

**MENDOCINO COUNTY**

**FULL TEXT OF MEASURE P**

**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 XIIC 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.

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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:

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- 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. Imposing 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:

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- 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 or 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 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.

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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 registers 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 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."

**IMPARTIAL ANALYSIS**

**AN INITIATIVE TO ADD A ONE-QUARTER CENT (0.25%) SALES TAX TO FUND ESSENTIAL SERVICES IN MENDOCINO COUNTY**

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This measure was placed on the ballot by the Mendocino County Board of Supervisors, seeking voter approval for the adoption of an ordinance which imposes a general one-quarter cent (0.25%) sales tax that would be applicable in both the unincorporated and incorporated areas of Mendocino County.

The funds from the tax are not legally restricted and may be used for any valid County purpose. As such, this measure requires a vote of more than fifty percent (50%) of the qualified voters to pass.

Measure P - Shall Ordinance No. 4510 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.	Yes	
	No	

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.

**The above statement is an impartial analysis of the Ordinance or Measure P. If you desire a copy of the ordinance or measure, please call the elections official's office at (707) 234-6819 and a copy will be mailed at no cost to you.**

DATED: August 16, 2022

s/Christian M. Curtis  
Christian M. Curtis  
County Counsel  
County of Mendocino

**ARGUMENT IN FAVOR OF  
MEASURE P**

**Measure P will help stabilize our fire departments and ramp up fire prevention efforts without raising taxes.**

**Measure P is essential support for our fire departments.**

Our fire seasons have gotten more intense, and will continue to worsen. Local fire departments on the front line are dedicated professionals--largely volunteers--and on-call 24/7 because they care deeply about their local communities and neighbors.

They need your support now. Fire-related calls to our local departments are rising annually--by 52% over the past 5 years. Simultaneously, the costs of equipment, training and insurance have skyrocketed (by law, each department must provide workers compensation and liability insurance). Our fire departments desperately need this funding to continue to provide high-quality emergency response within our communities. Measure P funds would help ensure that they and their volunteers have the support they need to continue to serve and protect their communities. 10% of the funding will also strengthen the Mendocino County Fire Safe Council (MCFSC)'s efforts to reduce or prevent wildfire losses.

**Measure P Will Not Increase Your Taxes**

Measure P will reallocate a ¼ cent of an existing, sunseting sales tax to be distributed 90% to our local fire departments and 10% to ramp up fire-prevention services for 10 years. Your current taxes will not increase.

**Measure P Funds Will be Spent as Promised**

Funding is intended to go directly to local fire departments using a formula that has already been established and agreed upon. There is no ambiguity or discretion. The watchful eyes of our 20 fire chiefs and their district boards will be on it. Since the tax sunsets in 10 years, voters will have the opportunity then to reassess the benefits of this tax allocation.

For more information go to <https://www.yesonpmendo.com/>

s/Scott Cratty  
Scott Cratty  
Executive Director,  
Mendocino County Fire Safe Council

s/David Latoof  
David Latoof  
President  
Mendocino County Fire Chiefs Assoc.

**REBUTTAL TO ARGUMENT IN FAVOR OF  
MEASURE P**

**FACT: Measure P is tax.**

As an existing sales tax is set to expire, Measure P would continue a tax at a time we can least afford it. All taxes need to have a guaranteed purpose to be efficient and effective. Soaring housing, gas and food costs will continue, tax collection must be justified! **If Measure P does not pass, the local sales tax rate will go down.**

**Measure P could help fire districts but, it is not assured.**

The Proper method to fund fire services, would be to put Measure P on a future ballot as a specific tax. Because specific taxes require 2/3 voter approval to pass, the authors would be required to do a complete study of how to properly disperse funds and win our support. Out county covers a large rural area. Fire departments are responding to accident and emergencies that includes a population of tourists, over areas well beyond their home base. We will support our first responders since the next emergency may be yours! A general tax needing just a simple majority will allocate funds for fire districts to more densely populated urban areas, at the expense of more remote, fire-prone communities with smaller populations.

**Measure P has unintended consequences.**

Measure P is a 10-year tax. If the make-up of the Mendocino County BOS changes in the next decade, Supervisors could vote to spend Measure P money on anything!

Protect taxpayers.

NO on Measure P.

s/Steven L. Gomes  
Steven L. Gomes

**ARGUMENT AGAINST  
MEASURE P**

If voters approve Measure P, a new tax will be imposed on every Mendocino County resident, but funds from Measure P will only benefit a select few – and that's if the Board of Supervisors invest Measure P funds as promised.

Measure P was written in a way to deceive voters. The Board of Supervisors chose the path of least resistance to passage by putting Measure P on the ballot as a general tax – meaning the Supervisors can spend the funds however they'd like – but are selling it to the public as a specific ("fire") tax – while giving themselves (the Supervisors) the principal authority to oversee Measure P expenditures. **There's no independent auditor, no citizen oversight, and no guarantees that fire districts will get any funding for fire services if Measure P passes.**

Even if you trust Supervisors to spend Measure P revenues as advertised, the initial intent for Measure P proceeds provide the most benefits to a few urban fire districts that are already well funded – leaving rural fire districts more likely to actually fight wildfires competing for the little that's left.

Let's be clear: as planned, the Ukiah Valley Fire Authority (UVFA) stands to be the biggest beneficiary of Measure P. What Supervisors and the UVFA probably won't tell you is the UVFA recently annexed the City of Ukiah into their jurisdiction with little public input or a vote of the people—a move that's already raising taxes in Ukiah by \$900,000 to \$1 million annually starting with November 1's property tax bills. It's unknown why the UVFA is supporting yet another tax in just one year's time should Measure P pass – without an explanation as to how all that extra money will be spent.

**Measure P taxes us when we can least afford it – with soaring housing costs, gas prices, and everyday purchases getting ever more expensive.**

**Don't be fooled!**

**Protect Mendocino County taxpayers.**

**Vote No on Measure P.**

s/Steven L. Gomes  
Steven L. Gomes

s/Arthur McChesney  
Arthur McChesney

s/James Crabtree  
James Crabtree, Citizen

s/Robert F. Burke  
Robert F. Burke

**REBUTTAL TO ARGUMENT AGAINST  
MEASURE P**

The argument against Measure P is misleading, inaccurate, and reflects the agenda of special interests.

Measure P will NOT increase taxes. Measure P will redirect ¼ cent of an existing sales tax to support ALL county fire departments. Measure P was introduced as a general tax as the best available option to get our fire departments the financial relief they **desperately need now**.

The allocation method is supported by ALL Mendocino County Fire Chiefs, from large to small departments. A greater allocation will go to the departments serving larger populations because they need more personnel, equipment, and training. These additional funds are essential for every department and the communities they serve.

The opponents fail to acknowledge that Fire Chiefs and fire boards will ensure watchful oversight of these funds.

The four individuals against, who do not identify their affiliations, focus much of their argument on a recent jurisdictional change of the Ukiah Valley Fire Authority. Their opposition is the agenda of a special interest group. Supporters of Measure P are volunteers and public servants across Mendocino County invested in providing you the best possible emergency response services.

Our fire departments have been keeping the engines running with fundraisers, all while being there when you need them. Your Fire Chiefs, fire personnel and volunteers, need you now more than ever.

**Yes on P** is a vote for your safety. Don't starve fire departments of essential funding just because doubts are raised by special interests. You trust your firefighters to be there when you call – trust them now.

s/Andres Avila  
Andres Avila  
Fire Chief

s/David Latoof  
David Latoof  
Fire Chief

s/David Beak  
David Beak  
Chief CVFD

s/Bob Matson  
Bob Matson  
Chief Elk Fire

s/Kerry Robinson  
Kerry Robinson  
Chief