

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

CITY OF SCOTT'S VALLEY

CITY OF SCOTT'S VALLEY TEMPORARY SALES TAX.

C Shall a five year temporary one-half of one percent sales tax rate increase be approved for the first three year period and then reduced to one-quarter of one percent for the final two years be adopted to maintain general services including public safety, street improvements, and parks?

FULL TEXT OF BALLOT MEASURE C

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCOTT'S VALLEY ADDING CHAPTER 3.17 TO TITLE 3 REGARDING IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

BE IT ORDAINED by the City Council of the City of Scott's Valley as follows:

SECTION 1. Title 3 of the Scott's Valley Municipal Code is amended by adding a new Chapter 3.17 entitled "Temporary Transactions and Use Tax" to read as follows:

"Chapter 3.17 Temporary Transactions and Use Tax

Sections:

- 3.17.01 Title
- 3.17.02 Operative Date
- 3.17.03 Purpose
- 3.17.04 Contract with State
- 3.17.05 Transaction Tax Rate
- 3.17.06 Place of Sale
- 3.17.07 Use Tax Rate
- 3.17.08 Adoption of Provisions of State Law
- 3.17.09 Limitations on Adoption of State Law and Collection of Use Taxes
- 3.17.10 Permit Not Required
- 3.17.11 Exemptions and Exclusions
- 3.17.12 Amendments
- 3.17.13 Enjoining Collection Prohibited

3.17.01 Title

This ordinance shall be known as the Temporary Transactions and Use Tax Ordinance. The City of Scott's Valley hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.17.02 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.

3.17.03 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 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the 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.

3.17.04 Contract with State

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

3.17.05 Transactions Rate Tax

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 City at the rate of one-half of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory for three (3) years from the operative date of this ordinance. At the end of three (3) years from the operative date of this ordinance, the tax will be reduced to one-quarter of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory for two (2) more years.

3.17.06 Place of Sale

For the purposes of this ordinance, all retail sales are consumed at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.17.07 Use Tax Rate

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer for three (3) years after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent of the sales price of the property. At the end of the three (3) years, the excise tax shall be reduced to one-quarter of one percent of the sales price of the property for two (2) more years. The sales price shall include delivery charges when such charges are subject to state sales tax regardless of the place to which delivery is made.

3.17.08 Adoption of Provisions of State Law

Except as otherwise provided in this ordinance and except insofar as they are consistent 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.

3.17.09 Limitations on Adoption of State Law and Collection of Use Taxes

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

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. 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;

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2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

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

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

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

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

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

3.17.10 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.

3.17.11 Exemptions and Exclusions

A. There shall be excluded from the measure of the transactions tax and the use tax in the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purpose of this paragraph, delivery to a point outside the City shall be satisfied.

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) if the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance.

5. For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract of 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 City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provide d 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 subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.17.12 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 consistent 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.

3.17.13 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordi-

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nance, 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 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, portion of the application thereof to any person or circumstance of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 3. REPEALS AND CONFLICTING ORDINANCES. All other ordinances of the City of Scotts Valley or provisions of the Scotts Valley Municipal Code which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. CEQA COMPLIANCE. The City Council finds and determines that the enactment of this Ordinance is not a "project" as that term is used in the California Environmental Quality Act ("CEQA," Cal. Pub. Resources Code Section 21000 et seq.) or the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.). Therefore, no environmental assessment is required or necessary.

SECTION 5. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

SECTION 6. TERMINATION DATE. The tax levied by this ordinance shall continue at the rate of 0.5% from April 1, 2006 until March 31, 2009, and from April 1, 2009 until March 31, 2011 at the rate of 0.25%. The authority to levy the tax imposed by this ordinance shall expire five (5) years from the operative date of this Ordinance.

SECTION 7. CODIFICATION. Upon adoption of this ordinance pursuant to the voter approval referenced in Section 3.17.020, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Scotts Valley Municipal Code.

IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE C

City of Scotts Valley
Temporary Transactions and Use Tax

Temporary (Five Year) Sales Tax Increase of One-Half Percent For 3 years and then Reduced to One-Quarter Percent for 2 Years

This ballot measure, if adopted by the voters, would enact a temporary sales tax measure for a total of five years. For the first three years, the tax increase would be one-half of one percent (½%). For the final two years, the tax would be reduced to one-quarter of one percent (¼%). The sales tax is also referred to as a "transactions and use tax." The current sales tax rate in the City of Scotts Valley is eight percent. Accordingly, if the ballot measure is adopted, the sales tax rate would increase to eight and one-half percent for three years after the adoption of the ballot measure. It would then be reduced to eight and one-quarter percent for the final two years of the tax measure. The proposed sales tax, like the current sales tax, would be imposed upon the sale of all tangible personal property sold at retail establishments within the jurisdictional limits of the City as well as upon the storage, use or other consumption of tangible personal property purchased from any retailer in the jurisdictional limits of the City.

All revenue generated from the proposed sales tax increase would be deposited into the City's General Fund and, accordingly, all monies collected pursuant to the sales tax increase would be used by the City to pay for general City operations and services, including, police, parks and street maintenance. As such, this ballot measure proposes a "general purpose tax" rather than a "special purpose tax" and requires a simple majority vote for adoption.

s/ Kirsten M. Powell
City Attorney

FISCAL IMPACT STATEMENT BY FINANCE DIRECTOR
MEASURE C

City of Scotts Valley
Temporary Transactions and Use Tax

Temporary (Five Year) Sales Tax Increase of One-Half Percent for 3 Years And then Reduced to One-Quarter Percent for 2 Years

The total sales tax rate in the City of Scotts Valley is currently 8%, or 8 cents on every dollar. Of this amount, the City currently receives three-quarters of 1%, or three-quarters of one cent on every dollar. These funds are used to pay for general City services such as police, parks, and street maintenance. If approved by the voters, this measure would temporarily increase the total tax rate for five years. The total tax rate would be 8½% for the first three years and then reduced to 8¼% for the final two years.

The current three-quarters of one percent sales tax rate generated \$1,229,550 for the fiscal year July 1, 2004 to June 30, 2005. Based on that amount, the proposed one-half percent (½%) increase in the local sales tax would generate \$819,700 and the proposed one-quarter percent (¼%) would generate \$409,850 per year to support the same general City services noted above. These are approximations of the amounts that can be expected annually during the five-year period the tax would be in effect. Actual sales tax collections may vary from year to year depending upon economic conditions.

The breakdown of the current 8% total sales tax rate is as follows:

6.25% - State
0.75% - City
0.50% - Santa Cruz Metro Transit District
0.25% - Countywide Transportation Fund
0.25% - Countywide Library System
8.00% Total Sales Tax Rate

s/ Stephen H. Ando
Finance Director
City of Scotts Valley

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ARGUMENT IN FAVOR OF MEASURE C

Vote YES on Measure C.

Measure C is a **temporary sales** tax increase to eliminate an ongoing budget deficit while preserving critical services. Scotts Valley has reduced spending, kept hiring freezes in place, and deferred capital improvements.

Our budget deficit remains for several reasons:

- Scotts Valley gets to keep only 4% of its property tax revenues
- The State has taken large amounts of money from our City for the past 4 years
- Scotts Valley has paid increased workers compensation and insurance costs

This sales tax increase will add only a nickel to every \$10 spent for the first three years, then is further reduced to 2.5 cents for the final two years.

This sales tax is guaranteed to sunset in 5 years.

Measure C has earned broad community support:

- The City keeps 100% of all revenues generated
- This added revenue is necessary to maintain police protection, parks, and public works, which make up over 2/3 of Scotts Valley's annual budget
- Seniors, Business Leaders, and Law Enforcement have endorsed Measure C.

The City of Scotts Valley has provided services for its citizens in a friendly and efficient manner. In fact, as the population of the City of Scotts Valley has increased over the past ten years, the number of city employees has decreased.

The City Council has unanimously asked the voters of Scotts Valley to invest in our future with this temporary sales tax increase. Let's keep Scotts Valley a special place to live, work and remain the safest city in Santa Cruz County.

Vote YES on Measure C to enable the City of Scotts Valley to maintain essential services such as public safety, parks, and public works.

s/ Paul Marigonda
Mayor, City of Scotts Valley

s/ Stephany E. Aguilar
Vice-Mayor, City of Scotts Valley

Scotts Valley Peace Officers Association
s/ Jayson Rutherford, President

s/ Kelly S. Gladder
Business Owner, Gashouse Pizza

The Senior Coalition
s/ Tom Walsh, Executive Director

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NO ARGUMENT AGAINST MEASURE C WAS FILED.

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