

RESOLUTION NO. 22- 99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CALLING AND ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF BENICIA A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE AMENDMENT MODIFYING CHAPTER 3.22 OF THE BENICIA MUNICIPAL CODE INCREASING A ONE-CENT GENERAL PURPOSE TRANSACTION AND USE ("SALES") TAX TO A ONE AND THREE-QUARTER CENT AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022

WHEREAS, unlike many cities of similar size in the Bay Area, Benicia is a full service city, equipped with its own City-run police, fire, park, library, and water and wastewater services; and

WHEREAS, the health and safety of all residents in the City of Benicia ("the City") is the City's top priority; and

WHEREAS, independent engineers recently conducted a Pavement Condition Index study and rated nearly half of Benicia's roads as "poor" or "failed"; and

WHEREAS, damaged roads are an enormous safety risk and can cause harm to drivers, pedestrians, and bicyclists and pothole-related damage to cars can be very costly to drivers; and

WHEREAS, upgrades and repairs to the City's aging storm drain system are needed to prevent pollution from our streets running into our local waterways; and

WHEREAS, waiting to address these repairs causes them to worsen, which in turn increases the cost of repairs; and

WHEREAS, state funding and the City's existing revenues are inadequate to fund these critical repairs; and

WHEREAS, an additional revenue source would help fund essential public improvements to roads, and other aging infrastructure; and

WHEREAS, local, voter-approved funding will provide a guaranteed source of funding for essential City services that cannot be taken by Sacramento or Washington D.C. as all funds will be legally required to be spent in Benicia; and

WHEREAS, the proposed measure will include strict accountability requirements such as public disclosure of all spending and annual independent financial audits that ensure funds are used effectively and as promised, and only to benefit the Benicia community; and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9 the City of Benicia ("City") has the authority to levy a Transactions and Use Tax for general purposes, and subject to voter approval; and

WHEREAS, the City proposes to levy a Transactions and Use Tax (sales tax) for general purposes to fund unbudgeted priorities, including repairs to roads, bridges, and other unfunded priority needs; and

WHEREAS, Benicia needs local control over local funds, for local needs; and

WHEREAS, a General Election shall be held on Tuesday, November 8, 2022; and

WHEREAS, on July 5, 2022, the City Council introduced an Ordinance modifying Chapter 3.22 of the Benicia Municipal Code increasing the existing one cent transactions and use tax to a one and three-quarter cent transaction and use tax for general purposes subject to the approval of the voters; and

WHEREAS, the tax provided for by the proposed Ordinance shall be enacted solely to raise revenue for general purposes, and shall be placed into the City's General Fund, and is not intended for regulation; and

WHEREAS, passage of a new revenue measure will in no way effect the ability of the City Council from allocating general funds, including proceeds of Measure C, for any general fund purpose, including, improving and maintaining the city's roads system; and

WHEREAS, the City Council also desires, on its own motion, to submit to the voters at the General Election a question relating to the imposition of a three-quarter of one cent transactions and use tax for general purposes.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does resolve, declare, determine and order as follows, that:

SECTION 1. The City Council pursuant to its right and authority, does order to be submitted to the voters at a General Election the following question:

THE BENICIA SALES TAX MEASURE	
Benicia Local Road Repair and Infrastructure Measure. Shall the City of Benicia enact a measure raising local funds under local control for general government purposes, including: <ul style="list-style-type: none">• repairing, paving and maintaining deteriorating streets;	YES

<ul style="list-style-type: none"> • fixing potholes; • improving safe routes to schools; • protecting local creeks and the bay from toxins and pollution by fixing aging, deteriorating storm drains; <p>by adopting a ¾ cent sales tax, providing approximately \$5,000,000 annually, with citizens' oversight and annual audits, until ended by voters?</p>	NO
---	----

SECTION 2. The proposed measure submitted to the voters is as attached in Exhibit A to this Resolution, which is incorporated herein by this reference.

SECTION 3. The City will reimburse the county for the actual cost incurred in conducting the election upon receipt of a bill stating the amount due as determined by the election's official.

SECTION 4. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 6. 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 transmit such impartial analysis to the City Clerk within ten (10) days of the adoption of this Resolution.

SECTION 7. Arguments for or against this measure shall be submitted not later than 5 p.m. on August 19, 2022 to the City Clerk.

SECTION 8. [The City Council adopts the provisions of subdivision (a) of Section 9285 of the Elections Code to permit rebuttal arguments if arguments have been filed in favor of and against the measure which is being submitted to the voters of the City at this special election. Rebuttal arguments shall be filed not later than 5:00 p.m. on August 22, 2022.] **OR** [The City Council declines to allow rebuttal arguments.]

SECTION 9. The City Clerk is hereby directed to file a certified copy of this Resolution with the Solano County Board of Supervisors and the Solano County Registrar of Voters.

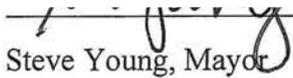
On motion of Council Member **Strawbridge**, seconded by Council Member **Macenski**, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of July 2022 by the following vote:

Ayes: **Council Members Campbell, Macenski, Strawbridge, and Mayor Young**

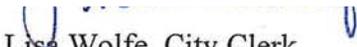
Noes: **Council Member Largaespada**

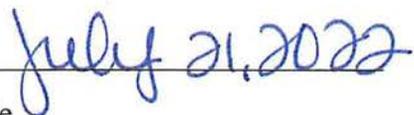
Absent: **None**

Abstain: **None**


Steve Young, Mayor

Attest:


Lisa Wolfe, City Clerk


Date

I, Lisa Wolfe, City Clerk of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Benicia at a regular meeting held the 19th day of July 2022

Lisa Wolfe, City Clerk 

Exhibit A
Proposed Measure Submitted to the Voters
[see next page]

THE BENICIA SALES TAX MEASURE

Benicia Local Road Repair and Infrastructure Measure.

Shall the City of Benicia enact a measure raising local funds under local control for general government purposes, including:

- repairing, paving and maintaining deteriorating streets;
- fixing potholes;
- improving safe routes to schools;
- protecting local creeks and the bay from toxins and pollution by fixing aging, deteriorating storm drains;

by adopting a ¾ cent sales tax, providing approximately \$5,000,000 annually, with citizens' oversight and annual audits, until ended by voters?

YES

NO

CITY OF BENICIA

ORDINANCE NO. 22- 6

AN ORDINANCE OF THE CITY OF BENICIA AMENDING CHAPTER 3.22 OF THE BENICIA MUNICIPAL CODE IMPOSING A GENERAL PURPOSE TRANSACTIONS AND USE (“SALES”) TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION SUBJECT TO THE APPROVAL OF CITY OF BENICIA VOTERS

THE COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOLLOWS:

WHEREAS, unlike many cities of similar size in the Bay Area, Benicia is a full service city, equipped with its own City-run police, fire, park, library, and water and wastewater services; and

WHEREAS, the health and safety of all residents in the City of Benicia (“the City”) is the City’s top priority; and

WHEREAS, independent engineers recently conducted a Pavement Condition Index study and rated nearly half of Benicia’s roads as “poor” or “failed”; and

WHEREAS, damaged roads are an enormous safety risk and can cause harm to drivers, pedestrians, and bicyclists and pothole-related damage to cars can be very costly to drivers; and

WHEREAS, upgrades and repairs to the City’s aging storm drain system are needed to prevent pollution from our streets running into our local waterways; and

WHEREAS, waiting to address these repairs causes them to worsen, which in turn increases the cost of repairs; and

WHEREAS, state funding and the City’s existing revenues are inadequate to fund these critical repairs; and

WHEREAS, an additional revenue source would help fund essential public improvements to roads, and other aging infrastructure; and

WHEREAS, local, voter-approved funding will provide a guaranteed source of funding for essential City services that cannot be taken by Sacramento or Washington D.C. as all funds will be legally required to be spent in Benicia; and

WHEREAS, the proposed measure will include strict accountability requirements such as public disclosure of all spending and annual independent financial audits that ensure funds are used effectively and as promised, and only to benefit the Benicia community; and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9 the City of Benicia ("City") has the authority to levy a Transactions and Use Tax for general purposes, and subject to voter approval; and

WHEREAS, the City proposes to levy a Transactions and Use Tax (sales tax) for general purposes to fund unbudgeted priorities, including repairs to roads, bridges, and other unfunded priority needs; and

WHEREAS, Section 3.22.070 of Chapter 3.22 of the Benicia Municipal Code, shall be amended to reflect the increase of .75% to an updated total tax rate of 1.75%; and

WHEREAS, Section 3.22.120 shall be amended to reflect that the Economic Development Board or a successor board, committee or commission shall serve as the Citizens' Oversight Committee; and

WHEREAS, the City plans to submit a ballot measure to the voters for a majority vote to authorize the Transactions and Use Tax at the general election on November 8, 2022.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1.

Title. This ordinance shall be known as the Benicia Transactions and Use Tax Ordinance. This ordinance shall be applicable in the incorporated territory of the City.

Section 2.

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.

Section 3.

Approval by the Voters. This ordinance shall be submitted to the voters at an election to be held on November 8, 2022. Upon approval by a majority of the voters of the City voting on this ordinance, a Transactions and Use Tax shall be authorized.

Section 4.

Addition. Upon approval by the voters, Chapter 3.22 will be amended to the Benicia Municipal Code to read in full as set forth in the attached Exhibit "A," which is incorporated into this ordinance.

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.

Effective Date. This ordinance relates to the levying and collecting of the City's Transactions and Use Tax and shall take effect immediately.

On motion of Council Member **Strawbridge**, seconded by Council Member **Macenski**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 5th day of July, 2022, and adopted at a regular meeting of the Council held on the 19th day of July 2022, by the following vote:

Ayes: **Council Members Campbell, Macenski, Strawbridge, and Mayor Young**

Noes: **Council Member Largaespada**

Absent: **None**

Abstain: **None**

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

I, Lisa Wolfe, City Clerk of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing Ordinance was introduced by the City Council of the City of Benicia at a regular meeting held July 5, 2022 and adopted at a regular meeting of the City Council on July 19, 2022.

Lisa Wolfe, City Clerk

Exhibit A
Proposed Sales Tax Ordinance Amendment to Benicia Municipal Code Chapter 3.22
[see next page]

CITY OF BENICIA

ORDINANCE NO. 22-__

AN ORDINANCE OF THE CITY OF BENICIA AMENDING CHAPTER 3.22 OF THE BENICIA MUNICIPAL CODE INCREASING A TRANSACTIONS AND USE TAX FOR GENERAL PURPOSES TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION SUBJECT TO THE APPROVAL OF THE VOTERS

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Title 3 (Revenue and Finance) of the Benicia Municipal Code is hereby amended modifying section 3.22.070 of Chapter 3.22 (Transaction and Use Tax) to read as follows:

Chapter 3.22

Transaction and Use Tax

Sections:

- 3.22.010 Short Title.
- 3.22.020 Definitions.
- 3.22.030 Purpose.
- 3.22.040 Contract with State.
- 3.22.050 Imposition of transaction tax, transaction tax rate.
- 3.22.060 Place of sale.
- 3.22.070 Imposition of use tax, use tax rate.
- 3.22.080 Adoption of provisions of state law.
- 3.22.090 Limitations on the adoption of state law and collection of use taxes
- 3.22.100 Permit not required.
- 3.22.110 Exemptions and exclusions.
- 3.22.120 Oversight, Annual Audit and Public Report.
- 3.22.130 Amendments.
- 3.22.140 Enjoining collection forbidden.
- 3.22.150 Termination.

3.22.010 Short Title. This chapter shall be known as the Transactions and Use Tax Ordinance of the city of Benicia.

3.22.020 Definitions. For the purposes of this chapter the follow terms shall have the meanings given in this section:

"City" means the incorporated territory of the city.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter and the approval by the voters of the city of a measure approving the imposition of a transaction and use tax; provided, that if the city shall not have contracted with the State Board of Equalization as required by section 3.22.040 prior to such date, the city 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.

3.22.030 Purpose. The city council hereby declares that 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 State Board of Equalization 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 State Board of Equalization 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 State Board of Equalization to perform all functions incident to the administration and operation of this chapter.

3.22.050 Imposition of transaction tax, transaction tax rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the city at the rate of one- and three-quarter percent (1.75%) 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 and before the Termination Date.

3.22.060 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 State Board of Equalization.

3.22.070 Imposition of use tax, 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 and before the Termination Date 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.

3.22.080 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.

3.22.090 Limitations on the 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 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 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.

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 chapter.

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

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 subsection, 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.

3.22.120 Oversight, Annual Audit and Public Report.

A. The independent auditor hired by the City Council 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 City Council and made available to the public.

B. The Economic Development Board or any successor board, committee, or commission as adopted by Resolution of the City Council, shall function as the tax oversight committee, and shall review and report annually to the City Council on the receipt of revenue and expenditure of funds from the tax authorized by this chapter. The report shall include how the funds are being used to address the City Council's stated priorities and shall be completed in conjunction with the City's budget process. This report shall include the status and performance of the programs and services funded, wholly or partially with proceeds from the tax. It is not within the purview of the Committee to direct staff, recommend any particular contracts, or define the scope of a project using funds from the tax. Rather these responsibilities remain under the authority of the City Council and the professional staff including the city manager.

3.22.130 Amendments. All amendments subsequent to the Operative 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.

3.22.140 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.

3.22.150 Termination. The authority to levy the tax imposed by this ordinance shall not expire, unless terminated by a 4/5ths vote of the City Council or by a vote of the people of the City of Benicia.

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.

The City Council hereby declares that it would have passed this and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 3.

Effective date. This Ordinance relates to the levying and collecting of the city transactions and use taxes and shall take effect immediately. However, no tax imposed by this Ordinance shall be imposed until approved by the voters of the city as required by section 2(b) of Article XIII C of the California Constitution and applicable law.

Section 4.

Declaration. The proceeds of the taxes imposed by this Ordinance may be used for any lawful purpose of the city, as authorized by ordinance, resolution, or action of the City Council or by ordinance adopted by the electorate of the city. These taxes do not meet the criteria established by Section 1(d) of Article XIII C of the California Constitution for special taxes, and are general taxes imposed for general government purposes.

Section 5.

Relationship to existing tax. The tax imposed by this Ordinance is separate from, and in addition to, any transactions and use tax currently imposed by the city. Nothing in this Ordinance shall be interpreted to affect the rate or administration of any tax other than the tax imposed by this Ordinance.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 5th day of July 2022, and adopted at a regular meeting of the Council held on the 19th day of July 2022, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

ATTEST:

Lisa Wolfe, City Clerk

Date