ORDINANCE OF THE COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADDING CHAPTER 5.180 TO THE MENDOCINO COUNTY CODE ENTITLED THE “MENTAL HEALTH TREATMENT ACT” ADOPTING A COUNTY TRANSACTIONS (SALES) AND USE TAX FOR THE SPECIFIC PURPOSE OF FUNDING IMPROVED SERVICES, TREATMENT AND FACILITIES FOR PERSONS WITH MENTAL HEALTH CONDITIONS

NOW, THEREFORE, The Mendocino County Board of Supervisors Ordains as Follows:

Section 5.180.010. Findings.
The Board of Supervisors of the County of Mendocino makes the following findings:
A. State law authorizes the voters of the County to adopt a special sales tax with a two-thirds vote of the electorate.
B. The California Elections Code permits submission to the voters, without petition, any measure relating to the enactment of an ordinance.
C. An ordinance adopting a Transactions (Sales) and Use Tax on retail transactions in the unincorporated and incorporated areas of the County of Mendocino is appropriate and necessary in order to generate revenue that will be placed in a special Mental Health Treatment Fund entirely dedicated to funding improved services, treatment, and facilities for persons with behavioral health conditions. Further, it is appropriate to submit this ordinance directly to a vote of the electorate.

Section 5.180.020. Title.
This ordinance shall be known as the “Mental Health Treatment Act.” This ordinance provides for a Special Transactions (Sales) and Use Tax and shall be applicable to the unincorporated and incorporated areas of the County of Mendocino, which shall be referred to herein as “County.”

Section 5.180.030. 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 5.180.040. Specific Purpose.
Mendocino County is committed to improving residents’ lives and the public’s safety by strategically evaluating and enhancing resources for mental health treatment. Therefore, this ordinance is adopted to achieve the following, among other purposes, and directs that the provisions herein be interpreted in order to accomplish those purposes:

A. Provide for assistance in the diagnosis, treatment and recovery from mental illness and addiction by developing: 1) a psychiatric facility and other behavioral health facilities; and 2) a regional behavioral health training facility to be used by behavioral health professionals, public safety and other first responders.
B. Provide for the necessary infrastructure to support and stabilize individuals with behavioral health conditions, including addiction and neurological disorders.
C. Conduct an independent annual audit and develop a performance management strategy which measures the effectiveness of the improved services, treatment and facilities and assesses the impact of the “Mental Health Treatment Act.”
D. Create a politically independent “Mental Health Treatment Act” Citizen’s Oversight Committee which shall review the independent annual audit of expenditures and the performance management plan for compliance with the Specific Purpose of this ordinance. This committee shall also provide recommendations to the Board of Supervisors on the implementation of this ordinance. The committee shall be comprised of eleven members, including a citizen selected by each member of the Mendocino County Board of Supervisors, a Member of the Behavioral Health Advisory Board, the County Mental Health Director or his/her representative, the County Auditor or his/her representative, the Mendocino County Chief Executive Officer or his/her representative, the Sheriff or his/her representative, and a representative of the Mendocino Chapter of the National Alliance on Mental Illness. The Mendocino County Board of Supervisors is encouraged to include professional experts such as psychiatric and health practitioners, first responders and other mental health professionals among the five committee members selected by the Board. The meetings of this committee shall be open to the public and shall be held in compliance with the Ralph M. Brown Act, California’s open meeting law.

Section 5.180.050. Purpose.
This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.5 of Part 1.7 of Division 2 which authorizes the County to adopt this tax ordinance which shall be operative if a (2/3) 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 California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

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

Section 5.180.060. 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 5.180.070. Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a one-half cent (0.5%) tax for five (5) years after the Operative Date of this Chapter; and one-eighth cent (0.125%) tax, which will continue unless or until the tax is repealed by a majority vote in a general election, is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County 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 5.180.080. Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business where the 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 5.180.090. 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-half cent (0.5%) for five (5) years after the Operative Date of this Chapter; and one-eighth cent (0.125%), which will continue unless or until the tax is repealed by a majority vote in a general election, of the sales price of the property. The sales price shall include delivery charges when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

Section 5.180.100. Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except as herein provided for the computation of the amount of transactions tax, there shall be excluded from the measure of the transactions 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.

Section 5.180.110. 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...
Section 5.180.140. 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 5.180.150. 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 5.180.160. 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 5.180.170. Use of Tax Proceeds.

The expenditure plan required by Revenue and Taxation Code section 7285.5 for the revenue from the tax approved by this Chapter is set forth in this ordinance, which was approved by the qualified voters of Mendocino County at the November 7, 2017, election. All proceeds of the taxes levied and imposed hereunder shall be used for the purposes stated in the Initiative.


Payment for the costs of the election shall be the responsibility of the County. If the election results in approval of the ordinance by at least a 2/3 vote of those voters voting on the ordinance, the County shall be reimbursed for the cost of the election from the proceeds of the tax.

Section 5.180.190. Effective Date.

This ordinance relates to the levying and collecting of the County transactions and use taxes and shall take effect immediately.

Section 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The Board of Supervisors hereby finds that this ordinance is not a project subject to the California Environmental Quality Act (Public Resources Code section 21000 et seq.; “CEQA”) pursuant to CEQA Guidelines (14 Cal. Code Regs. section 15000 et seq.) sections 15060(c)(3) and 15378(b)(4), as the ballot measure for which this ordinance is providing enacting language involves a government funding mechanism and related fiscal activities that does not involve any commitment to any specific project.
Section 3. VOTER APPROVAL. This ordinance shall be effective only if approved by two-thirds of the voters voting on this measure at the November 7, 2017, election, and after the vote is certified by the Board of Supervisors. If this measure is approved by the voters, this ordinance shall take effect on the Effective Date and become operative on the Operative Date, as those dates are defined herein.

PASSED AND ADOPTED by a four-fifths vote of the Board of Supervisors of the County of Mendocino, State of California, on this 1st day of August, 2017, by the following vote:

AYES: Supervisors Brown, McCowen, Croskey, Gjerde, and Hamburg

NOES: None

ABSENT: None

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

s/John McCowen
JOHN McCOWEN, Chair
Mendocino County Board of Supervisors

ATTEST: CARMEL J. ANGELO
Clerk of the Board
s/Nicole French
Deputy

APPROVED AS TO FORM:
Katharine L. Elliott, County Counsel
s/K L Elliott

IMPARTIAL ANALYSIS

MEASURE B

An Ordinance to Add the “Mental Health Treatment Act” to the Mendocino County Code Adopting a Sales Tax for the Specific Purpose of Funding Services, Treatment and Facilities for Persons with Mental Illness or Drug Addiction

This ballot measure seeks voter approval of an ordinance adding the “Mental Health Treatment Act” to the Mendocino County Code adopting a sales tax for the specific purpose of funding mental health care and facilities to diagnose and treat mental illness and addiction. This is a special tax and would apply to all areas of the County, including all cities.

This would add a transactions (sales) and use tax consisting of one-half cent for five years, and thereafter reduced to one-eighth cent, cumulative to all existing state taxes, local county and city taxes. All revenue from this tax will be placed into a special fund to be used only for services, treatment and facilities for persons with mental health illness and addiction. For five (5) years a maximum of 75% of all revenue will be devoted to facilities, and not less than 25% will be dedicated to services and treatment; thereafter all revenue will be used for ongoing operations, services and treatment.

Once adopted, this fund would be dedicated to the following: the necessary infrastructure to support and stabilize individuals suffering from mental health illness, including addiction and neurological disorders; psychiatric and other behavioral health facilities; and a regional health training facility to be used by behavioral health professionals and other first responders.

The measure requires annual audits and an independent citizens’ oversight committee to ensure that the funds are used for the specific purpose of this ordinance and not spent for any other purposes.

The measure does not become operative until 110 days after it is approved by the voters.

This measure was placed on the ballot by the Board of Supervisors.

This measure must be adopted by two-thirds (2/3) of the voters.

A YES vote will be a vote in favor of adoption of the proposed ordinance.

A NO vote will be a vote against the adoption of the proposed ordinance.

DATED: August 18, 2017

s/K L Elliott
KATHARINE L. ELLIOTT
COUNTY COUNSEL
**COUNTY AUDITOR’S FISCAL IMPACT STATEMENT – MEASURE B**

This measure is called the Mental Health Treatment Act and would increase the sales tax collected in Mendocino County by one-half of one cent per dollar (0.50%) of taxable sales over a five year period, and thereafter be reduced to one-eight cent per dollar (0.125%) of annual taxable sales to continue unless repealed.

The following estimates were provided by the County’s Sales Tax Revenue Manager (HdL Companies). Using their statewide five year five year projections, a countywide, half cent sales tax should net a total of $38,019,000 for a five year period from July 2018 through June 2023. Thereafter, an ongoing one-eight cent sales tax would generate approximately $1,972,000 per year which would continue unless or until the tax is repealed by a majority vote in a general election.

These funds shall be kept in a special fund and used for improved services, treatment and facilities for persons with mental health conditions. For a period of five (5) years a maximum of 75% of the sales tax revenue may be used for facilities, with not less than 25% dedicated to services and treatment. Thereafter 100% of all sales tax revenue shall be used for ongoing operations, services and treatment.

s/Lloyd Weer  
Auditor-Controller,  
County of Mendocino

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**ARGUMENT IN FAVOR OF MEASURE B**

Everyone agrees that people suffering from mental illness or drug addiction need treatment. Jail is not a solution. Nor is confinement in distant facilities far from home.

That’s why it’s crucial to vote YES on Measure B – Mendocino County’s Mental Health Treatment Act.

Since Mendocino County closed its only psychiatric health facility in 2000, local mental health services for our most vulnerable citizens have drastically declined. Today, too many beds in our emergency rooms and county jail are occupied by men and women suffering from mental illness and/or addiction. Our county jail shouldn’t be the largest psychiatric facility in the region.

**Vote YES on Measure B so Mendocino County can construct and operate local mental health treatment facilities and a behavioral health training center so Mendocino County residents suffering from mental illness or addiction can be appropriately diagnosed, housed and treated.**

Traumatized veterans, the homeless, even some of our own family members or friends are paying the price of our neglected mental health system - - and so are taxpayers.

**Vote YES on Measure B to save taxpayer dollars** by providing early treatment of mental illness and drug addiction, breaking the cycle of homelessness and re-incarceration.

**Measure B also includes important taxpayer protections.**

**Vote YES on Measure B, because, by law, all funds can only be used to improve mental health services in Mendocino County. They cannot be taken by the State or used elsewhere.**

**Vote YES on Measure B to require independent annual audits that must be reviewed by a Citizens’ Oversight Committee.**

**Vote YES on Measure B to improve the quality of life for everyone in Mendocino County by providing essential mental health services to Mendocino County residents who need them.**

Please join law enforcement, doctors, nurses, taxpayer advocates, business leaders and neighbors by voting **YES on Measure B. It’s the right thing to do.**

s/Tom Allman  
Tom Allman, Sheriff, Mendocino County

s/John McCowen  
John McCowen, Chair, representing The Mendocino County Board of Supervisors

s/Debbie L Marks MD  
Debbie L Marks, Emergency Physician

s/Ross H. Liberty  
Ross H. Liberty, Business owner, Taxpayer Advocate

s/Carlos Jacinto  
Carlos Jacinto, Youth Advocate

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**NO ARGUMENT AGAINST MEASURE B WAS SUBMITTED.**