

ORDINANCE XXXXB

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINCOLN ADDING CHAPTER 3.40, TRANSACTIONS AND USE TAX, TO TITLE 3, REVENUE AND FINANCE, OF THE LINCOLN MUNICIPAL CODE TO IMPOSE AN ONGOING ONE CENT (1¢) TRANSACTIONS AND USE TAX FOR GENERAL REVENUE PURPOSES

WHEREAS, the City of Lincoln (the “City”) is a safe, desirable place to live, do business, and raise a family; and

WHEREAS, recently commissioned independent research in the City shows residents prioritize locally controlled funding that cannot be taken by the state; and

WHEREAS, many in the community believe that additional local funding is needed to address community priorities and quality of life services; and

WHEREAS, the community’s top priorities include maintaining 911 emergency response times; preventing cuts to fire protection and police response services; retaining/attracting qualified firefighters and police officers; and keeping public areas and parks healthy, safe and clean; and

WHEREAS, the City is committed to keeping the community safe and healthy; and

WHEREAS, pursuant to Elections Code section 9222, the City Council submitted to City voters a ballot measure and proposed ordinance to establish a One cent (1¢) sales tax for general City purposes; and

WHEREAS, this measure is not a tax on homes or property, and a large portion of locally controlled revenue generated by the measure will be paid by visitors to Lincoln who will pay their fair share to use City services; and

WHEREAS, this measure requires mandatory financial audits, an independent Citizen’s Oversight Committee, and public disclosure of spending to help ensure that all funds are responsibly and locally spent; and **WHEREAS**, pursuant to Revenue and Taxation Code section 7285.9 and Government Code section 53724, the City Council previously approved by two-thirds vote this general tax ordinance and submitted this general tax ordinance to the electorate of the City for a vote at the November 3, 2026, general election in accordance with Government Code section 53723 and Article XIII C, section 2 of the California Constitution.

NOW THEREFORE, THE PEOPLE OF THE CITY OF LINCOLN do ordain as follows:

Section 1. AMENDMENT. Subject to the approval of a majority of the voters of the City of Lincoln at the scheduled election so designated by the City Council in a resolution placing this ordinance on the ballot for such election, Chapter 3.40, Transactions and Use Tax, shall be added to Title 3, Revenue and Finance, of the Lincoln Municipal Code to read as follows:

Chapter 3.40
TRANSACTIONS AND USE TAX

Section

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3.40.030	Purpose.
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3.40.050	Transaction Tax Rate.
3.40.060	Place of Sale.
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3.40.080	Adoption of Provisions of State Law.
3.40.090	Limitation on Adoption of State Law and Collection of Use Taxes.
3.40.100	Permit Not Required.
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3.40.140	Citizen Oversight Committee.
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3.40.160	Severability.

3.40.010 Title.

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

3.40.020 Operative Date.

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the election on this Ordinance.

3.40.030 Purpose.

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

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with section 7251) of Division 2 of the Revenue and Taxation Code and section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this chapter 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 California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

E. To adopt a retail transactions and use tax to remain in effect until the voters amend or repeal it.

3.40.040 Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this chapter; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.40.050 Transaction Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of One percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter. Such tax shall be in addition to any other transactions tax imposed by the Lincoln Municipal Code or applicable State law.

3.40.060 Place of Sale.

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

agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State Sales and Use Tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.40.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of One percent (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. Such tax shall be in addition to any other use tax imposed by this Code or applicable State law.

3.40.080 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.

3.40.090 Limitation on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this 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.

3.40.100 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.

3.40.110 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 levied 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 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 chapter 2 of 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 subsections (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 levied by this chapter, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is

in addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this 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) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (8), 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 that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this State or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this subsection, a person is related to another person if both persons are related to each other pursuant to section 267(b) of the Internal Revenue Code and the regulations thereunder.

8. "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 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.

3.40.120 Amendments.

- A. All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.
- B. Pursuant to Elections Code Section 9217 or any successor statute, the City Council may amend or repeal this chapter, but not increase or extend the rate of tax imposed herein, without a vote of the people.

3.40.130 Enjoining Collection Forbidden.

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

3.40.140 Citizen Oversight Committee.

The City Council, by resolution, shall establish a five-member Citizen Oversight Committee to annually review expenditures of tax revenues and prepare an annual accountability report for the benefit of the citizens of the City and in order to ensure accountability in the expenditure of tax revenues received pursuant to this chapter. The annual accountability performance report shall be posted on the City's website and shall include the following information:

- A. The amount of revenue collected pursuant to the transactions and use tax imposed by this chapter;
- B. The amount and general purposes of the expenditures made possible by this chapter, including, where feasible, a categorization of the nature and purpose of the expenditures.

3.40.150 Annual Audit and Review.

The revenue from the tax imposed by this chapter, as well as the expenditure thereof, shall be subject to the annual audit performed by the City's independent auditor of the City's books, records, accounts, and fiscal procedures and which is reported in the City's comprehensive annual financial report. The audit results may be combined with the audit of other City funds, so long as the proceeds from this chapter are reported separately. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

3.40.160 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Conflicts. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. Compliance with the California Environmental Quality Act. The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA" and 14 Cal. Code of Regs. sections 15000 et seq., "CEQA Guidelines"). This ordinance imposes a general sales tax that can be used for unrestricted general revenue purposes as specified in this ordinance. It is not a commitment to any specific project that may result in a potentially significant physical impact on the environment.

Section 5. Codification. Subject to the voter approval, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Lincoln Municipal Code.

Section 6. Effective Date. Pursuant to California Constitution Article XIII C, section (2)(b), and Elections Code sections 9217 and 15400, this ordinance shall take effect only if approved by a majority of the eligible voters in the City, and shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect 10 days after that date.

Section 7. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. City voters declare that they would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 8. Repeal or Amendment. This ordinance shall not be repealed or amended, except by a measure approved by a majority of electors voting on the issue at a General Municipal Election, or at a special election called for that purpose.

Section 9. Certification. The City Clerk shall certify the final approval of this ordinance, publish the same as required by law, and forward a certified copy of the adopted ordinance to the California Department of Tax and Fee Administration.

This ordinance was adopted by declaration of the vote of the City Council on ____ day of ____, 2026, at a regular meeting of the City Council by the following vote:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

Richard Pearl, Mayor

ATTEST:

Hope Ithurnburn, City Clerk