



Y

City of Westminster, Westminster No-Tax Increase Local Services Measure

To protect Westminster’s local finances without increasing tax rates, prevent cuts to 911 emergency response, police, gang/drug prevention, firefighters, paramedics, emergency response equipment, disaster preparedness, addressing homelessness, protecting drinking water, maintaining local jobs, and for general government use, shall an ordinance continuing the existing voter-approved 1% sales tax, until March 31, 2043, providing estimated \$16,800,000 annually, requiring audits, public spending disclosure, funds controlled locally, be adopted?

What your vote means

| YES | NO |
|--|---|
| A “yes” vote is a vote in favor of readopting the existing 1% tax. | A “no” vote is a vote against readopting the tax. |

For and against

| FOR | AGAINST |
|---|---|
| <p>Waylon L. Pettengill Police Officer/WPOA Board Member</p> <p>Frances Nguyen Westminster Business Owner/Resident</p> <p>Sandra McClure Westminster Business Owner/Resident</p> <p>Diana Lee Carey Chairwoman, Citizens Oversight (Measure SS) Committee</p> <p>Terry L. Rains Westminster Resident/Community Leader</p> | <p>No argument against this measure was submitted.</p> |

Ballot Measures-YFull Text of Measure Y
City of Westminster

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WESTMINSTER, CALIFORNIA ADDING CHAPTER 3.11 (TRANSACTIONS AND USE TAX OF 2022) TO TITLE 3 (REVENUE AND FINANCE) OF THE WESTMINSTER MUNICIPAL CODE

THE PEOPLE AND THE CITY COUNCIL OF THE CITY OF WESTMINSTER DO ORDAIN AS FOLLOWS:

Section 1. AMENDMENT OF CODE. Chapter 3.11 (Transactions and Use Tax of 2022) is hereby added to Title 3 (Revenue and Finance) of the Westminster Municipal Code to read as follows:

Section 3.11.005. Short Title.

This chapter shall be known as the City of Westminster Transactions and Use Tax Ordinance of 2022. The City of Westminster hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 3.11.010. 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 3.11.020. Purpose.

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

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

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

Section 3.11.030. 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 transactions and use tax ordinance; 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.

Section 3.11.040. Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.0% 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 ordinance.

Section 3.11.050. 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 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.

Section 3.11.060. 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 said territory at the rate of 1.0% 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.

Section 3.11.070. Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the

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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.

Section 3.11.080. 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 this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against 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 Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

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

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

Section 3.11.090. 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.

Section 3.11.100. 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 ordinance.

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 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 such right is exercised.



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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:

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 ordinance.
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 ordinance.
5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance 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.

Section 3.11.110. 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 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 ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 3.11.120. 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.

Section 3.11.130. Fiscal Accountability Provisions; Citizen Oversight and Independent Annual Financial Audits.

Consistent with the City's ongoing commitment to citizen involvement as a fundamental principle of good government, specific citizen oversight and fiscal accountability provisions regarding the revenues collected as a result of the adoption of this ordinance are hereby established as follows:

- A. Independent Annual Financial Audit. The amount generated by this new general purpose revenue source and how the revenues were used shall be included in the annual audit of the City's financial operations by an independent certified public accountant.
- B. Integration of the Use of Funds into the City's Budget and Strategic Planning Process. The estimated revenue and proposed use of funds generated by this ordinance shall be an integral part of the City's budget and strategic planning process, and significant opportunities will be provided for meaningful participation by citizens in determining priority use of these funds.
- C. Annual Community Report. A written report will be provided annually to every, household in the City detailing how much revenue is being generated by the ordinance and how funds are being used.
- D. Bi-annual Citizen Oversight Meeting. An oversight committee appointed by City Council will convene twice in a yearly period to review and discuss the use of the revenue generated by the measure. City staff will also be available to meet with any group that requests a specific briefing with their members to discuss and answer questions about the revenue generated by the measure and its uses.
- E. Enforcement. In the event the City Council, the Citizens Oversight Committee, the City, any employee of the City, or any member of the City Council or the Citizens Oversight Committee fails to take an action required by this Section, any court of competent jurisdiction may order that the action be taken. However, such failure to act shall not invalidate the City's authority to levy any tax or in any way affect the ongoing collection of any tax pursuant to this Ordinance.



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Section 3.11.140. Use of Proceeds.

The proceeds from the tax imposed by this chapter shall be deposited in the general fund of the City and available for any lawful municipal purpose.

Section 3.11.150. Termination.

The transactions and use tax imposed pursuant to this chapter shall be levied until March 31, 2043, at which time it will terminate.

Section 2. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 3. REPEAL OF PRIOR TAX PROVISIONS. Because the tax imposed by Chapter 3.10 of the Municipal Code will expire of its own terms on December 31, 2022, that chapter of the code shall be repealed as of January 1, 2023.

Section 4. 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 effective unless that tax has been approved by a majority of the voters of the City as required by Section 2(b) of Article XIII C of the California Constitution and applicable law. If so approved, the tax imposed by this ordinance shall take effect as set forth in Section 1 of this ordinance.

Impartial Analysis City of Westminster Measure Y

In 2016, Westminster voters approved a 1% transactions and use tax. This type of tax, commonly referred to as a "local sales tax," is generally collected along with other state and local sales and use taxes. The tax will expire on December 31, 2022.

Measure Y would readopt the existing 1% tax until March 31, 2043.

The combined rate of all state and local sales taxes in the City of Westminster is currently 8.75%. Of this, the City levies only the 1% local sales tax and another 1% tax known as the Bradley-Burns Tax. The remaining taxes are levied by the State of California, Orange County, and the Orange County Transportation Authority. Measure Y would not increase the rates of any of these taxes above their current rates.

Purchases in Westminster that are exempt from the statewide sales tax are also generally exempt from the local sales tax. For example, most groceries, prescription drugs and payments for services are exempt from the tax.

The tax would continue to be administered by the California Department of Tax & Fee Administration. Proceeds of the tax, less administration costs, would continue to be deposited to the city's general fund and be available for any lawful municipal purpose. Expenditures of tax proceeds are controlled locally by the City Council. The tax is expected to generate approximately \$16.8 Million annually.

The measure would continue accountability requirements that apply to the existing tax:

- (i) Proceeds of the tax would continue to be audited annually by an independent certified public accountant.
- (ii) Proposed uses of tax proceeds would continue to be integrated into the City's budget and strategic planning process, which provides opportunities for participation by citizens in determining priority use of these funds.
- (iii) A written report would continue to be provided annually to every household in the city detailing how much revenue is being generated by the ordinance and how funds are being used.
- (iv) An oversight committee appointed by the City Council would continue to meet twice annually to review and discuss the use of the revenue generated by the measure.

This measure was placed on the ballot by the Westminster City Council. It must be approved by a majority of those voting on the measure in order to go into effect. A "yes" vote is a vote in favor of readopting the existing 1% tax. A "no" vote is a vote against readopting the tax.

The above statement is an impartial analysis of Measure Y. If you desire a printed copy of the measure, please call the elections official's office at (714) 548-3237 and a copy will be mailed at no cost to you.

s/ Christian Bettenhausen
City Attorney, City of Westminster



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Argument in Favor of Measure Y

SAVE WESTMINSTER!
VOTE YES ON MEASURE Y TO PRESERVE
PUBLIC SAFETY AND OUR QUALITY OF LIFE!

A **NO** vote will:

- **SLASH** the city's operating budget by **\$17 million, 24%** annually!
- **BANKRUPT** the city by late 2024!
- **DECIMATE** our police department by **33%**!
- **INCREASE** 9-1-1 response times for **violent crimes** in progress **putting lives at risk!**
- **DELAY** response to fire and medical emergencies **putting lives at risk!**
- **REDUCE** resources to investigate **murders/rapes!**
- **CEASE** investigation of most non-violent crimes (theft/suspicious activity/disturbances)!
- **ELIMINATE** resources to combat homelessness, gangs, drugs, and human trafficking!
- **CLOSE** our parks!
- **STOP** graffiti abatement!
- **REDUCE** crossing guards putting children's lives at risk!
- **ELIMINATE** senior and youth programs including Senior Center activities, classes, events, Project SHUE, youth sports and after-school programs!
- **ERADICATE** homeless encampment, trash, and bulky item clean-up increasing blight!
- **DECREASE** our property values!
- **ALLOW** the County/Special Districts to grab all local tax money available with no local funding or control!

FACTS:

- Measure Y **WILL NOT RAISE TAXES!** Voters approved Measure SS 1% local tax in 2016 – Measure Y keeps taxes the same and **KEEPS FUNDING LOCAL!**
- Dispatch handled **128,273** calls requesting police/fire/ambulance service last year!
- **VIOLENT CRIME** is up **62%** YTD including **FIVE MURDERS!**
- Westminster receives just **7%** of property taxes paid by residents – much less than most cities!
- When the state eliminated redevelopment agencies in 2012, Westminster lost **\$30 million** annually!
- Measure Y includes **strict accountability and oversight of funds** (citizens' oversight, spending reports, and independent audits)!

YOUR YES VOTE ON MEASURE Y WILL SAVE LIVES, MAINTAIN
CRITICAL SERVICES, PROTECT OUR FAMILIES, SENIORS,
NEIGHBORHOODS, AND QUALITY OF LIFE!

JOIN FIRST RESPONDERS AND BUSINESS/COMMUNITY LEADERS -
VOTE YES ON Y TO SAVE WESTMINSTER!

s/ Waylon L. Pettengill
 Police Officer/WPOA Board Member

s/ Frances Nguyen
 Westminster Business Owner/Resident

s/ Sandra McClure
 Westminster Business Owner/Resident

s/ Diana Lee Carey
 Chairwoman, Citizens Oversight (Measure SS) Committee

s/ Terry L. Rains
 Westminster Resident/Community Leader

No argument against this measure was submitted.