

**RESOLUTION NO. 22-163**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MENDOCINO, STATE OF CALIFORNIA, CALLING FOR AN ELECTION TO PRESENT TO THE VOTERS OF THE COUNTY A PROPOSED ORDINANCE ADDING CHAPTER 5.200 OF THE MENDOCINO COUNTY CODE TO IMPOSE A COUNTY ESSENTIAL SERVICES SALES TAX, AND ORDERING CONSOLIDATION OF SAID ELECTION WITH THE CONSOLIDATED GENERAL ELECTION CALLED FOR NOVEMBER 8, 2022 (COUNTYWIDE)**

**WHEREAS**, Revenue and Taxation Code section 7285 authorizes the County to impose a general sales tax upon a majority vote of the electorate; and

**WHEREAS**, Government Code sections 53723 and 53724 provide that a legislative body may not impose a general tax unless or until the tax is submitted to the electorate of the local government and approved by a majority vote of the voters voting in an election on the issue; and

**WHEREAS**, Government Code section 53724 additionally provides that no tax subject to the vote requirement prescribed by Government Code section 53723 (general taxes) shall be presented at an election unless the ordinance or resolution proposing such tax is approved by a two-thirds vote of all members of the legislative body of the local government; and

**WHEREAS**, Elections Code section 9140 authorizes the Board of Supervisors to submit to the voters, without a petition, an ordinance for the repeal, amendment or enactment of any ordinance, to be voted on at any succeeding, regular or special election and, receiving the majority of votes cast, the ordinance shall be repealed, amended, or enacted accordingly; and

**WHEREAS**, California Constitution Article XIII C, Section 2(b) requires that an election for a general tax be consolidated with a regularly scheduled election for members of the governing board of the County, except in cases of emergency declared by a unanimous vote of the governing body; and

**WHEREAS**, Elections Code section 9140 authorizes a county board of supervisors to submit to the voters, without a petition, an ordinance for the repeal, amendment or enactment of any ordinance, to be voted on at any succeeding, regular or special election and, receiving the majority of votes cast, the ordinance shall be repealed, amended, or enacted accordingly.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Mendocino as follows:

1. The proposed Ordinance, attached hereto as Exhibit A and incorporated herein by this reference, shall be submitted to a vote of the qualified electors of the County of Mendocino at the November 8, 2022, election, which ordinance provides for the creation of a one quarter cent (.025%) sales tax to fund essential services in Mendocino County.
2. There shall be included on the ballot to be marked by all Mendocino County voters in the unincorporated areas, in addition to any other matters required by law, a ballot measure in substantially the following form:

<b>Measure ___ (County Clerk to fill in the blank). Shall Ordinance No. ___ be adopted to impose as a general tax, an additional transactions (sales) and use tax of one quarter cent (0.25%) within Mendocino County to fund essential services, including fire protection and prevention? Such tax is estimated to raise \$4,000,000 annually for ten (10) years, after which it will expire.</b>	Yes	
	No	

A mark in the voting square after "YES" shall be counted in favor of the adoption of the proposed ordinance. A mark in the voting square after "NO" shall be counted against the adoption of the proposed ordinance.


3. The ballot to be used at the election shall be, both as to form and matter contained therein, such as may be required by law.
4. The County Clerk is hereby authorized, instructed and directed to provide and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct this election.
5. The County Clerk shall fix and determine dates for submission of arguments for or against said proposed ordinance pursuant to the provisions of the Elections Code.
6. The County Clerk is further directed to take the necessary and appropriate action to provide the election officers, polling places and voting precincts.
7. In accordance with Elections Code section 9160, the County Clerk shall transmit a copy of the measure to the County Auditor and County Counsel.
8. In accordance with the provisions of the Elections Code of the State of California, County Counsel is directed to prepare an impartial analysis of the measure and the County Auditor is directed to prepare a fiscal impact statement.
9. The polls for this election shall be open during the hours required by law and this election, with respect to the foregoing ballot measure, shall be held and conducted as provided by law for the holding of County initiative elections.
10. Notice of the time and place of holding this election together with any other notices required by law shall be given by the County Clerk.
11. Arguments for or against the measure may be submitted in conformity with Elections Code section 9161, *et seq.*
12. The Clerk of the Board and the Chief Executive Officer are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the general election and appropriate all monies necessary for the Clerk of the Board, County Executive Officer and County Clerk to prepare and conduct the general election in a manner consistent with state and local laws.

The foregoing Resolution introduced by Supervisor Gjerde, seconded by Supervisor Haschak, and carried this 26<sup>th</sup> day of July, 2022, by the following vote:

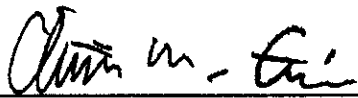
AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams  
NOES: None  
ABSENT: None


WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE  
Clerk of the Board

  
\_\_\_\_\_  
Deputy


APPROVED AS TO FORM:  
CHRISTIAN M. CURTIS  
County Counsel

  
\_\_\_\_\_

  
\_\_\_\_\_  
TED WILLIAMS, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: DARCIE ANTLE  
Clerk of the Board

  
\_\_\_\_\_  
Deputy

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE ADDING CHAPTER 5.200 TO TITLE 5 OF THE MENDOCINO COUNTY  
CODE IMPOSING A COUNTY ESSENTIAL SERVICES  
TRANSACTIONS AND USE TAX**

The Board of Supervisors of the County of Mendocino ordains as follows:

Chapter 5.200 of Title 5 is added to the Mendocino County Code to read as follows:

**COUNTY ESSENTIAL SERVICES TRANSACTIONS AND USE TAX**

**Section 5.200.000. Findings.**

The Board of Supervisors of the County of Mendocino makes the following findings:

- A. Section 2 of Article XIII C of the California Constitution, Section 53723 of the California Government Code and Section 7285 of the California Revenue and Taxation Code authorize the County to impose a general sales tax upon a majority vote of the electorate.
- B. Pursuant to Section 9140 of the California Elections Code, the Board may submit to the voters, without petition, a measure relating to the enactment of any ordinance.
- C. This Board deems it appropriate to adopt an ordinance, pursuant to the County's taxing authority, to impose a Essential Services Transactions (Sales) and Use Tax on retail transactions in the unincorporated and incorporated areas of the County of Mendocino in order to generate revenue that will be placed in the general fund to support general County services and functions, including but not limited to, fire protection services. This Board also deems it appropriate to submit this ordinance imposing a Essential Services Transactions (Sales) and Use Tax to a vote of the electorate.

**Section 5.200.010. Title.**

This ordinance shall be known as the County of Mendocino Essential Services Transactions (Sales) and Use Tax Ordinance. The County of Mendocino shall hereinafter be called "County." This ordinance shall be applicable in the incorporated and unincorporated territory of the County.

**Section 5.200.020. 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 5.200.030. Purpose.**

This ordinance is adopted to achieve the following general 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 of Part 1.7 of Division 2 that authorize the County 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 therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
- 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 5.200.040. Contract With State.**

Prior to the operative date, the County 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 County 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 5.200.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of one-quarter cent (0.25%) 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 5.200.060. Place Of Sale.**

- A. 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.

- B. 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 5.200.070. Use Tax Rate.**

An excise tax is hereby 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 ordinance for storage, use or other consumption in said territory at the rate of one-quarter cent (0.25%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**Section 5.200.080. 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 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 5.200.090. Limitations On Adoption Of State Law And Collection Of Use Taxes.**

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

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this County 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, California Department of Tax and Fee Administration, 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 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 "County" 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.

**Section 5.200.100. Permit Not Required.**

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

**Section 5.200.110. Exemptions And Exclusions.**

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State 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 County which is shipped to a point outside the County, 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 County 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-County 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-County 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 paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this ordinance, 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 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 paragraph, 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 County 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 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 retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.
7. "A retailer engaged in business in the County" 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 County.

- 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 County 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 5.200.120. Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not 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 5.200.130. Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the County, or against any officer of the State or the County, 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 5.200.140. Ability to Share Tax Revenue.**

Nothing in this ordinance shall prohibit the County from entering into agreements with the Cities of Ukiah, Fort Bragg, Willits, and Point Arena to share a percentage of the increase of the voter approved tax proceeds.

**Section 5.200.150. 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 5.200.160. Sunset.**

The Tax imposed by this Chapter shall be imposed for ten years from the Operative Date of the tax as set forth in this ordinance and, thereafter, shall no longer be imposed.

**Section 5.200.170. Effective Date.**

This ordinance shall take effect upon adoption by the Board, or upon adoption by a majority vote of the electorate."

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the following roll call vote:

AYES:  
NOES:  
ABSENT:

**WHEREUPON**, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: DARCIE ANTLE  
Clerk of the Board

\_\_\_\_\_  
Deputy

*APPROVED AS TO FORM:*  
CHRISTIAN M. CURTIS, County Counsel

\_\_\_\_\_

\_\_\_\_\_  
TED WILLIAMS Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: DARCIE ANTLE  
Clerk of the Board

\_\_\_\_\_  
Deputy