



Local Ballot Measure: T

Full Text of Measure T

ORDINANCE NO. 2024-828

AN ORDINANCE AMENDING CHAPTER 3.22 OF THE KING CITY MUNICIPAL CODE INCREASING AND EXTENDING THE TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

THE PEOPLE OF THE CITY OF KING, DO ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS

- A. Pursuant to California Revenue and Taxation Code Sections 7285.9 and 7290, the City of King (the "City") has the authority to levy a Transactions and Use Tax for unrestricted general revenue purposes.
- B. A majority of the voters of the City approved a one-half of one percent (0.50%) Transactions and Use Tax measure at an election held in November 6, 2014, with a sunset date of September 30, 2021.
- C. A majority of the voters of the City approved extending to March 31, 2029, and increasing to one percent (1.00%) the Transaction and Use Tax measure at an election held in November 6, 2018.
- D. The City's Transactions and Use Tax Ordinance is found in Chapter 3.22 of the King Municipal Code.
- E. Pursuant to Ordinance 706, adopted by the City Council on April 25, 2014 and the voters on November 4, 2014 and Ordinance No. 762 approved by the City Council on July 10, 2018 and the voters on November 6, 2018, the termination date of the Transactions and Use Tax is March 31, 2029.
- F. The Transaction and Use Tax was approved by the voters to assist in raising revenue to provide essential city services, including but not limited to public safety; street and sidewalk maintenance; pothole repair; parks and recreation programs and facilities; and many other general use city services.
- G. The City desires to raise revenue by transmitting this measure to the voters in its effort to raise revenue for general revenue purposes, such as public safety and other general use services, street repairs, economic development efforts, and improving the City's overall financial solvency.
- H. An increase in the Transactions and Use Tax is desired in order to generate revenue to achieve the goals in subparagraph F and G, including but not limited to funding public safety, services, projects designed to eliminate youth violence, fund improvements to streets and sidewalks, the downtown area and other infrastructure and other economic development efforts to increase businesses, jobs and visitors to the City.
- I. Extending and increasing the Transactions and Use Tax will assist in provided the services of our residents, businesses and the City.
- J. The extension would provide for the implementation of the tax until March 31, 2037 or twelve (12) years from the operative date, and would increase the tax to one percent (1.50%) from April 1, 2025.
- K. Revenues from the amended Transaction and Use Tax shall be used for unrestricted general revenue purposes and be deposited in the general fund.

SECTION 2. THE PROVISIONS OF CHAPTER 3.22 OF THE KING MUNICIPAL CODE SHALL BE DELETED IN THEIR ENTIRELY, AND IN ITS PLACE, THE FOLLOWING PROVISIONS SHALL BE ENACTED AS CHAPTER 3.22.

"3.22.010. TITLE.

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

3.22.030. OPERATIVE DATE.

The transactions and use tax imposed herein shall be operative the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance. "Operative Date" with respect to the one percent (1.00%) transaction and use tax proposed under Ordinance No. 2018-762 means April 1, 2019 unless another date is required by law. Operative Date with respect to the one and one-half percent (1.50%) proposed under Ordinance No. 2024-828 shall mean April 1, 2025."

3.22.030. 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:



Local Ballot Measure: T

- 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.

3.22.040. 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.

3.22.050. TRANSACTIONS TAX RATE.

For the privilege of selling tangible personal property at retail, commencing: (a) the Operative Date of Ordinance No. 2018-762 through March 31, 2029, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1.00%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City on and after the Operative Date, and (b) the Operative Date of Ordinance No. 2024-828 through March 31, 2037, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one and one-half percent (1.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City on and after the Operative Date.

3.22.060. 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.

3.22.070. 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 commencing: (a) on or after the Operative Date of Ordinance No 762 through March 31, 2029 for storage, use or other consumption in said territory at the rate of one percent (1.00%) of the sales price of the property and (b) on or after the Operative Date of Ordinance No 2024-828 through March 31, 2037 for storage, use or other consumption in said territory at the rate of one and one half percent (1.50%) 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.

3.22.080. 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.



Local Ballot Measure: T

3.22.090. 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 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.

3.22.100. 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.

3.22.110. 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



Local Ballot Measure: T

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.

3.22.120. 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.



Local Ballot Measure: T

3.22.130. 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

3.22.140. SEMI-ANNUAL REPORT TO COUNCIL.

The city manager shall report to council not less frequently than semi-annually on the amount of tax collected under this chapter, and any expenditures made, or proposed to be made with such collections.

3.22.150. OVERSIGHT COMMITTEE.

Following the operative date, the city shall establish a community oversight advisory committee, which may be its budget advisory committee or a separate committee. The committee shall be charged with making recommendations with respect to expenditures of the sales tax as part of the overall annual budget process. The recommendations of the committee shall be presented to the city council but shall not be binding on the city council.

3.22.160. REVENUE EXPENDED FOR UNRESTRICTED PURPOSES.

Revenues from the transaction and use tax enacted under this chapter shall be expended by the city for unrestricted general use purposes.

SECTION 3. USE OF TAX PROCEEDS.

All proceeds of the taxes levied and imposed hereunder shall be accounted for and paid into the City of King General Fund, and may be used for any lawful purpose as designated by the City Council.

SECTION 4. EFFECT OF AMENDMENT TO MUNICIPAL CODE CHAPTER 3.22

Except as amended hereby, all provisions Chapter 3.22 of the King City Municipal Code remain in full force and effect and are incorporated herein by this reference. All said provisions shall apply to the increased and extend Transactions and Use Tax.

SECTION 5. 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 6. STATUTORY AUTHORITY FOR TAX.

This ordinance is adopted pursuant to Revenue and Taxation Code section 7285.9.

SECTION 7. ELECTION REQUIRED.

This ordinance shall not become operative unless and until a majority of the electors voting on this measure vote to approve the imposition of the tax at the general municipal election to be held on November 5, 2024.

SECTION 8. EFFECTIVE DATE AND TERMINATION DATE.

If this ordinance is approved by a majority of the electors voting on the issue at the November 5, 2024 general municipal election, pursuant to Elections Code Section 9217, the ordinance shall become effective ten (10) days after the City Council accepts the certified results of the election. The Ordinance shall remain in effect through March 31, 2037.

Approved at a regular meeting of the City Council held this ___th day of ___, 2024 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of King, California voting on the ___ day of ___, 2024.



Local Ballot Measure: T

ATTEST:

Erica Sonne, City Clerk

Mayor

APPROVED AS TO FORM:

Roy Santos, City Attorney

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of King, California voting on the ___th day of ____, 2024.

ATTEST:

Erica Sonne, City Clerk