%) Transactions and Use Tax (sales tax) on the sale or consumption of tangible personal property within the City of Gonzales. The new Transactions and Use Tax rate in Gonzales would be one and one-half percent (1.5%). The ordinance requires independent annual audits, annual public expenditure reports and establishes a citizens' oversight committee. The tax revenues will only be used for general governmental purposes, with a preference for local infrastructure and improvement maintenance, such as at the City's Fire Station and on street, roads and City parks, the purchase of fire equipment, and programs and services for the City of Gonzales and its residents. Once approved, the new tax would remain in place until extinguished by the voters.

APPROVED by the following vote of the Voters of the City of Gonzales on November 5, 2024.

ADOPTED by Declaration of the vote by the City Council of the City of Gonzales on _____, 2024:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Jose L. Rios, The Honorable Mayor

ATTEST:

Mary Villegas, Deputy City Clerk