

Item No. 17

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

Submitted: 7/28/08

For the Meeting of: 7/29/08

The attached materials were not available at the time the Agenda Packet was prepared.

Title: Ordinance: Sacramento Gang Prevention and Youth Investment Measure

Contact Information: Cassandra Jennings, Assistant City Manager, (916) 808-8888

Please include this “To Be Delivered” material in your agenda packet. This material will also be published to the City’s Internet. For additional information, contact the City Clerk Department at Historic City Hall, 915 I Street, First Floor, Sacramento, CA 95814-2604, (916) 808-7200.



REPORT TO COUNCIL

City of Sacramento

17

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Staff Report
July 29, 2008

Honorable Mayor and
Members of the City Council

Title: Ordinance: Sacramento Gang Prevention and Youth Investment Measure

Location/Council District: Citywide

Recommendation: Approve attached ordinance effective upon voter approval and publish in full within 10 days of approval pursuant to the City Charter

Contact: Cassandra Jennings, Assistant City Manager, 808-8888

Presenters: Cassandra Jennings, City Manager's Office, 808-8888

Department: City Manager's Office

Division: N/A

Organization No: 0310

Description/Analysis

Issue: The City Council directed staff to prepare an ordinance for possible adoption that would increase the sales tax by one-quarter of one-cent upon 2/3 voter approval to reduce gangs and youth crime via an integrated strategy of gang and violence prevention and youth investment programs. The proposed ordinance will allocate 60% of tax proceeds to youth investment programs and 40% to enforcement activities. The proposed ordinance would remain in effect for 15 years.

Policy Considerations: Youth development and youth issues are a high priority for the City Council. Last year, the Council approved funding to establish an Office of Youth Development to provide focus on coordination of youth issues.

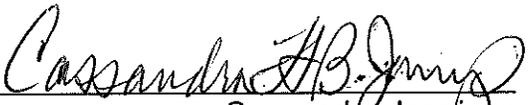
Environmental Considerations: None.

Rationale for Recommendation: Gangs and youth violence are a serious problem in the City of Sacramento. Today there are 55-60 gangs and over 4,300 validated gang

members in the city, of which over 850 are youth. It costs approximately \$75,000 a year to place a juvenile in detention or prison. It is far less expensive in the long-run to provide additional funds for anti-gang and after-school programs that keep juveniles out of trouble and discourage them from joining gangs.

Financial Considerations: Voter approval of a one quarter of one cent sales tax increase would provide approximately \$16 million annually in new funding to the City for gang prevention and youth investment programs. As the economy recovers and the city continues to grow, revenues will likely increase over the 15 years the proposed ordinance is in effect.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Cassandra Jennings
Assistant City Manager

Recommendation Approved:


for Ray Kerridge
City Manager

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Background

On June 24, 2008, Sacramento County Supervisor Roger Dickinson provided an informational briefing to the City Council on a countywide one quarter of one cent sales tax increase proposal he was advocating to fund gang and youth violence prevention efforts. Over the past several months, Supervisor Dickinson discussed the proposal with representatives of a variety of interested parties, including law enforcement, community organizations and business groups. Supervisor Dickinson later informed the city he would not ask the County Board of Supervisors to consider the proposal but suggested it could be adapted to be city specific.

At the request of Mayor Fargo, a city-only version of the ordinance (modeled after the county proposal) was brought to the City Council on July 22, 2008 for discussion. After lengthy testimony and Council discussion, a motion was adopted to direct staff to modify key areas of the city-only ordinance including the expenditure plan, term of the measure, recitals and to provide additional information related to revenue projections, the potential economic impact of the increased sales tax, and crime data.

The proposed "Sacramento Gang Prevention and Youth Investment Measure" includes notable changes to each of the areas addressed above. The updated design of the proposed ordinance reflects an integrated strategy of youth investment and enforcement to prevent and reduce gang and youth violence in the City of Sacramento (see Section 3.26.060 of the proposed ordinance in Attachment 1).

The term of the proposed ordinance is 15 years. While it is half the length of time suggested by Supervisor Dickinson, the term reflects a period of time that will provide the city with an opportunity to allow the integrated approach to demonstrate results. This term also reflects the recommendation of the city's Police Department and Office of Youth Development. The tax would expire after 15 years unless renewed by voters.

Expenditure Plan. Under the revised one-quarter cent sales tax proposal, 60% of the tax proceeds would be apportioned to youth investment programs. Funding could be provided to expand City of Sacramento programs or to add capacity to service providers and community-based non-profit programs. Permissible uses of the funding would include:

- Youth outreach and comprehensive services
- Apprenticeship and job-training programs
- Mentoring activities; and
- School based strategies

Funding in year one is estimated to provide an additional \$9.6 million to youth investment programs.

The additional 40% of the tax proceeds would be apportioned to law enforcement activities intended to reduce gang and youth crime. Permissible uses of funds would include the hiring and training of police officers, community service officers and support

staff to accomplish:

- Expanding community policing targeting gang and youth crime intervention
- Expanding police services dedicated to school safety
- Expanding police efforts to investigate and facilitate the successful prosecution of gang and youth related crime; and
- Training and equipping officers and non-sworn personnel engaged in gang and youth crime prevention efforts

The city's Police Department estimates year one funding will provide the city with the ability to add approximately 50-60 additional law enforcement personnel dedicated to the above functions. This will help fund a component of the soon to be completed Police Department's master plan.

The proposed ordinance requires the City Council to establish procedures and criteria for the selection and funding of programs and activities. The City Council will provide guidance in the development of these criteria regarding the types of programs funded, including whether they desire evidence-based programs, innovative programs, or a combination thereof. A periodic review of programs receiving funding is required, with the goal and purpose of restricting funding to those programs that are determined to be successful and effective. The proposed ordinance also requires the City Council to appropriate funding from the tax proceeds and to establish a process to seek community input on funding priorities, performance criteria and procedures for the review of programs.

A five member independent review committee is charged with annually reviewing the revenues, expenditures and delivery of projects and programs financed by the tax measure. The proposed ordinance requires the Mayor to appoint members, subject to City Council approval, with the following characteristics and experience:

- One member shall have a minimum of 10 years of law enforcement experience
- One member shall be a teacher or school administrator with a minimum of 5 years of experience
- One member shall be a certified public accountant
- One member shall have demonstrated experience with demonstrated expertise in youth and gang violence prevention; and
- One member shall be a parent of a child who is under 18.

The proposed ordinance also includes a provision noting that tax funds shall not be used to supplant existing expenditures.

Voter Requirements. State law requires a 2/3 vote of the City Council to place the measure on the November 4, 2008 ballot for voter consideration. The proposed tax would be considered a "special tax" because the tax proceeds would be dedicated for specific purposes. Special taxes require a 2/3 vote for passage under Article XIII C of the California Constitution. If approved, the sales tax rate in the City of Sacramento would increase from 7.75% to 8.0%. All revenues generated by such a measure would be deposited into a special fund and required to be used exclusively for the permissible

uses identified in the proposed ordinance.

Sales Tax Information. Funding for the measure would be derived from a one-quarter of one cent transactions and use tax (sales and use tax) increase. The sales tax rates of local agencies within proximity of the City of Sacramento currently range from 7.25% to 7.75%. According to the Institute for Local Government, most residents in California pay a sales tax rate of 7.75% or higher.

The statewide base sales tax rate today is 7.25 percent. State law authorizes local voters to authorize additional sales and use taxes (technically known as “transactions and use taxes” because they have certain technical differences from other sales taxes). Upon voter approval, cities may impose additional sales and use taxes in increments of .25 of one percent (.25%), provided that the cumulative amount of additional taxes, including those levied at the County level, does not exceed two percent (2%). If enacted as a general tax, a simple majority of voters is required, while two-thirds voter approval is required if enacted as a special tax.

Utilizing this feature of state law, residents of Sacramento County and its incorporated cities approved a one-half of one percent sales and use tax (technically a transactions and use tax) in November 2004 (Measure A) for transportation improvements. Therefore, approval of an additional one-quarter of one-percent sales and use tax increase in the City of Sacramento will leave additional countywide sales and use tax capacity of 1.25%.

The following table summarizes the sales tax rates of several other local public agencies both locally and statewide:

LOCAL AGENCIES	SALES TAX RATE	OTHER LARGE CALIFORNIA CITIES	SALES TAX RATE
Yolo County	7.25	Anaheim	7.75
Davis	7.75	Fresno	7.975
West Sacramento	7.75	Long Beach	8.25
Woodland	7.75	Los Angeles	8.25
		Oakland	8.75
Sacramento County	7.75	San Diego	7.75
Citrus Heights	7.75	San Francisco	8.50
Elk Grove	7.75	San Jose	8.25
Folsom	7.75	Santa Ana	7.75
Rancho Cordova	7.75		
Placer County	7.25		
Lincoln	7.25		
Rocklin	7.25		
Roseville	7.25		

El Dorado County	7.25
Placerville	7.50

Revenue Estimates. Voter approval of the proposed ordinance would result in approximately \$16 million in new revenue in year one. This figure is based on an analysis of the estimated fiscal year 2008 city sales tax revenues and actuals of the prior three fiscal years shown below. The revenue estimate in year one is guarded given the recent decline in sales tax revenues. As the economy recovers and the city continues to grow, annual revenues will likely increase.

Fiscal Year		Actual		1/4 Thereof
2008 (estimate)	\$	65,544,435	\$	16,386,109
2007	\$	69,475,578	\$	17,368,895
2006	\$	67,490,593	\$	16,872,648
2005	\$	65,876,469	\$	16,469,117

Financial and Economic Impacts. The financial impact on residents and visitors would result in the payment of an additional tax of 25 cents for every \$100 of expenses subject to sales tax. Sales tax applies to all retail sales of merchandise in the state. User tax is imposed on consumers of merchandise that is used, consumed, or stored in the state. For example, the amount of the sales tax paid on a \$500 washing machine would increase \$1.25 from \$38.75 to \$40.00. The \$1.25 would be directed to the tax measure's special fund for youth investment and enforcement efforts. Similarly, the amount of sales tax paid on the purchase of a \$30,000 vehicle would increase from \$2,325 to \$2,400, an increase of \$75. The \$75 would be dedicated to the permissible uses prescribed in the proposed ordinance.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE ADDING CHAPTER 3.26 TO THE CITY CODE OF THE CITY OF SACRAMENTO TO ADD THE SACRAMENTO GANG PREVENTION AND YOUTH INVESTMENT ACT AND TO LEVY A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1 Chapter 3.26 is hereby added to Title 3 of the City Code of the City of Sacramento to read as follows:

CHAPTER 3.26

SACRAMENTO GANG PREVENTION AND YOUTH INVESTMENT ACT

3.26.010 Title.

This chapter shall be known and may be cited as the "Sacramento Gang Prevention and Youth Investment Act."

3.26.020 Purpose.

- A. The people of the City of Sacramento make the following findings and declare their purpose in enacting the act is as follows:
- (1) Gangs and youth violence are serious problems in the City of Sacramento.
 - (2) Today, there are 55 to 60 gangs and over 4,300 validated gang members, of which over 850 are youth, in City of Sacramento.
 - (3) It costs approximately \$75,000 a year to place a juvenile in detention or in prison. It is far less expensive in the long-run to provide additional funds for anti-gang and after-school programs that keep juveniles out of trouble and prevent them from joining gangs.
 - (4) This measure would establish a one quarter of one percent (0.25%) sales and use tax to provide additional funding for such purposes as law enforcement, gang prevention, after-school and job training programs.
 - (5) This measure can fund in-school and after-school anti-gang, mentoring and job-training programs recognized as successful in preventing anti-social behavior.
 - (6) Funds from this measure can add law enforcement officers who will work with schools, businesses and neighborhoods to reduce and prevent youth and gang violence.
 - (7) Our neighborhood schools and classroom teachers are at the center of the fight against gangs. This measure will help make our schools and surrounding neighborhoods gang free zones by funding such items as safe passage programs, expanding classroom

curriculum and after-school programs to educate young children about the dangers of gangs, and providing teachers and school counselors with the resources to prevent at-risk students from joining gangs.

- (8) It is the purpose of this Chapter to foster, sustain and develop evidence-based best practices to reduce and prevent youth and gang violence.
 - (9) It is the intent of this Chapter to encourage collaboration and cooperation among agencies, organizations and jurisdictions to maximize the beneficial use of the funds generated by this Chapter.
 - (10) Effective anti-gang intervention, prevention and enforcement efforts will create safer neighborhoods and increase the employability of youth benefiting the local economy and the fiscal health of local government.
- B. This Chapter is adopted to achieve the following objectives, and its provisions are to be interpreted in order to accomplish such objectives:
- (1) 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 7285.91 of Part 1.7 of Division 2 which authorize the City to adopt this tax ordinance. This ordinance shall be effective if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
 - (2) 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.
 - (3) To adopt a transactions and use tax ordinance that imposes a tax and provides a measure 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.
 - (4). To adopt a 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.

3.26.030 Contract with State.

- A. Prior to the operative date of this Chapter, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the Transactions and Use Tax levied by this Chapter.
- B. If the City shall not have contracted with the State Board of Equalization 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.

3.26.040 Retail Transactions and Use Tax.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the City of Sacramento at the rate of one-quarter of one percent (0.25%) of the gross receipts of any retailer from the sale of all tangible property sold at retail in the City of Sacramento on and after the operative date of this Chapter.

A excise tax is hereby imposed on the storage, use or other consumption in the City of Sacramento of tangible personal property purchased from any retailer on and after the operative date of this Chapter for storage, use or other consumption in the City at the rate of one-quarter of one percent (0.25%) 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.

3.26.050 Ballot Proposition.

Pursuant to Revenue and Taxation Code section 7285.91, the Retail Transactions and Use Tax measure shall be placed on the November 4, 2008, general election ballot. If less than two-thirds of the qualified voters voting on the Retail Transactions and Use Tax measure approve the measure during the November 4, 2008, election, the tax shall not be imposed.

3.26.055. Placement of Funds in Separate, Segregated Account

The revenues generated by this Chapter shall be deposited into a special fund and shall be used exclusively for programs identified in the Expenditure Plan. The expenditure of the revenues generated by this Chapter shall be restricted to the purposes stated in Section 3.26.060 and spent only pursuant to the expenditure plan provided by Section 3.26.060.

3.26.056 Annual Report

The Finance Director shall prepare and file with the City Council an annual report that satisfies the requirements of Section 50075.3 of the Government Code.

3.26.060 Permissible Uses and Expenditure Plan; Adoption of Performance Criteria and Procedures for Periodic Review of Programs Funded under Expenditure Plan

A. Expenditure Plan

The revenues of the tax shall only be used to fund an integrated program of youth investment and enforcement efforts, spent for the following purposes and spent in amounts consistent with the allocations herein. The provisions of this section are intended to satisfy the requirements of Section 7285.91 of the California Revenue and Taxation Code and Section 50075.1 of the California Government Code.

(1) Permissible Uses and Allocation of Tax Revenues:

a. Youth Investment. Sixty percent (60%) of the tax revenues shall be apportioned to youth investment programs provided by the City of Sacramento or by adding capacity to service providers and community-based non-profit programs. Permissible uses of funds in this section include:

1. *Youth outreach and comprehensive services*: Expand street outreach programs successful in reaching the populations they serve; hiring and training personnel to counsel and mentor at-risk youth; create and expand after-school, teen centers and other related programs; parent training;

development of programs administered by community based organizations; and expand programs designed to discourage retaliation and future violence.

2. *Apprenticeship and job-training programs*: Fund programs to provide students with job skills, training and work experience, including, but not limited to, subsidized employment and internship opportunities, teaching basic life skills (e.g. work habits), and skills for seeking and securing employment.

3. *Mentoring activities*: Create and expand year-round mentoring opportunities for at-risk youth.

4. *School based strategies*: Expand existing City programs and City supported programs, including attendance centers that provide recreational opportunities, academic tutoring, homework assistance, dropout prevention, intervention and truancy enforcement programs.

b. Enforcement Efforts. Forty percent (40%) of the tax revenues shall be apportioned to law enforcement activities intended to reduce gang and youth crime. Permissible uses of funds in this section include the purchase of equipment in support of the activities enumerated below and the hiring and training of police officers, community service officers and support staff resulting in the following specific activities:

i. *Community policing*: Expand community policing efforts targeting youth crime and gang intervention and suppression.

ii. *School safety*: Expand police services dedicated to school safety.

iii. *Investigation services*: Expand police department efforts to investigate and facilitate the successful prosecution of youth and gang-related crime.

iv. *Staff training and equipment*: Training and equipping officers and staff.

B. Establishment of Performance Criteria and Procedures for Periodic Review.

The Council shall establish performance criteria for determining the effectiveness of programs funded by the Expenditure Plan and the tax revenue provided by this chapter, and shall provide for periodic review of programs pursuant to this performance criteria. Implementation Plans: Procedures, Contents. The Council may review and amend the performance criteria and the review procedures from time to time, as it deems necessary and appropriate.

(1) Performance Criteria: The Council shall establish criteria for evaluation of the effectiveness of programs carried out pursuant to this chapter. These criteria shall include, but shall not be limited to the following: school attendance rates; truancy and dropout rates; levels of gang violence and other violent crime involving juveniles; and number of validate gang members in the City of Sacramento.

(2) Periodic Review of Programs: The Council shall establish procedures for the periodic review of programs receiving funding pursuant to this chapter, with the goal and purpose of restricting funding to those programs that are determined to be successful and effective.

C. Public Input on Performance Criteria and Performance Review:

The Council shall seek the input of the public, including community groups, neighborhood

associations, faith-based groups, non-profit organizations and other governmental agencies, as well as the Independent Taxpayers' Committee provided for in Section 3.26.090 in establishing performance criteria and procedures for periodic review of programs; and further, the Council shall seek the input of the public and the Independent Taxpayers' Committee when reviewing the programs funded pursuant to this chapter.

3.26.080 New Funds to Supplement, and Not to Supplant, Existing Funding

Funds allocated and appropriated pursuant to this Chapter shall be used to supplement existing levels of federal, state and local funding and not to supplant existing levels of funding.

3.26.090 Creation of Independent Taxpayers Committee

There is hereby established a permanent citizens' advisory committee to be called the "Independent Taxpayers Committee" (hereinafter Committee") which shall annually review the revenues, expenditures and delivery of projects and programs financed by revenues generated under this Chapter. The Committee membership shall consist of five members appointed by the Mayor with the approval of the Council. One member of the Committee shall have a minimum of ten years experience in law enforcement, one member shall be a teacher or school administrator with a minimum of five years of experience, one member shall be a certified public accountant, one member shall have demonstrated expertise in youth and gang violence prevention and one member shall be a parent of a child who is under the age of 18.

3.26.100 Annual Audit and Program Evaluation

A. The Committee shall annually complete an audit of expenditures from the special fund established pursuant to Section 3.26.060 of this Chapter. The Committee shall annually review and evaluate the effectiveness of programs funded by revenues produced by this Chapter. Programs shall be evaluated according to how effectively they accomplish the purposes of this Chapter, measured according to evaluation metrics developed by the Committee which may include: the number of young people who exit gangs; improved public safety outcomes, such as decreases in incidents of gang-related violence, severity of crimes committed and gang related violence; improved school attendance and increased graduation rates.

B. Revenues of the tax established by this Chapter may be used to fund the Committee's operations.

3.26.110 Place of Sale.

For the purposes of the transactions tax levied by 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.

3.26.120 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.

3.26.130 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. The substitution, however, 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 substitution shall not be made when 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 State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter;

(3) The substitution shall not be made 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. To 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 provisions of that code;

(4) The substitution shall not be made 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.

3.26.140 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.

3.26.150 Exemptions and Exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax levied by this Chapter 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 levied by this Chapter 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 are 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:
 - (3) 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-county address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence.
 - (4) 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.
 - (5) 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.
 - (6) 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.
 - (7) For the purposes of subsections (3) and (4), 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 is 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, but does not apply to fuel or petroleum products.

- (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 subsections (3) and (4), 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 a use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County 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 a use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- (8) Any person subject to a 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.

3.26.160 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 Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments of Parts 1.6 and 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. The Council shall have the authority to take such action, including amendments to this chapter, to implement the amendments to state law and also to ensure that the taxes called for by this Chapter are collected by the State, provided, however, that the Council may not affect the rate of tax imposed by this Chapter.

3.44.170 Termination.

The tax imposed by this Chapter shall continue in effect for fifteen years from the effective date of this chapter.

3.26.180 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.

3.26.190 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portion of this Chapter or any part thereof. The Council of the City of Sacramento hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

SECTION 2. Election. An election on the issue of levying a transactions and use tax pursuant to this ordinance shall be held together with the statewide general election on November 4, 2008.

SECTION 3. Effective Date. This ordinance shall become effective only if the Retail Transactions and Use Tax is approved by a two-thirds vote of the qualified voters of the City of Sacramento voting on the measure at the November 4, 2008, election. If the foregoing condition is satisfied, this ordinance shall become effective immediately upon certification of the results of the November 4, 2008, election regarding the retail transactions and use tax by the City Council. The transactions and use tax levied under this ordinance shall become operative on the first day of the first calendar quarter commencing more than 110 days after the effective date of the ordinance or on such later date as necessary to facilitate collection of the tax by the State Board of Equalization.