

EXHIBIT C

GENERAL CODE

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ARTICLE 1 REAL PROPERTY REVENUE TRANSFER TAX

Sec. G-V 1.1 Short Title; Adoption Authority

This Chapter shall be known as the “Real Property Transfer Tax Ordinance of the County of Nevada”. It is adopted pursuant to Cal. Tax. & Rev. Code §§ 11901 – 11935.

Sec. G-V 1.2 Imposition; Rate

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceed an amount to be set by Resolution of the Board of Supervisors.

Sec. G-V 1.3 Payment

The tax imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

Sec. G-V 1.4 Exemptions from Tax - Instruments to Secure Debt

The tax imposed pursuant to this Chapter shall not apply to any instrument in writing given to secure a debt.

Sec. G-V 1.5 Exemptions from Tax - Public Agencies

Any deed, instrument, or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this Chapter when the exempt agency is acquiring title.

Sec. G-V 1.6 Exemptions from Tax - Plans of Reorganization or Adjustment

The tax imposed pursuant to this Chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment.

- A. Confirmed under the Federal Bankruptcy Act, as amended;
- B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of sec. 205 of Title 11 of the United States Code, as amended;
- C. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of sec. 506 of Title 11 of the United States Code, as amended; or
- D. Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (A) to (D), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

Sec. G-V 1.7 Exemptions from Tax - Orders of Securities and Exchange Commission

The tax imposed pursuant to this Chapter shall not apply to the making or delivery of conveyances to make effective any court or regulatory body mandate or order if any.

- A. The order, in obedience to which such conveyance is made, recites that such conveyance is necessary or appropriate to effectuate the provisions of state and federal laws;
- B. Such order specifies the property which is ordered to be conveyed; and
- C. Such conveyance is made in obedience to such order.

Sec. G-V 1.8 Exemptions from Tax - Partnerships

A. In the case of any realty held by a partnership, no tax shall be imposed pursuant to this Chapter by reason of any transfer of an interest in the partnership or otherwise, if

- 1. Such partnership (or other partnership) is considered a continuing partnership within the meaning of sec. 708 of the Internal Revenue Code of 1954; and
- 2. Such continuing partnership continues to hold the realty concerned.

B. If there is a termination of any partnership within the meaning of Sec. 708 of the Internal Revenue Code of 1954, for purposes of this Chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this Chapter by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

Sec. G-V 1.9 City Tax Credited Toward County Tax

If the legislative body of any city in the County imposes a tax pursuant to Cal. Rev. & Tax. Code §§ 11901 – 11935 equal to one-half the amount specified in this Chapter, a credit shall be granted against the taxes due under this Chapter in the amount of the city's tax.

Sec. G-V 1.10 Repurchase of Unused Stamps; Stamps to be Accepted in Payment of Tax

The County Clerk -Recorder shall repurchase any unused adhesive stamps or unused Documentary Tax Stamps sold prior to July 1, 1968. The County Clerk -Recorder shall accept in payment of the tax any such stamps affixed to a document offered for recordation and shall cancel the stamps so affixed.

Sec. G-V 1.11 Administration; Allocation and Distribution of Taxes

The County Clerk - Recorder shall administer this Chapter and shall also administer any ordinance adopted by any city in the County pursuant to Cal. Rev. & Tax. Code §§ 11901 – 11935 imposing a tax for which a credit is allowed by this Chapter.

On or before the fifteenth day of the month the County Clerk - Recorder shall report to the County Auditor the amounts of taxes collected during the preceding month pursuant to this section and each such city ordinance.

Sec. G-V 1.12 Refusal to Record Deed, Instrument, etc., Until Tax is Paid

The Recorder shall not record any deed, instrument or writing subject to the tax imposed by this Chapter unless the tax is paid. If the party submitting the document so requests, the amount of tax due shall be shown on a separate paper which shall be affixed to the document by the Recorder after the permanent record is made and before the original is returned as specified in Cal. Gov't Code § 27321.

Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document or in a separate document the amount of taxes due under this Chapter and the County Clerk - Recorder may rely thereon.

Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document, or in a separate document, the location of the lands, tenements or other realty described in the document. If such lands, tenements or other realty are located within a city in the County, the name of the city shall be set forth. If such lands, tenements or other realty are located in the unincorporated area of the County of Nevada, that fact shall be set forth.

Sec. G-V 1.13 Refunds

Claims for refunds of taxes imposed pursuant to this Chapter shall be governed by the provisions of Cal. Rev. & Tax. Code §§ 5096 – 5170.

Sec. G-V 1.14 Other Laws Considered in Administration of Tax

In the administration of this Chapter the Recorder shall interpret its provisions consistently with those Documentary Stamp Tax regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the tax on conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this Chapter , the determination of what constitutes “realty” shall be determined by the definition or scope of that term under State law.

Sec. G-V 1.15 Insufficient Tax; Notice by Recorder; Presentation of Records

Whenever the County Clerk - Recorder has reason to believe that the full amount of tax due under this Chapter has not been paid, they may, by notice served upon any person liable therefor, require them to furnish a true copy of their records relevant to the amount of the consideration or value of the interest or property conveyed.

Sec. G-V 1.16 Misrepresentation to Avoid Tax a Misdemeanor

Any person or persons who makes, signs, issues or accepts or causes to be made, signed, issued or accepted and who submits or causes to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this Chapter and makes any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this Chapter shall be guilty of a misdemeanor.

Sec. G-V 1.17 Operative Date

This Chapter shall become operative at 12:01 a.m. on January 1, 1968.

Sec. G-V 1.18 Tax Roll Parcel Number and Location

Each deed, instrument or writing by which lands, tenements or other realty is sold, granted, assigned, transferred, or otherwise conveyed, shall have noted upon it the tax roll parcel number. The parcel number will be used only for administrative and procedural purposes and will not be proof of title and in the event of any conflicts, the stated legal description noted upon the document shall govern. The validity of such a document shall not be affected by the fact that such parcel number is erroneous or omitted, and there shall be no liability attaching to any person for an error in such number or for omission of such number.

If said lands, tenements, or other realty are located within a city in the County, the name of the city shall be set forth. If said lands, tenements, or other realty are located in the unincorporated area of the County, that fact shall be set forth.

The County Clerk - Recorder shall not record any deed, instrument or writing in this section until such information is provided.

ARTICLE 2 SALES AND USE TAX

Sec. G-V 2.1 Short Title

This Chapter shall be known as the Nevada County Uniform Local Sales and Use Tax Ordinance.

Sec. G-V 2.2 Reserved

Sec. G-V 2.3 Operative Date; Contract with State

This Chapter shall become operative on April 1, 1958, and prior thereto this County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax Chapter.

Sec. G-V 2.4 Sales Tax

A. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the County at the rate of one percent (1%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the County of Nevada on and after April 1, 1958 to and including June 30, 1972, and at the rate of one and one-quarter percent (1-1/4%) thereafter.

B. 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 their 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 Board of Equalization.

1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of in Cal. Rev. & Tax Code §§ 6025 – 6031, all of the provisions of in Cal. Rev. & Tax Code §§ 6025 – 6031 as amended and in force and effect on April 1, 1958, applicable to sales taxes are hereby adopted and made a part of this Chapter as though fully set forth herein.

2. Wherever, and to the extent that, in Cal. Rev. & Tax Code §§ 6025 – 6031, the State is named or referred to as the taxing agency, the County of Nevada shall be substituted therefor. Nothing in this subsection shall be deemed to require the substitution of the name of the County of Nevada for the word “state” when that word is used as part of the title of the State Controller, State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County, or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of in Cal. Rev. & Tax Code §§ 6025 – 6031; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the provisions of that Code; and, in addition, the name of the County shall not be substituted for that of the State in in Cal. Rev. & Tax Code §§ 6701, 6702, except in the last sentence thereof in Cal. Rev. & Tax. Code §§ 6711, 6715, 6737, 6797, and 6828, as adopted.

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

4. There shall be excluded from the gross receipts by which the tax is measured:

a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

b. Eighty percent (80%) of the gross receipts from the sale of property to operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside of this County.

4.5 There shall be excluded from the gross receipts by which the tax is measured:

- a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- b. Eighty percent (80%) of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside of 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.

NOTE: The following language will become operative on the date of any act of the Legislature of the State of California, which amends or repeals and reenacts Cal. Rev. & Tax. Code §§ 7202 and 7203 to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1, 1983.

4.5 There shall be excluded from the gross receipts by which the tax is measured:

- a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- b. Eighty percent (80%) of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.
- c. Eighty percent (80%) of the gross receipts from the sale of tangible personal property 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.

Sec. G-V 2.5 Use Tax

A. An excise tax is hereby imposed on the storage, use or other consumption in the County of Nevada of tangible personal property purchased from any retailer on or after April 1, 1958, for storage, use or other consumption in the County at the rate of one percent (1%) of the sales price of the property to and including June 30, 1972, and at the rate of one and one-quarter percent (1-1/4%) thereafter. 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.

B. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of in Cal. Rev. & Tax Code §§ 6025 – 6031 , all of the provisions of in Cal. Rev. & Tax Code §§ 6025 – 6031. , as amended and in force and effect on April 1, 1985, applicable to use taxes, are hereby adopted and made a part of this Chapter as though fully set forth herein.

1. Wherever, and to the extent that, in Cal. Rev. & Tax Code §§ 6025 – 6031, the State is named or referred to as the taxing agency, the name of this County shall be substituted therefor. Nothing in this subsection shall be deemed to require the substitution of the name of this County for the word “state” when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County, or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter ; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily limited to, sections referring to the exterior boundaries of the State, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of in Cal. Rev. & Tax Code §§ 6025 – 6031, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that Code; and in addition, the name of the County shall not be substituted for that of the State in sections 6701, 6702, except in the last sentence thereof, Cal. Rev. & Tax. Code §§ 6711, 6715, 67347, 6797 and 6828, as adopted, and the name of the County shall not be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Cal. Rev. & Tax. Code §§ 6203 and 6203.

2. There shall be exempt from the tax due under this Section:

a. The amount of any sales or use tax imposed by the State upon a retailer or consumer.

b. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Cal. Rev. & Tax Code §§ 6025 – 6031 by any city and County, County, or city in this State.

c. Provided, however, that the storage or use of tangible personal property in the transportation or transmission of persons, property, or communications or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by

public utilities which are regulated by the Public Utilities Commission of the State of California shall be exempt from eighty percent (80%) of the tax due under this Chapter.

3. There shall be exempt from the tax due under this section:
 - a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
 - b. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with Cal. Rev. & Tax Code §§ 6025 – 6031 by any city and County, County, or city in this state, shall be exempt from the tax due under this ordinance.
 - c. In addition to the exemptions provided in Cal. Rev. ax. Code §§ 6366 and 6366.1, the storage, use, or other consumption of tangible personal property 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 80% of the tax.

NOTE: The following language will become operative on the date of any act of the Legislature of the State of California, which amends or repeals and reenacts Cal. Rev. & Tax. Code §§ 7202 and 7203 to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1, 1983.

- 3.5. a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- b. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with Cal. Rev. & Tax Code §§ 6025 – 6031 by any city and County, County, or city in this state, shall be exempt from the tax due under this ordinance.
- c. Provided, however, that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from 80% of the tax.

d. In addition to the exemptions provided in Cal. Rev. & Tax. Code §§ 6366 and 6366.1, the storage, use, or other consumption of tangible personal property 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 80% of the tax.

Sec. G-V 2.6 Credit Against Payment of Taxes Amount Due Any City

Any person subject to a sales or use tax or required to collect a use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this County, provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivisions (1) to (8), inclusive, of subdivision (h) of Cal. Rev. & Tax. Code § 7202, and other applicable provisions of Cal. Rev. & Tax Code §§ 6025 – 6031.

NOTE: The following language will become operative on the date of any act of the Legislature of the State of California, which amended or repeals and reenacts Cal. Rev. & Tax. Code §§ 7202, 7203 to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1, 1983.

Sec. G-V 2.6 Credit Against Payment of Taxes Amount Due Any City

Any person subject to a sales or use tax or required to collect a use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this County, provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision and other applicable provisions of Cal. Rev. & Tax Code §§ 6025 – 6031.

Sec. G-V 2.7 Preventing or Enjoining Collection of Tax

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 this County or against any officer of the State or this County to prevent or enjoin the collection under this Chapter or Cal. Rev. & Tax Code §§ 6025 – 6031, or of any tax or any amount of tax required to be collected.

Sec. G-V 2.8 Amendments to State Revenue and Taxation Code

All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this Chapter which relate to the sales and use tax and which are not inconsistent with Cal. Rev. & Tax Code §§ 6025 – 6031. Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this Chapter Ord. 220. (03/13/1958).

Sec. G-V 2.8.1 When Chapter May be Made Inoperative (County)

A. Sections 4.4(b), 4.5(3.5) and 4.6(6.5) of this Chapter shall become operative on January 1st of the year following the year in which the State Board of Equalization adopts an assessment ratio for state-assessed property which is identical to the ratio which is required for local assessments by Cal. Rev. & Tax. Code § 401, at which time sections 4.4(b), 4.5(2) and 4.6 shall become inoperative.

B. In the event that sections 4.4(b)(4.5), 4.5(3.5) and 4.6(6.5) of this Chapter become operative and the State Board of Equalization subsequently adopts an assessment ratio for state-assessed property which is higher than the ratio which is required for local assessments by Cal. Rev. & Tax. Code § 401 of the , sections 4.4(b)(4), 4.5(2) and 4.6 shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time sections 4.4(b)(4.5), 4.5(3.5) and 4.6(6.5) of this Chapter shall be inoperative until the first day of the month following the month in which the Board of Supervisors again adopts an assessment required for local assessments by section 401 of the California Revenue and Taxation Code at which time sections 4.4(b)(4.5), 4.5(3.5) and G-V 4.6(6.5) shall again become operative and sections 4.4(b)(4), 4.5(2) and 4.6 shall become inoperative.

Sec. G-V 2.9 When Chapter May Be Made Inoperative (City)

The provisions of this Chapter may, by a subsequent ordinance, be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following an increase by any city within this County of the rate of its sales or use tax above the rate in effect at the time this Chapter was enacted.

ARTICLE 3 UNIFORM TRANSIENT OCCUPANCY TAX (Lodging and Short-Term Rental Tax)

Sec. G-V 3.1 Authority; Title

This Chapter shall be titled the “Uniform Transient Occupancy Tax.” The provisions of this Chapter are adopted pursuant to, and consistent with, Cal. Rev. & Tax. Code §§ 7280 – 7283.51.

Sec. G-V 3.2 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

A. PERSON means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

B. LODGING FACILITY means any space or shelter or structure, or any portion of any space or shelter or structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes, but is not limited to, any hotel, inn, condominium, house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, non-exempt campground, or other similar space or shelter or structure, or portion thereof, as provided for pursuant to Cal. Rev. & Tax. Code § 7280, or as that section may be amended. “Lodging facility” shall not include an “organized camp” as defined in Cal. Health & Safety Code § 18897(a).

C. OCCUPANCY means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

D. TRANSIENT means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered.

E. RENT means the consideration charged, whether or not received for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or

otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. OPERATOR means the person who is proprietor of the hotel, lodging or short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this ordinance by either the principal or the managing agent shall, however, be considered to be compliance by both.

G. TAX ADMINISTRATOR means the Revenue and Collections Officer of the Nevada County Collections Division.

Sec. G-V 3.3 Tax Imposed

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transients' ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

Sec. G-V 3.4 Exemptions

No tax shall be imposed upon:

- A. Any federal or State of California officer or employee when on official business;
- B. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax Administrator.

Sec. G-V 3.5 Operator's Duties

Each operator shall collect the tax imposed by this ordinance to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

Sec. G-V 3.6 Annual Registration Certificate

In order that the County will have an accurate record of parties collecting transient occupancy tax, each operator will be required to register as hereinafter provided.

A. Prior to commencing business and annually thereafter during the month of January of each year, each operator of any hotel renting occupancy to transients shall register such hotel with the Tax Administrator and obtain from them an Annual Registration Certificate to be at all times posted in a conspicuous place on the premises. Registration shall be on a calendar year basis, i.e., from January 1 through December 31, or balance of calendar year in the instance of a mid-year registration. Such Annual Registration Certificate shall, among other things, state the following:

1. Name and address of the hotel.
2. Name of the operator.
3. Name and address of owners.
4. Registration Certificate number and date issued.

B. Failure to register prior to commencement of business, or failure to re-register in the month of January in any year of continued operation, as above provided, shall be a misdemeanor.

C. The Registration Certificate shall not be transferable and shall be returned to the Tax Administrator upon sale of property or cessation of business along with the final remittance of transient taxes due.

D. The operator named on the face of this Registration Certificate shall be responsible to collect from transients the transient occupancy tax and remitting such tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department, or office in this County.

E. Notwithstanding the provisions of section 5.6(a), the Tax Administrator may waive the registration requirement for any year where the operator has filed its initial registration during the last six calendar months of the immediately preceding year.

Sec. G-V 3.7 Reporting and Remitting

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if they deem it necessary in order to ensure collection of the tax and they may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this ordinance shall be held in trust for the account of the County until payment thereof is made to the Tax Administrator.

Sec. G-V 3.8 Penalties and Interest

A. ORIGINAL DELINQUENCY. Any operator who fails to collect and remit any tax imposed by this ordinance within the time required shall pay a penalty of 10% of the amount of the tax in addition to the amount of the tax.

B. CONTINUED DELINQUENCY. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the 10% penalty first imposed.

C. FRAUD. If the Tax Administrator determines that the nonpayment of any remittance due under this ordinance is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs (a) and (b) of this section.

D. INTEREST. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this ordinance shall pay interest at the rate of one and one-half percent (1-1/2%) per month on the unpaid balance of the tax, including penalties, from the date on which the remittance first became delinquent until paid.

E. PENALTIES MERGED WITH TAX. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

Sec. G-V 3.9 Failure to Collect and Report Tax. Determination of Tax-by-Tax Administrator

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this ordinance, any report and remittance of said tax or any portion thereof required by this ordinance, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this ordinance and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this ordinance. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of business. Such operator may within twenty (20) days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than fifteen (15) days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in section 5.10.

Sec. G-V 3.10 Appeal

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within fifteen (15) days of the serving or mailing of the determination of tax due. The Board of Supervisors shall fix a time and place for hearing such appeal, and the Clerk of the Board of Supervisors shall give not less than fifteen (15) days written notice to such operator at their last known place of address. The findings of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

Sec. G-V 3.11 Records to be Retained

It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this Chapter to keep and preserve, for a period of five years, all records that may be necessary to determine the amount of such tax as they may have been liable for the collection of and payments to the County under this ordinance. As a minimum, the records deemed necessary for this determination shall be a chronological cash journal showing tax and room rates separately, or other comparable means of summarizing the operator's monthly or quarterly revenue, supported by room registrations, which may, with reasonable effort, be identified with the revenue summary. These records shall be available, at all reasonable times, for inspection by the County Tax Collector or Auditor-Controller. Performance of an audit does not waive the County's right to any tax or the five-year requirement of preserving records.

Sec. G-V 3.12 Refunds

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the county under this ordinance, it may be refunded as provided in subsections B and C of this Section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The claim shall be on forms provided by the Tax Administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the County by filing a claim in the manner provided in subsection A of this Section, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes their right thereto by written records showing entitlement thereto.

Sec. G-V 3.13 Actions to Collect

Any tax required to be paid under the provisions of this Chapter shall be deemed a debt owed by the operator who was responsible for the collection and remittance thereof. Any person owing money to the County under the provisions of this Chapter shall be liable to an action brought in the name of the County of Nevada for the recovery of such tax and subsequent penalties.

Sec. G-V 3.13.1 Tax Lien

A. The Tax Administrator is authorized to record a Certificate of Delinquency of Transient Occupancy Tax Lien with the Nevada County Clerk-Recorder against an operator who fails to remit taxes, penalties, or interest due under this Chapter within the times required herein. The Certificate of Delinquency of Transient Occupancy Tax Lien may be filed by the Tax Administrator:

1. Twenty (20) days after the serving or mailing of the notice required by Section 5.9, if the operator does not file the application for a hearing permitted to be filed by section 5.9.
2. If the operator files the application permitted to be filed by Section 5.9, twenty (20) days after the Tax Administrator's determination of the amount of tax to be remitted pursuant to section 5.9, unless the operator files an appeal pursuant to section 5.10.
3. If the operator files an appeal pursuant to section 5.10, twenty (20) days after service of the Board of Supervisor's findings pursuant to section 5.10.

The Certificate of Delinquency of Transient Occupancy Tax Lien shall be filed within three (3) years after the tax becomes due. The Certificate of Delinquency of Transient Occupancy Tax Lien shall specify the amount of tax and penalties due, the name and last known address of the operator liable for the same, and a statement that the Tax Administrator has complied with all provisions of this Chapter with respect to the computation and levy of the tax owed by the operator. From the time of the recording of the Certificate of Delinquency of Transient Occupancy Tax Lien, the amount required to be paid, together with penalties, constitutes a lien upon all real property in the County owned by the operator or thereafter acquired before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the Certificate of Delinquency of Transient Occupancy Tax Lien, unless sooner released or otherwise discharged. Within ten (10) years of the date of the recording of the Certificate of Delinquency of Transient Occupancy Tax Lien (or within ten (10) years of the date of the last extension of the lien), the Tax Administrator may extend the lien by filing for record a new certificate in the office of the Nevada County Clerk-Recorder, and, from the time of filing, the lien under the original Certificate of Delinquency of Transient Occupancy Tax

Lien shall be extended for an additional ten (10) years, unless sooner released or otherwise discharged. The lien shall not be removed until the delinquent taxes, penalties for delinquency, and costs of collection are fully paid, or the property is sold for payment of the delinquent taxes, penalties for delinquency, and costs of collection.

B. At any time within three (3) years after the recording of a Certificate of Delinquency of Transient Occupancy Tax Lien under Subsection (A) above, the Tax Administrator may issue a warrant directed to any sheriff for the enforcement of the lien and the collection of any tax and penalties required to be paid the County under this Chapter. The warrant shall have the same effect as a writ of execution and be executed in the same manner and with the same effect as a levy and sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the sheriff such fees, commission, and expenses for services as are provided by law for similar services pursuant to a writ of execution.

C. In lieu of issuing a warrant under Subsection (B), at any time within the three (3) years after a Certificate of Delinquency of Transient Occupancy Tax Lien was recorded under Subsection (A), the Tax Administrator may collect the delinquent amount by seizing, or causing to be seized, any property, real or personal, of the operator and sell any non-cash or non-negotiable property, or a sufficient part of it, at public auction to pay the amount of tax due, together with any penalties, interest, and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall only be of property of the operator not exempt from execution under the provisions of the California Code of Civil Procedure. (Ord. 2204. (05/23/2006))

Sec. G-V 3.14 Violations; Misdemeanor

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be punishable therefore by a fine or by imprisonment in the County jail, or by both such fine and imprisonment.

Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this ordinance to be made, is guilty of a misdemeanor and is punishable as aforesaid.

ARTICLE 4 REASSESSMENT OF DAMAGED OR DESTROYED PROPERTY OR POSSESSORY INTEREST

Sec. G-V 4.1 Reassessment in Event of Damage by Misfortune or Calamity

Every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without their fault, may apply for reassessment of that property in accordance with the provisions of Cal. Rev. & Tax. Code §§ §§ 170 – 198.1. The Assessor may initiate the reassessment where the assessor determines that within the preceding 12 months taxable property located in the county was damaged or destroyed.

To be eligible for reassessment the damage or destruction to the property must be at least \$5,000 and must have been caused by any of the following:

- A. A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if such property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph “damage” includes a diminution in the value of property as a result of restricted access to the property where such restricted access was caused by the major misfortune or calamity.
- B. A misfortune or calamity.
- C. A misfortune or calamity which, with respect to a possessory interest in land owned by the state or federal government, has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, “misfortune or calamity” includes a drought condition such as existed in this state in 1976 and 1977. Such suspension or restriction shall be considered to be damage to property for purposes of this Chapter.

Sec. G-V 4.2 Application

The application for reassessment may be filed within six months of such misfortune or calamity by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

Sec. G-V 4.3 Assessor’s Duties

- A. Upon receiving a proper application, the Assessor shall appraise the property and determine separately the full cash value of land, improvements and personality immediately before and after the damage or destruction. If the sum of the full cash values of the land, improvements and personality before the damage or destruction exceeds the

sum of the values after the damage by five thousand dollars (\$5,000) or more, the Assessor shall also separately determine the percentage reductions in value of land, improvements and personality due to the damage or destruction. The Assessor, in that event, shall reduce the values appearing on the assessment roll by the percentages of damage or destruction computed pursuant to this section.

B. The Assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the Nevada County Assessment Appeals Board within 14 days of the date of mailing the notice.

Sec. G-V 4.4 Appeal

An appeal of the proposed reassessment to the Nevada County Assessment Appeals Board may be requested within 14 days of the mailing of the notice of reassessment. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the Nevada County Assessment Appeals Board regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the Auditor-Controller by the Assessor or the Clerk of the Nevada County Assessment Appeals Board, as the case may be. The Auditor – Controller shall enter the reassessed values on the roll. After being entered on the roll, such reassessed values shall not be subject to review, except by a court of competent jurisdiction.

Sec. G-V 4.5 Tax Adjustment

When an assessment reduction is entered on the assessment roll as provided in this Chapter, the taxes due on the property shall be adjusted as follows; provided, however, that the amount of the reduction shall not exceed the actual loss:

The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of the misfortune or calamity, shall be applied to the amount of the reassessment as determined in accordance with this Chapter and the assessee shall be liable for: (1) a prorated portion of the taxes that would have been due on the property for the current fiscal year had the misfortune or calamity not occurred, such proration to be determined on the basis of the number of months in the current fiscal year prior to the misfortune or calamity;

plus, (2) a proration of the tax due on the property as reassessed in its damaged or destroyed condition, such proration to be determined on the basis of the number of months in the fiscal year after the damage or destruction, including the month in which the damage was incurred. If the damage or destruction occurred after March 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year provided, however, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after the completion of restoration.

Sec. G-V 4.6 Tax Refunds

Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Cal. Rev. & Tax. Code §§ 5096 – 5107 as an erroneously collected tax or by order of the Board of Supervisors without the necessity of a claim being filed pursuant to Cal. Rev. & Tax. Code.

Sec. G-V 4.7 Assessed Value Prior to Restoration and Reconstruction

The assessed value of the property in its damaged condition, as determined pursuant to this Chapter, compounded annually by the inflation factor specified in subdivision (a) of Section 51 of the California Revenue and Taxation Code, shall be the taxable value of the property until it is restored, repaired, reconstructed or other provisions of the law require the establishment of a new base year value.

If partial reconstruction, restoration, or repair has occurred on any subsequent lien date, the taxable value shall be increased by an amount determined by multiplying the difference between its factored base year value immediately before the calamity and its assessed value in its damaged condition by the percentage of the repair, reconstruction, or restoration completed on that lien date.

Sec. G-V 4.8 Procedure If No Application Filed

If no such application has been made and the Assessor determines that within the preceding six months a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the Assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the Assessor but in no case more than six months after the occurrence of said damage. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subsection 6.3 above.

Sec. G-V 4.9 Alternative Procedure If No Application Filed

In lieu of section 6.8 above, if no such application is made and the assessor determines that within the preceding six months a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the assessor may, with the approval of the Board of Supervisors, reassess the property as provided in section 6.3 and notify the last known owner of the property of the reassessment.

Sec. G-V 4.10 Assessment Upon Completion of Repair, Restoration or Reconstruction

When the property is fully repaired, restored or reconstructed, the Assessor shall make an additional assessment or assessments in accordance with this Section upon completion of the repair, restoration or reconstruction.

A. If the completion of the repair, restoration, or reconstruction occurs on or after March 1, but on or before May 31, then there shall be two additional assessments. The first additional assessment shall be the difference between the new taxable value as of the date of completion and the taxable value on the current roll. The second additional assessment shall be the difference between the new taxable value as of the date of completion and the taxable value to be enrolled on the roll being prepared.

B. If the completion of the repair, restoration, or reconstruction occurs on or after June 1, but before the succeeding March 1, then the additional assessment shall be the difference between the new taxable value as of the date of completion and the taxable value on the current roll.

C. On the lien date following completion of the repair, restoration, or reconstruction, the Assessor shall enroll the new taxable value of the property as of that lien date.

D. For purposes of this subdivision, “new taxable value” shall mean the lesser of the property’s: (1) full cash value; or (2) factored base year value or its factored base year value as adjusted pursuant to subdivision (c) of Cal. Rev. & Tax. Code § 70.

Sec. G-V 4.11 Implementation of Chapter

The Assessor may apply Cal. Rev. & Tax. Code §§ 75 – 75.80 in implementing this Chapter, to the extent that chapter is consistent with this Chapter.

ARTICLE 5 LIBRARY TRANSACTIONS AND USE TAX

Sec. G-V 5.1 Title

This Chapter shall be known as the Nevada County Public Library Transactions and Use Tax Chapter of the County of Nevada. The transactions and use tax provisions of this Chapter shall be applicable in the incorporated and unincorporated territory of the County of Nevada. (Ord. 2414. (06/28/2016))

Sec. G-V 5.2 Reserved

Sec. G-V 5.3 Use of the Tax; Annual Report

A. All revenues from the tax shall be deposited into a special fund and used exclusively to fund projects and purposes described in the Expenditure Plan set forth in section 7.4. Such revenues shall be used only to supplement existing Library funding and shall not be used to supplant existing funding for the support of County of Nevada library services.

B. Pursuant to Cal. Gov't Code § § 50075.1 – 50077.5, the County's Chief Fiscal Officer shall file a report annually with the Board of Supervisors regarding the amount of tax revenue collected and expended, and the status of any project funded by the tax revenue pursuant to the Expenditure Plan. (Ord. 2414. (06/28/2016))

Sec. G-V 5.4 Expenditure Plan

The Expenditure Plan is designed to provide and continue to improve library services by accomplishing the specific projects listed below with the revenues from the transactions and use tax generated over the voter-approved period. The expenditure plan preserves the existing libraries, enhances services and collections at the libraries, and extends branch library services to the served and unserved areas of the County. An annual expenditure plan for the use of funds allocated to library services shall be reviewed and adopted by the Board of Supervisors prior to July 1 of each year.

The specific projects for which the revenues from the transactions and use tax shall be expended are contingent upon total revenue received and allocated as follows:

A. **OPEN HOURS:** Extend hours at Library locations in response to needs and desires of Library users.

B. **PROGRAMS AND SERVICES FOR CHILDREN AND TEENS:** Increase children's services at all age levels and at all circulating library branches, including for the Summer

Reading Program. Provide after school programs, homework help, and reference services for students at circulating branches in response to needs and desires of Library users.

C. LIBRARY MATERIALS: Increase books and other materials for all ages and replace worn and out-of-date items at all library locations. Continue to include a variety of formats, such as DVDs, audiobooks, eBooks, and online resources.

D. INFORMATION AND TECHNOLOGY ACCESS: Provide current information services and products in libraries and for remote access. Keep pace with changing and emerging technologies. Increase and improve public access to computers, high-speed broadband, and other technologies such as 3D printers, tablets, video conferencing, software, etc. Provide technology and digital literacy based educational classes for all ages.

E. SERVICES FOR SENIORS AND LIBRARY USERS WITH DISABILITIES: Improve the accessibility of library locations, services, and materials for seniors and library users with disabilities. Offer a variety of library materials and services in order to be inclusive of the needs of all library users.

F. LIBRARY SERVICE LOCATIONS: Establish, move or add library service locations in areas where the demand for services and cost effectiveness is warranted. Improve and enhance current service locations to meet community needs and the objectives listed in this expenditure plan.

G. CITIZENS OVERSIGHT COMMITTEE: A Citizens Oversight Committee will be appointed by the Board of Supervisors consisting of members of the public interested in the continued operation of the public libraries. The purpose of the Committee will be to ensure that the proceeds of the library sales tax are appropriated in accordance with the Expenditure Plan set forth in this Section. Such Committee shall serve without compensation.

H. The County Librarian will meet with representatives of the County's Eastern and Western Friends of the Library organizations to develop and propose an equitable and fair fiscal plan for the operation of the libraries and the proceeds of the tax. (Ord. 2414. (06/28/2016))

Sec. G-V 5.5 Contract with State

Before the Operative Date, the County of Nevada will contract with the State Board of Equalization to perform all functions incident to the administration and operation of this Chapter ; provided, that if the Nevada County Library has not contracted with the State Board of Equalization before the Operative Date, it will nevertheless reach an agreement, with the operative date to be the first day of the first calendar quarter following the execution of the contract. (Ord. 2414. (06/28/2016))

Sec. G-V 5.6 Transactions Tax Rate

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of one-quarter of one percent (0.25%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the territory on and after the Operative Date. (Ord. 2414. (06/28/2016))

Sec. G-V 5.7 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 their 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, despite the place to which delivery is made. In the event a retailer has no permanent 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. (Ord. 2414. (06/28/2016))

Sec. G-V 5.8 Use Tax Rate

An excise tax is imposed on the storage, use or other consumption in the County 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 territory at the rate of one-quarter of 1 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 despite the place to which delivery is made. (Ord. 2414. (06/28/2016))

Sec. G-V 5.9 Adoptions of Provisions of State Law

Except as otherwise provided in this Chapter and to the extent that they are inconsistent with the provisions of Cal. Rev. & Tax. Code §§ 6001 – 7176 are adopted and incorporated by this reference. (Ord. 2414. (06/28/2016))

Sec. G-V 5.10 Limitations on Adoption of State Law and Collection of Use Taxes

A. In adopting the provisions of Cal. Rev. & Tax. Code §§ 6001 - 7176, wherever the State of California is named or referred to as the taxing authority, the name of this County shall be substituted for it. 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 County or any agency, officer, or employee of it 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 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 Cal. Rev. & Tax. Code §§ 6001 – 7176.
 - 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 provisions of that code.
4. In Cal. Rev. & Tax. Code §§ 6701, 6702 (except in the last sentence), 6711, 6715, 6737, 6797 or 6828.

B. The word “County” will be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Cal. Rev. & Tax. Code § 6203 and in the definition of that phrase in Cal. Rev. & Tax. Code § 6203. (Ord. 2414. (06/28/2016))

Sec. G-V 5.11 Permit Not Required

If a seller’s permit has been issued to a retailer under Cal. Rev. & Tax. Code § 6067, this Chapter shall not require an additional transactor’s permit. (Ord. 2414. (06/28/2016))

Sec. G-V 5.12 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 of 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 California, the United States, or any foreign government.

2. Sales of property to be used outside the County of Nevada, which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or their agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection, delivery to a point outside the County will be satisfied:

a. With respect to vehicles, other than commercial vehicles subject to registration under of the Cal. Veh. Code §§ 4000 - 5506, aircraft licensed according to Cal. Pub. Util. Code § 21411 and undocumented vessels registered under Cal. Veh. Code §§ 9840 -9880, 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, their principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-County and declaration under penalty of perjury, signed by the buyer, stating 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 under a contract entered into before the Operative Date.

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 before the Operative Date.

5. For the purposes of subsections B.3 and B.4 of this section, the sale or lease of tangible personal property will be deemed not to be obligated under 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 this County 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 operations 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 under the laws of California, the United States

or any foreign government. This exemption is in addition to the exemptions provided in Cal. Rev. & Tax. Code §§ 6366 and 6366.1.

3. If the purchaser is obligated to purchase the property for a fixed price under a contract entered into before the Operative Date.

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 before the Operative Date.

5. For the purposes of subsections C.3 and C.4 of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property will be deemed not to be obligated under 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 for in subsection C.7 of this section, a retailer engaged in business in the County will not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the County 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 canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7. “A retailer engaged in business in the County” will also include any retailer of the following: vehicles subject to registration under Cal. Veh. Code §§ 4000 - 4023, aircraft licensed according to Cal. Pub. Util. Code § 21411, or undocumented vessels registered under the California Vehicle Code. This 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 County.

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 County imposing, or a retailer liable for a transactions tax under Cal. Rev. & Tax. Code §§ 7251 – 7279.6 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. (Ord. 2414. (06/28/2016))

Sec. G-V 5.13 Amendment

All amendments after the Operative Date to Part I of Division 2 of the Revenue and Taxation Code relating to sale and use taxes 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, will automatically become

a part of this Chapter ; provided however, that no such amendment will operate to affect the rate of tax imposed by this Chapter . (Ord. 2414. (06/28/2016))

Sec. G-V 5.14 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process will issue in any suit, action or proceeding in any court against the State of California or the County, or against any officer of the State of California or the County, to prevent or enjoin the collection under this Chapter, or Cal. Rev. & Tax. Code §§ 7251 – 7279.6 of any tax or any amount of tax required to be collected. (Ord. 2414. (06/28/2016))

Sec G-V 5.15 Use of the Taxes

Any and all transactions and use taxes shall be used exclusively for County-wide library programs and operations as such is set forth in the Expenditure Plan established by section 7.4. (Ord. 2414. (06/28/2016))

Sec. G-V 5.16 Implementing Policies and Regulations

Upon approval of this Chapter, or any amendments thereto, by two-thirds of the voters, the public libraries within Nevada County may adopt policies and regulations and take such other action as may be necessary for the implementation of the transactions and use tax authorized by this Chapter. (Ord. 2414. (06/28/2016))

Sec. G-V 5.17 Effective and Operative Dates

A. This Chapter shall relate to the levying and collecting of a County Transactions and Use tax and shall take effect as provided by law. This Chapter shall take effect according to law only if at least two-thirds of the electors voting on the measure at the June 2, 1998, election approve the enactment of the Chapter. If approved, the provisions of this Chapter authorizing the levy of the one-eighth of 1 percent (0.125%) transactions and use tax will become operative on October 1, 1998.

B. The amendment to this Chapter shall take effect according to law only if at least two-thirds of the electors voting on the measure at the November 5, 2002, election approve the amendment of this section 7.17. If approved, the amendment of this Chapter authorizing the continuation of the one-eight of 1 percent (0.125%) transactions and use tax through September 30, 2018, shall become effective immediately.

C. The 2016 amendment to this Chapter shall take effect according to law only if at least two-thirds of the electors voting on the measure at the November 8, 2016, election approve the proposed Ordinance adjusting the tax rate to one-quarter of 1 percent (0.25%) and extending the tax for an additional 15 years. If approved by the voters, the adjusted tax rate will replace and supersede the existing tax rate as of the Operative Date.

D. The “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the election approving the imposition of the tax imposed by this Chapter, such election to be held on November 8, 2016. (Ord. 2414. (06/28/2016))

Sec. G-V 5.18 Termination Date

This Chapter shall expire fifteen (15) years from the Operative Date. (Ord. 2414. (06/28/2016))

Sec. G-V 5.19 Reserved

Sec. G-V 5.20 Actions to Determine Validity of Ordinance, Tax or Related Proceedings

Any action or proceeding wherein the validity of the adoption of the retail Transactions and Use tax ordinance provided for in this Chapter, or any amendments hereto, or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Cal. Civ. Proc. §§ 860 – 870.5. Otherwise, the tax, and all proceedings in relation thereto, including the adoption and approval of this Chapter by ordinance, shall be held to be valid and in every respect legal and uncontestable. (Ord. 2414. (06/28/2016))