

# 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 SANTA CRUZ

**H** Shall the one-quarter of one percent City of Santa Cruz General Fund sales tax that was approved in 2004 for a five-year period be replaced with a one-half of one percent General Fund sales tax for local use only, without a sunset provision, to help limit future budget cuts, repair the City's streets, support public safety, and provide additional security and maintenance for City parks?

### FULL TEXT OF BALLOT MEASURE H CITY OF SANTA CRUZ

BE IT ORDAINED by the electorate of the City of Santa Cruz that Ordinance Number 2004-08 adopted by the voters of the City of Santa Cruz as Measure F at the March 2, 2004 special City of Santa Cruz election and thereafter codified at Santa Cruz Municipal Code Chapter 3.18 is hereby amended to read as follows:

"Sections:

- 3.18.010 Title
- 3.18.020 Operative Date
- 3.18.030 Purpose
- 3.18.040 Contract with State
- 3.18.050 Transactions Tax Rate
- 3.18.060 Place of Sale
- 3.18.070 Use Tax Rate
- 3.18.080 Adoption of Provisions of State Law
- 3.18.090 Limitations on Adoption of State Law and Collection of Use Taxes
- 3.18.100 Permit Not Required
- 3.18.110 Exemptions and Exclusions
- 3.18.120 Amendments
- 3.18.130 Enjoining Collection Forbidden
- 3.18.140 Severability
- 3.18.150 Effective Date
- 3.18.010 Title

The ordinance codified in this chapter shall be known as the "City of Santa Cruz Transactions and Use Tax Ordinance." The City of Santa Cruz hereinafter shall be called the "city." This ordinance shall be applicable in the incorporated territory of the city.

3.18.020 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.\*

3.18.030 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 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.

3.18.040 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 a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.18.050 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 city at the rate of one half of one percent (0.50%) 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.

3.18.060 Place of Sale

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. 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.

3.18.070 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 on and 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 (0.50%) 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.

3.18.080 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.

3.18.090 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 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.

(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

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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.

### 3.18.100 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.

### 3.18.110 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 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 purposes 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) of 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 this 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 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 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 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 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.

### 3.18.120 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.

### 3.18.130 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 city, or against

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any officer of the state or the city, 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.

3.18.140 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.

3.18.150 Effective Date

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

**IMPARTIAL ANALYSIS BY CITY ATTORNEY**  
**MEASURE H**

CITY OF SANTA CRUZ TRANSACTIONS AND USE TAX

In 2004 City voters approved a ballot initiative which served to enact a temporary five-year one quarter of one percent (¼%) increase to the sales tax rate in the City of Santa Cruz. The sales tax is also referred to as a "transactions and use tax." As a result the current sales tax rate in the City of Santa Cruz is eight and one quarter percent (8¼%) and that sales tax rate is presently scheduled to "sunset" in 2009 at which time the sales tax rate would revert to the former eight percent (8%) rate. First Woman Mayor of Santa Cruz

This ballot measure, if adopted by the voters, would replace the current temporary eight and one quarter of one percent (8¼%) sales tax rate in the City of Santa Cruz with a permanent eight and one half of one percent (8½%) sales tax rate. The proposed sales tax, like the current sales tax, would be imposed upon the sale of all tangible personal property sold at retail 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 would be deposited into the City's General Fund and, accordingly, all monies collected pursuant to the sales tax would be available for use by the City to pay for general City operations and services. The Santa Cruz City Council, in conjunction with its placement of this initiative on the November 2006 ballot, adopted a resolution stating that it is the City Council's intent and goal that upon adoption of this sales tax ballot measure, the City will use one half of the revenue generated by that sales tax measure for the general City operations, services and programs and will devote the other half of those revenues to City programs which underwrite street maintenance and repairs, City parks maintenance and supervision, and public safety. The resolution strongly encourages all future City Councils to similarly allocate the sales tax proceeds for these same purposes.

This ballot measure proposes a "general tax," rather than a "special purpose tax," and therefore requires a simple majority for adoption.

s/ John G. Barisone  
City Attorney

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### ARGUMENT IN FAVOR OF MEASURE H

An extended combination of state budget cuts, declining tax base, rising costs and economic uncertainty has made it difficult for the City to sustain the safe streets, parks, open spaces and neighborhoods that we all want.

**The City Council has pledged that most of the increased funding from Measure H will be used to repair local streets and roads.** Without Measure H, these roads will continue to deteriorate and the ultimate repair costs will increase due to deferred maintenance.

In addition, **the City Council has voted to allocate substantial new funding from Measure H for maintenance and safety in our local parks and open spaces.** Specifically, increased police protection, more park rangers and improved environmental protection of the San Lorenzo River and greenbelt will all be possible with Measure H.

Measure H allows us to act locally to:

- Improve our streets
- Protect our parks, open spaces and waterways
- Increase public safety services
- Sustain community facilities

By extending and increasing the sales tax that Santa Cruz voters overwhelmingly approved in March, 2004, we will provide the ongoing funds needed to sustain our city. **ALL the money raised by Measure H will stay in Santa Cruz!**

Measure H has received broad community support including community organizations, neighborhoods, environmental groups and business leaders.

Over the years Santa Cruz has made major civic investments for the community's wellbeing: parks, open spaces, watersheds, neighborhood improvements, community facilities, business districts and roads. Now we need to ensure that those resources are adequately maintained and protected for all to enjoy – today and in the future.

JOIN US IN VOTING FOR THE HEALTH AND SAFETY OF OUR PARKS, WATERWAYS, STREETS, AND NEIGHBORHOODS.

VOTE YES ON MEASURE H

s/ George Ow, Jr.  
Local Business Owner & Philanthropist

s/ Howard Skerry  
Chief of Police

s/ Karen Darling  
Bed & Breakfast Owner

s/ Lorette M. Wood  
First Woman Mayor of Santa Cruz

s/ Jim Lang  
Retired Director of Parks and Recreation

### REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE H

Vote NO on a higher, permanent, general-purpose sales tax in Santa Cruz. Our total sales tax would be 8.5%, among the highest in California.

We have a different vision for saving Santa Cruz. We envision a city where:

- Taxes are spent on priorities
- New money is raised through healthy economic activity
- Decisions are based on the needs of people rather than the wishes of politicians

Tax supporters contradict themselves by harping about *specific* ways that the money might be spent but begging you to approve a *general-purpose* tax.

The City Attorney admits, "all monies collected ... would be available ... for general City operations and services."

Supporters of the Measure F sales tax said, in the March, 2004 voter pamphlet, that the money would "help address the most critical needs ... such as ... parks and streets."

Have our streets improved?

They also said the tax would be ¼-cent for 5 years.

Now the City Council wants ½-cent, forever.

We don't oppose all taxes. It's our duty, as residents who care about Santa Cruz, to fight taxes that are misspent. Recent budgets reveal broken promises and departures from voter priorities.

You can vote NO in complete safety. City Council still has the original ¼-cent Measure F sales tax until 2009 — enough time to make good on promises.

[www.savesantacruz.org](http://www.savesantacruz.org)

s/ Thomas J. Mullen  
Dentist, ret.

s/ Sylvia S. Mullen  
Community Volunteer

s/ Regis Paul Marcelin-Sampson  
Computer Scientist

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### ARGUMENT AGAINST MEASURE H

Measure F was passed in 2004 as a 5-year temporary tax, to give the City time to rebuild its economy. Little has been done, and available funds have not been used responsibly. Now the City Council wants to raise the rate and make the tax permanent. Our total sales tax would be 8.5% — significantly higher than in neighboring Monterey County (7.25%) and one of the highest permanent rates in California. Meanwhile, General Fund money that could be used for infrastructure has been diverted to other projects.

In the first year of the Measure F tax, the City spent \$827,000 on the "Street Maintenance and Sidewalk Repair" activity, including \$807,000 from a General Fund "Street Maintenance Impact Fee" and \$20,000 from "Charges to Other Funds", with only \$32 of "NET GENERAL FUND REQUIREMENTS." The ballot argument in 2004 said that the new tax would "help address the most critical needs, such as ... parks and streets." A general tax can be spent on anything. The City Council cannot be trusted.

The Transportation Funding Task Force, convened by Fred Keeley in 2006, is hard at work. Various citizens have suggested combining local, state, federal and private funds to fix potholes on local streets, cut congestion, restore school bus service, repair sidewalks, enhance mobility for seniors, improve transit, and promote bikes. Santa Cruz City Council should not be allowed to sabotage the Task Force process by making it harder to pass a possible county-wide, dedicated, transportation-only funding plan. Such a plan could provide much more transportation money to the City.

Please vote NO on a higher, permanent, general-purpose sales tax in the City of Santa Cruz. For more information, see [www.savesantacruz.org](http://www.savesantacruz.org)

s/ Thomas J. Mullen  
Dentist, ret.

s/ Sylvia S. Mullen  
Community Volunteer

s/ Regis Paul Marcelin-Sampson  
Computer Scientist

### REBUTTAL TO ARGUMENT AGAINST MEASURE H

Opponents of Measure H use unsubstantiated claims and exaggeration to sway your vote.

They are playing political games with serious matters: repair of damaged streets, cleanup of our parks, river and greenbelt, and maintenance of public safety services.

Please don't be deceived by their questionable claims:

*They claim funds haven't been used responsibly and that money was diverted to "other projects."*

The City Council has already cut dozens of city jobs and limited employee pay. What remains of the City General Fund is spent primarily on the basics of Police, Fire, Parks, Libraries, and Public Works. The opponents seem to suggest we shouldn't fund these "other projects." This is wrong! **We need to pay for these basic services AND fix our streets, parks, and river.**

*They claim the proposed tax rate is unusually high.* It is the same rate as San Francisco and lower than Oakland's.

*They suggest the Council wants to "sabotage" the transportation task force.* This is untrue. The Council supports the task force's search for solutions — the Council has a member on the task force. **But we can't wait for years for the task force while our streets fall apart and our parklands suffer.** Santa Cruz needs enough funds NOW to fix streets, clean up the parks and river, and maintain public safety services. Measure \_\_\_ guarantees the money will be spent here locally.

Repair our streets. Protect our parklands and river. Sustain public safety services.

**Keep tax dollars here in Santa Cruz. Yes on Measure H**

s/ Neal Coonerty  
Business Owner & Supervisor-elect

s/ Yolanda Henry  
Executive Director, Familia Center

s/ Neal Aronson  
Santa Cruz Firefighter

s/ Don Lane  
Former Mayor & Business Owner

s/ Cynthia Mathews  
Mayor, City of Santa Cruz