

RESOLUTION R2024-058

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, (1) CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, FOR THE PURPOSE OF ELECTING A DIRECTLY ELECTED MAYOR, ONE COUNCILMEMBER FROM DISTRICT 2, AND ONE COUNCILMEMBER FROM DISTRICT 4; AND SUBMITTING ONE BALLOT MEASURE TO THE VOTERS THAT WOULD AMEND TITLE 3 OF THE NAPA MUNICIPAL CODE TO ADD A NEW CHAPTER 3.14 ENTITLED "TRANSACTIONS AND USE TAX" TO ESTABLISH A ONE-PERCENT TRANSACTION AND USE GENERAL TAX; (2) REQUESTING THAT THE NAPA COUNTY BOARD OF SUPERVISORS CONSOLIDATE THE GENERAL MUNICIPAL ELECTION WITH THE STATEWIDE GENERAL ELECTION; AND (3) REQUESTING THAT THE NAPA COUNTY REGISTRAR OF VOTERS RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF THE GENERAL MUNICIPAL ELECTION

WHEREAS, the City of Napa Charter section 17A and Napa Municipal Code section 1.08.010 provide that the General Municipal Election for the City shall be held on the first Tuesday after the first Monday in November of each even-numbered year; which means that the next General Municipal Election will be held on November 5, 2024; and

WHEREAS, pursuant to California Elections Code section 1200, the statewide general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year; which means that the next statewide general election will be held on November 5, 2024; and

WHEREAS, City Charter section 8 provides for a four-year term for the offices of the Mayor and each Councilmember; and

WHEREAS, the most recent election of the Mayor occurred at the general municipal election on November 3, 2020, as confirmed by Council Resolution R2020-139, with a four-year term ending in 2024, which means that the office of the Mayor is up for election at the general municipal election on November 5, 2024; and

WHEREAS, Napa Municipal Code Chapter 1.10 identifies parameters for election of Councilmembers in district-based elections, and Napa Municipal Code section 1.10.020 defines the sequence of elections so that the offices of Councilmember for District 2 and 4 are up for election in 2024; and

WHEREAS, California Elections Code section 9222 and California Government Code section 53724 authorize the City Council, on its own motion, to submit to the voters, without a petition, a ballot measure for the enactment of any ordinance to be voted upon at a General Municipal Election; and

WHEREAS, California Revenue and Taxation Code section 7285.9 authorizes the City to levy a transactions and use tax for general purposes if the ordinance approving the tax is approved by a two-thirds vote of all members of the City Council and the tax is approved by a majority vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, at the January 16, 2024, City Council meeting, the City Council directed staff to prepare a proposed ballot measure for an ordinance to establish a one-percent transactions and use general tax in accordance with California Revenue and Taxation Code section 7251 *et seq.*; and

WHEREAS, California Elections Code section 9280, *et seq.*, Napa Municipal Code section 1.08.035, and Council Policy Resolution No. 32 (R2014-113) establish procedures and priorities for filing ballot arguments (limited to 300 words each) and rebuttals (limited to 250 words each) with the City Clerk (as the City's Elections Official); and

WHEREAS, in the course of conducting a General Municipal Election on November 5, 2024, it is necessary for the City to request services of Napa County as set forth in this resolution; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings.

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

1. The City Council hereby finds that the facts set forth in the recitals to this resolution are true and correct and establish the factual basis for the City Council's adoption of this resolution.

2. Pursuant to the requirements of the City Charter and the Napa Municipal Code, the City Council hereby calls and orders to be held in the City of Napa, California, on Tuesday, November 5, 2024, a General Municipal Election for the purpose of electing a directly elected Mayor and one Councilmember from District 2, and one Councilmember from District 4, each serving a four-year term; and for the purpose of submitting one ballot measure to the voters for consideration which shall be identified as "Measure G, a Measure to Establish a One-Percent Transactions and Use General Tax."

3. Measure G would enact an ordinance, attached hereto as Exhibit “A” and incorporated herein by this reference, that would amend Title 3 of the Napa Municipal Code to add a new Chapter 3.14 entitled “Transactions and Use Tax” to establish a one-percent transactions and use general tax in the City of Napa. The City Council hereby approves the ordinance, and the form thereof, and orders its submission to the voters of the City of Napa at the General Municipal Election on November 5, 2024, as required by Revenue and Taxation Code section 7285.9.

4. The City Council hereby approves and orders the following ballot question for Measure G to be submitted to the voters of the City of Napa at the General Municipal Election on November 5, 2024:

CITY OF NAPA – MEASURE G

<p>To protect/ maintain funding (that The State of California cannot take) for City of Napa services including: repairing potholes/ streets; maintaining parks, recreation, senior/ youth programs; protecting water quality; supporting police with mental health response team for nonviolent calls; upgrading fire stations with lifesaving equipment; homeless encampment cleanups; constructing essential facilities; enhancing fire protection; general government use; shall the City of Napa measure be adopted levying a 1¢ sales tax, raising \$22,000,000 annually, until ended by voters, including independent audits/ citizen oversight?</p>	YES
	NO

5. Pursuant to California Elections Code section 9280, the City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and shall transmit such impartial analysis to the City Clerk.

6. Pursuant to Elections Code section 9286 et. seq., Napa Municipal Code section 1.08.035, and Council Policy Resolution No. 32 (R2014-113), August 9, 2024 at 5:00 p.m. shall be the deadline for submission of arguments to the City Clerk in favor of, and arguments against, Measure G. If more than one argument for and/or against is received, the priorities established by Elections Code section 9287, Napa Municipal Code section 1.08.035, and Council Policy Resolution No. 32 shall control.

7. The provisions of Elections Code section 9285, Napa Municipal Code section 1.08.035, and Council Policy Resolution No. 32 shall control the submission of any rebuttal arguments. The deadline for filing rebuttal arguments to the City Clerk shall be August 19, 2024 at 5:00 p.m.

8. Pursuant to California Elections Code Division 10, Part 3 (section 10400, *et seq.*), the City Council hereby requests that the Board of Supervisors of Napa County ("Board of Supervisors") consolidate the City's General Municipal Election with the statewide general election on November 5, 2024. The offices to be voted upon at the Consolidated General Municipal Election will be the Mayor and one member of the City Council from District 2 and one member of the City Council from District 4, each for a four-year term. The ballot measure to be voted upon at the Consolidated General Municipal Election is Measure G as defined in this resolution. The City hereby acknowledges that the Consolidated General Municipal Election will be held and conducted in the manner prescribed in California Elections Code section 10418. The City Council hereby requests that the Board of Supervisors authorize and direct the Napa County Elections Department to take any and all steps necessary for the holding of the Consolidated General Municipal Election.

9. Pursuant to California Elections Code section 10002, the City Council hereby requests that the Board of Supervisors authorize and direct the Napa County Elections Department 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, including, but not restricted to, furnishing indexes and election equipment, appointing precinct workers and officials, instructing workers and officials, addressing sample ballots for the Consolidated General Municipal Election, issuing vote-by-mail ballots, issuing absentee ballots, establishing and providing early voting, conducting central counting and official canvass, and performing such other acts as may be required, or directed by the City Clerk, subsequent to acceptance of nomination materials by the City Clerk.

10. The City Council hereby authorizes and directs the City Clerk to reimburse the County for services performed in accordance with this resolution, when the work is completed and upon presentation to the City of a properly approved bill subject to approval by the City Clerk.

11. The City Council hereby authorizes and directs the City Clerk to coordinate with the Napa County Registrar of Voters to procure and furnish the procurement of any and all official ballots, notices, printed matter, supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the Consolidated General Municipal Election. The ballots to be used at the election shall be in form and content as required by law.

12. In all particulars not recited in this resolution, the General Municipal Election shall be held and conducted as provided by law for holding municipal elections.

13. This resolution provides notice of the time and place of holding the General Municipal Election, and the City Council hereby authorizes, instructs, and directs the City Clerk to give further or additional notice of the General Municipal Election in time, form, and manner as required by law.

14. The City Council hereby authorizes the City Clerk to supply the County Elections Official with a list of the City's precincts, or consolidated precincts, no later than 61 days before the election, in accordance with California Elections Code section 10002.

15. The City Council hereby directs the City Clerk to forward a certified copy of this resolution without delay to the Napa County Board of Supervisors and to the County Registrar of Voters.

16. This resolution shall take effect immediately upon its adoption.


I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 4th day of June, 2024, by the following vote:

AYES: Alessio, Luros, Painter, Narvaez, Sedgley

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: 
For Tiffany Carranza
Deputy City Clerk, Elections Official
Samantha Pascoe

Approved as to form:

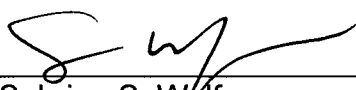

Sabrina S. Wolfson
Interim City Attorney

Exhibit A – FULL TEXT OF MEASURE G

AN ORDINANCE OF THE CITY OF NAPA AMENDING TITLE 3 OF THE NAPA MUNICIPAL CODE TO ADD A NEW CHAPTER 3.14 ENTITLED “TRANSACTIONS AND USE TAX” IMPOSING A ONE PERCENT (1%) TRANSACTIONS AND USE GENERAL TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

BE IT ORDAINED by the people of the City of Napa as follows:

Section 1. Chapter 3.14 is hereby added to Title 3 of the Napa Municipal Code, to read as follows:

Chapter 3.14
TRANSACTIONS AND USE TAX

3.14.010. TITLE. This chapter shall be known as the City of Napa Transactions and Use Tax ordinance. As used in this chapter, “City” means the City of Napa, and “tax” means the transactions and use tax imposed by this chapter. This chapter shall be applicable in the incorporated territory of the City.

3.14.020. OPERATIVE DATE. “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance codified by this chapter.

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

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax 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 chapter.

3.14.040. 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 chapter; 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.

3.14.050. 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 percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.

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

3.14.070. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this chapter for

storage, use or other consumption in said territory at the rate of one percent (1%) 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.

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

3.14.090. 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 the 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 the 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 chapter.
 - 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal

property which would not be subject to tax by the state under the said provision of that code.

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

B. 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.

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

3.14.110. 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 chapter.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.
 5. For the purposes of 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 chapter, the storage, use or other consumption in the City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.
5. For the purposes of 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 chapter 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.

3.14.120. AMENDMENTS. All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

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

3.14.140. GENERAL TAX. The proceeds from the tax imposed by this chapter shall be for unrestricted general revenue purposes of the City and shall be placed into the General Fund of the City.

3.14.150. CITIZEN OVERSIGHT. The City Council shall establish a Citizens Oversight Committee (COC) to review and report annually on the receipt and expenditure of revenue from the tax authorized by this chapter. The COC's report shall confirm that the expenditures are consistent with the priorities approved by the City Council and that no revenues have been siphoned off by the State or other entity or used for the benefit of other than the Napa community. The City Council shall adopt a resolution establishing the terms, composition, and duties of the COC prior to the operative date.

Section 2. 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 3. EFFECTIVE DATE. Pursuant to California Constitution Article XIII(2)(b) and California Elections Code Section 9217, if approved by a majority vote of the qualified voters of the City voting on the issue at the November 5, 2024, General Municipal Election, this ordinance shall be adopted on the date that the results of the vote are declared by the City Council and shall become effective ten (10) days later.

Section 4. TERMINATION DATE. This ordinance shall remain in effect until repealed by the voters of the City of Napa.