

CITY OF ORLAND

ORDINANCE NO. 2024-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLAND AMENDING
CHAPTER 3.10 TO THE ORLAND MUNICIPAL CODE REGARDING A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
STATE BOARD OF EQUALIZATION UPON ADOPTION BY THE VOTERS
INCREASING THE CURRENT TRANSACTIONS AND USE TAX RATE FROM 1/2
CENT TO ONE CENT**

The People of the City of Orland, State of California do **ordain as follows:**

SECTION 1: Chapter 3.10 of the Orland Municipal Code is hereby amended to read as follows:

Title 3 – REVENUE AND FINANCE

Chapter 3.10 – Transactions and Use Tax

- 3.10.010 - Title and Applicability.
- 3.10.020 - Definitions.
- 3.10.030 - Purpose.
- 3.10.040 - Contract with State.
- 3.10.050 - Transaction Tax Rate.
- 3.10.060 - Place of Sale.
- 3.10.070 - Use Tax Rate.
- 3.10.080 - Adoption of Provisions of State Law.
- 3.10.090 - Limitations on Adoption of State Law and Collection of
Use Taxes.
- 3.10.100 - Permit not Required.
- 3.10.110 - Exemptions and Exclusions.
- 3.10.120 - Amendments.
- 3.10.130 - Enjoining Collection Prohibited.
- 3.10.140 - Annual Public Reports.
- 3.10.150 - Declaration.
- 3.10.160 - Election Date.

3.10.010 - Title and Applicability.

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

3.10.020 - Definitions.

The following words and phrases shall be defined as set forth in this Ordinance, except that any term or phrase not defined in this Ordinance shall have the same meaning as that term or phrase is defined in the California Revenue and Taxation Code, Division 2, Parts 1.6 and 1.7:

- (a) “Chapter” means this Chapter 3.10 of the Orland Municipal Code, codifying the Transactions and Use Tax Ordinance.
- (b) “City” means the City of Orland.
- (c) “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, November 5, 2024, pursuant to Taxation and Revenue Code Section 7265. The provisions of this Ordinance shall not take effect until the operative date.
- (d) “Ordinance” means the Transactions and Use Tax Ordinance.
- (e) “State” means the State of California.

3.10.030 – Purpose.

This Ordinance, codified in this Chapter, is adopted to achieve the following, among other purposes, and the Ordinance shall be interpreted liberally in order to accomplish those purposes:

- (a) To maintain and preserve general funded services, including ambulance services, construction and maintenance of streets, parks and recreation library services, ~~City of Orland General Fund~~ public safety services, including fire suppression, acquisition and maintenance of fire protection equipment, support and training for fire personnel, capital equipment needs for police protection and public works, and other safety related services within and for the City.
- (b) To impose a retail transaction and use tax to be applied throughout the entire territory of the City to the fullest extent permitted by law and in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code (the “Transactions and Use Tax Law”) and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this general tax ordinance 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.
- (c) 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 contained in Part 1 (commencing with Revenue and Taxation Code Section 6001) 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.

- (d) To adopt a retail 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.
- (e) 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.
- (f) To adopt by reference the provisions of Revenue and Taxation Code Sections 7261 and 7262, as now in effect or as later amended, as deemed by so deemed by Revenue and Taxation Code section 7262.2.
- (g) To provide transactions and use tax revenue to the City to be used for the general governmental purposes of the City, with any transactions and use tax revenue received being placed into the City's general fund.

3.10.040 - 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 transactions and use tax ordinance; provided, that 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 case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

3.10.050 - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a transactions tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of ~~one-half of one percent~~ (1.0%) ~~(0.50%)~~ of the gross receipts of any retailer from the sale of all tangible personal property sold at retail within the territory of the City on and after the operative date of this ordinance.

“Transaction” or “transactions” as used in this Chapter shall have the same meaning respectively as the words “sale” or “sales,” and the word “transactor” as used in this part has the same meaning as “seller,” as “sale” or “sales” and “seller” are used in Part 1 (commencing with Section 6001) of this division.

~~This rate is in addition to any sales, transaction and use tax rate previously adopted by the City.~~

3.10.060 - Place of Sale.

For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his, her or its 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.

3.10.070 - Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage use or other consumption in the territory of the City at the rate of ~~one-half of one percent~~ (1.0%) (~~0.50%~~) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

~~This rate is in addition to any sales, transaction and use tax rate previously adopted by the City.~~

3.10.080 - Adoption of Provisions of State Law.

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

3.10.090 - 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 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 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 Revenue and Taxation Code Section 6203 and in the definition of that phrase in Revenue and Taxation Code Section 6203.

3.10.100 - Permit Not Required.

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor’s permit shall not be required by this ordinance.

3.10.110 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 or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) 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 all of the following:
 - (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 the 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 that point by the retailer or his or her agent, or by delivery by the retailer to a carrier

for shipment to a consignee at such point. For purposes of this subsection, “delivery” to a point outside the City shall be satisfied:

- A. With respect to “delivery” of 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 the address is, in fact, his or her principal place of residence.
 - B. With respect to “delivery” of commercial vehicles, by registration to a place of business out-of-City and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
- (3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this Ordinance.
 - (4) A lease of tangible personal property which is a continuing sale of that property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this Ordinance.
 - (5) For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.
- (c) There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this City of tangible personal property all of the following:
 - (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, is exempt from the use tax. This exemption is in addition to the exemptions provided in Revenue and Taxation Code Sections 6366 and 6366.1.

- (3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
 - (4) If the possession of, or the exercise of any right or power over, 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 entered into prior to the Operative Date of this Ordinance.
 - (5) For purposes of subparagraphs (3) and (4) of this subsection, the storage, use, or other consumption of, 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 the 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 Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel or aircraft at an address in the City.
- (d) Any person subject to use tax under this Ordinance may credit against that tax or any transactions tax, or to reimbursement for a transactions tax, paid to a district or retailer in a district imposing a transactions and use 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.

3.10.120 - Amendments.

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not consistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part

of this Ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

The City Council or the City's voters may amend this Ordinance to comply with applicable law or as may be otherwise necessary to further the Ordinance's stated purposes. However, as required by Article XIII C of the California Constitution, no amendment to this Ordinance may increase the rates of the taxes authorized by this Ordinance unless such amendment is submitted and approved by the voters.

3.10.130 - Enjoining Collection Forbidden.

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

3.10.140 - Annual Public Reports.

On or before each anniversary of the Operative Date, the City shall complete a study and produce a report reviewing the collection, management and expenditure of revenue from the Transaction and Use Tax and shall present a report explaining and providing an overview of the same at an open and public meeting of the City Council. This report shall be a public document and will be posted on the city website.

3.10.150 – 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 act of the City Council. These taxes are not special taxes within the meaning of Section 1(d) of Article XIII C of the California Constitution, but are general taxes imposed for general government purposes.

3.10.160 - Election Date.

The date of election for approval of this Ordinance shall be November 5, 2024.

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, portion of the application thereof to any person or circumstance of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 3. PRECEDENCE.

Any provision of the Orland Municipal Code inconsistent with the provisions of this Ordinance, to the extent of such inconsistency and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

SECTION 4. CEQA COMPLIANCE.

The City Council finds and determines that the enactment of this Ordinance is not a “project” as that term is used in the California Environmental Quality Act (“CEQA,” Cal. Pub. Resources Code Section 21000, et seq.) or the State CEQA Guidelines (Cal. Code of Reg., Title 14, Section 15000, et seq.). Therefore, no environmental assessment is required or necessary.

SECTION 5. EFFECTIVE DATE.

This Ordinance relates to the levying and collecting of City transactions and use taxes and shall take effect immediately upon its approval by the voters of the City. However, no tax imposed by this Ordinance shall be effective unless that tax has been 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 6. 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 act of the City Council. These taxes are not special taxes within the meaning of Section 1(d) of Article XIII C of the California Constitution, but are general taxes imposed for general government purposes.

SECTION 7. EXECUTION.

The Mayor and City Clerk are authorized to subscribe this Ordinance where indicated below to evidence and attest to its passage and approval upon Certification by the City Council of the results of the election approving this Ordinance by the voters of the City.

INTRODUCED by the City Council of the City of Orland, County of Glenn, State of California, on the 19th of March, 2024 by at least a two-thirds vote of the City Council of the City of Orland by the following vote:

AYES:
NOES:
ABSENT:
NOT VOTING:

PASSED AND SUBMITTED TO THE VOTERS FOR ADOPTION by the City Council of the City of Orland, County of Glenn, State of California, on the 2nd of April, 2024 by at least a two-thirds vote of the City Council of the City of Orland by the following vote:

AYES:
NOES:
ABSENT:
NOT VOTING: