

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 WATSONVILLE

C Shall the City replace the existing 911 Emergency Response Fee now paid by Watsonville residents on City telephone land lines with a general tax on City telephone subscribers of the same amount of \$2.05 per month? The tax would reduce future budget cuts and allow the City Council to provide additional funding to public safety including the 911 Emergency Center and other General Fund programs.

FULL TEXT OF BALLOT MEASURE C

ORDINANCE NO. 1239-08 (CM)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE ADDING A NEW CHAPTER 15 ENTITLED "TAX ON CITY TELEPHONE SUBSCRIBERS" TO TITLE 3 (FINANCE) OF THE WATSONVILLE MUNICIPAL CODE TO AUTHORIZE AN EMERGENCY RESPONSE FEE TO FINANCE IMPROVEMENTS AND OPERATION OF THE CITY 911 EMERGENCY COMMUNICATIONS SYSTEM AND RESCINDING CHAPTER 15 (EMERGENCY RESPONSE FEE), CONDITIONALLY UPON APPROVAL BY VOTERS IN THE NOVEMBER 4, 2008

Repeals Ordinance No. 1163-03 (CM)

Table of Contents

SECTION 1. ENACTMENT

CHAPTER 3-15 TAX ON CITY TELEPHONE SUBSCRIBERS

- Sec. 3-15.010 Operative Date.
- Sec. 3-15.020 Title.
- Sec. 3-15.030 Definitions.
- Sec. 3-15.040 Tax imposed.
- Sec. 3-15.050 Tax Rate and Payments.
- Sec. 3-15.060 Tax collection.
- Sec. 3-15.070 Rules and Regulations.
- Sec. 3-15.080 Penalties.
- Sec. 3-15.090 Actions to collect.
- Sec. 3-15.100 Appeal.
- Sec. 3-15.110 Refunds.
- Sec. 3-15.120 Exemptions.
- Sec. 3-15.130 Validity.

SECTION 2. PUBLICATION.

SECTION 3. EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Title 3 (Finance) of the Watsonville Municipal Code is hereby amended by repealing Chapter 15 (Emergency Response Fee) conditionally if approved by a majority of the voters in the November 4, 2008 Special Municipal Election.

Title 3 (Finance) of the Watsonville Municipal Code is hereby amended by adding a new Chapter 15 entitled "Tax on City Telephone Subscribers". This ordinance shall take effect immediately upon adoption in accordance with subdivision c of Section 608 of the City of Watsonville Charter.

If approved by a majority of the voters, this ordinance shall be enforceable ten (10) days after approval of the official canvass of the November 4, 2008, Special Municipal Election pursuant to California Election Code Section 9217. The existing Chapter 15 of Title 3 shall be enforced by the City Administrative Services Director so that the new tax shall succeed the existing fee without duplication or a gap.

CHAPTER 3-15 TAX ON CITY TELEPHONE SUBSCRIBERS

Sec. 3-15.020 Title.

This Chapter shall be known as the "Tax on City Telephone Subscribers of the City of Watsonville."

Sec. 3-15.030 Definitions.

Except where the context or particular provisions require otherwise, the following definitions shall govern the construction of this Chapter.

(a) "Access Line" shall mean any connection from a customer location within the limits of the City of Watsonville to a service supplier as defined in Subsection (g) of this section and offered to the public for compensation. Within the meaning of this Chapter, and without limitation, access lines include connections providing residential basic exchange service, business basic exchange service, PBX service (private branch exchange), foreign exchange service, and Centrex service, service provided by wireless companies, cable companies, and Internet.

(b) "City" shall mean the City of Watsonville.

(c) "Lifeline" shall mean discounted telephone service available to eligible low-income residential customers.

(d) "Month" or "monthly" shall mean a calendar month.

(e) "Person" shall mean any domestic or foreign corporation, limited partnership, limited liability company, firm, association, syndicate, joint-stock company, partnership of any kind, joint venture, club, common-law trust, society, other entity or individual.

(f) "Place of Primary Use" shall mean the street address where a land line is used or where a mobile telecommunications service customer's mobile telecommunications service primarily occurs. For purposes of this Chapter said address shall be conclusively presumed to be the residential street address or the primary business street address of the customer.

(g) "Service supplier" shall mean any person supplying local telephone service by land line or wirelessly (cellular), mobile telecommunications services or voice over internet protocol (VoIP) service, pursuant to authority granted by the California Public Utilities Commission, to any telephone subscriber at a location within the limits of the City of Watsonville. Service suppliers may include, without limitation, local exchange carriers, interexchange carriers, cellular telephone (digital and analog) providers, competitive access providers, cable television providers offering telecommunications services, mobile telecommunications service providers and any other entity offering direct connections between their premises and the premises of telephone or telecommunication subscriber.

(h) "Tax" shall refer to the Tax on City Telephone Subscribers imposed by this chapter.

(i) "Taxpayer" shall mean a person required to pay the tax imposed by this chapter

(j) "Telephone subscriber" shall mean any person required to pay a tax imposed under the provisions of this chapter.

(k) "Telephone service" shall refer to any of the telephone or telecommunications services described in subparagraph (g) of this section.

Sec. 3-15.040 Tax imposed.

There is hereby imposed a tax on every person who subscribes to or receives telephone service within the City. For purposes of this chapter, a person who has a City billing address for telephone service shall be deemed to subscribe to telephone service within the City. For purposes of this chapter, with respect to mobile telecommunications services, a person shall be deemed to subscribe to telephone service within the City if his or her place of primary use of mobile telecommunications service is within the City. The tax imposed by this chapter is a general tax intended by the City Council to generate revenue for general City governmental purposes including, but not limited to, 911 and related public safety communication services. This tax is in addition to, and not in lieu of, the Utility Users Tax imposed pursuant to Chapter 3-6 (Taxation) of Title 3 (Finance) of this Code.

Sec. 3-15.050 Tax Rate and Payments.

The tax rate shall be \$2.05 per access line per month. Unless otherwise specified in the rules and regulations promulgated by the City Manager pursuant to Section 3-15.070, the tax is imposed and shall be paid by taxpayers on a monthly basis.

Sec. 3-15.060 Tax collection.

(a) The tax imposed by this chapter shall be collected from the telephone sub-

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scriber by the service supplier. Service suppliers shall hold tax revenues in trust for the City and shall remit the tax revenues collected to the City Administrative Services Director on a monthly basis on or before the last day of the following month.

(b)The tax required to be collected by service suppliers under this chapter shall be added to and stated separately as the City of Watsonville Tax on City Telephone Subscribers in the service supplier's billings to telephone subscribers.

(c)If the amount paid by a telephone subscriber is less than the full amount of the charges for service and the emergency response tax which have accrued for the billing period, a proportionate share of both the charges for service and the tax shall be deemed to have been paid.

(d)The duty to collect the tax from a telephone subscriber shall commence with bills issued on or after the effective date of this chapter.

(e)The service supplier, at its option, may assess a service charge of up to one-eighth (1/8) of one percent (1%) of City of Watsonville Tax on City Telephone Subscribers Emergency Response Taxes actually collected by the service supplier and remitted to the City. The service charge may be deducted from the City of Watsonville Tax on City Telephone Subscribers Emergency Response Taxes remitted to the City at the time of remission.

Sec. 3-15.070 Rules and Regulations.

The City Manager shall have power to adopt rules and regulations not inconsistent with the provisions of this chapter for the purpose of implementing and enforcing the payment, collection and remittance of the tax. A copy of such rules and regulations shall be on file and available for public examination in the City Clerk's Office. Failure or refusal to comply with any rules and regulations promulgated pursuant to this Section shall be deemed a violation of this chapter.

Sec. 3-15.080 Penalties.

(a)Taxes which are not remitted by the taxpayer to the City on or before the due date of the telephone service provider's billing invoice or statement to the taxpayer are delinquent.

(b)A taxpayer who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten (10) percent of the amount of the tax, per month or fraction thereof, from the first day of delinquency until the date of payment. The total amount of the penalties provided for in this subsection shall not exceed fifty percent of the total amount of the tax due.

(c)If the Administrative Services Director determines that a taxpayer's nonpayment of any tax remittance due under this chapter is attributable to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated above.

(d)Every penalty imposed under the provisions of this Section shall become a part of the tax required to be remitted.

(e)In addition to the penalties imposed, a taxpayer who fails to remit any tax imposed by this chapter shall pay a service charge at the rate of one and one-half percent per month or fraction thereof on the amount of tax due, exclusive of penalties, from the first day of the month following the month for which the amount or any portion thereof should have been remitted until the date of payment.

Sec. 3-15.090 Actions to collect.

(a)Any tax required to be paid by a telephone subscriber under the provisions of this chapter shall be deemed a debt owed by the telephone subscriber to the City until it has been paid to the City, except that payment to a service supplier is sufficient to relieve the subscriber from further liability for the tax.

(b)Any tax required to be collected under the provisions of this chapter shall be deemed a debt owed to the City of Watsonville by the person required to collect and remit such tax.

(c)Nothing in this section shall impose any duty on a service supplier to take any legal action to enforce the collection of the tax hereinabove imposed. However, whenever a service supplier remits funds collected as tax on City telephone service subscribers to the City, the service supplier shall also provide the City with the name and address of any telephone subscriber refusing or failing to pay the tax for

a period of four (4) or more billing periods and shall state the amount of such tax remaining unpaid. The Administrative Services Director shall notify the telephone subscriber that the Administrative Services Director has assumed responsibility to collect the tax due for the stated periods and demand payment of such taxes.

(d)Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

Sec. 3-15.100 Appeal.

A taxpayer aggrieved by any decision of the City Manager with respect to the payment or nonpayment of the tax imposed by this chapter or with respect to the Administrative Services Director's computation of due and payable tax, interest and/or penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk pursuant to Chapter 4 (Appeals) of Title 3 (General Provisions) of this Code.

Sec. 3-15.110 Refunds.

Whenever the amount of any tax, interest or penalty has been overpaid by a taxpayer or paid more than once by a taxpayer, or has been erroneously or illegally collected or received by the City. The taxpayer shall comply with the claims procedure set forth in Chapter 1 of Title 3 of the Watsonville Municipal Code.

Sec. 3-15.120 Exemptions.

Nothing in this Chapter shall be construed as imposing a tax upon:

(a)A lifeline service customer of a telephone service provider;

(b)A telephone corporation;

(c)A person using a coin-operated telephone;

(d)A non-profit hospital which is exempt from federal income tax under Section 501(a) of the United States Code;

(e)A non-profit educational organization which is exempt from income tax under Section 501(a) of the United States Code;

(f)Any person when imposition of such fee upon that person would violate the Constitution of the United States, the Constitution of the State of California, or preemptive federal or state law;

(g)Any City, County or other governmental agency.

Sec. 3-15.130 Validity.

This ordinance shall become valid and binding upon approval by a majority of the voters. The ordinance shall be in force and take effect ten (10) days after the official canvass of the November 4, 2008, Special Municipal Election pursuant to California Election Code Section 9217.

SECTION 2. PUBLICATION.

This ordinance shall be published in the Watsonville Register-Pajaronian in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect immediately upon the adoption in accordance with Section 608(c) of the City of Watsonville Charter.

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IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE C

The Santa Cruz County Emergency Communications Center Joint Powers Agency (Agency) is an independent agency established in 1991 after the Loma Prieta Earthquake to equip, maintain, operate, and staff the Santa Cruz County Consolidated Emergency Communications Center (9-1-1 Center). Since 1991, the 9-1-1 Center has answered and dispatched substantially all police, sheriff, fire and medical service calls and all after-hours public works request calls in Santa Cruz County. Federal Communication Commission rules will require the 9-1-1 Center to replace its present analog equipment with a digital "narrow band" system over the next few years at substantial cost.

The Agency charges the cities, County and fire districts for these 9-1-1 Center services. The Agency charged Watsonville about \$1,200,000 last year to provide these services in Watsonville. The charge is based primarily on population and actual use. The City pays the Agency's bill with money from the City's "General Fund." The City's General Fund is that portion of the City's money which is not otherwise restricted by law.

The City's 2003 Emergency Response Fee Ordinance is identified in the Administrative Services Director's Fiscal Impact Analysis. In November 2003, opponents of the Fee put Measure T on the ballot in Watsonville proposing to repeal the Fee. The repeal measure failed with 62.7% of voters voting to keep the Fee in place. The 6th District of the California Court of Appeal found in an unpublished 2005 decision that a similar 9-1-1 fee imposed by the County in 2002 was legal. The 1st District of the California Court of Appeal found in an April, 2008, published decision that a similar 9-1-1 fee imposed by Union City in 2003 was not legal. Both the Santa Cruz County and Union City fees are similar to Watsonville's 2003 Fee Ordinance. Unpublished Court of Appeal decisions are not binding on California trial courts. Published decisions are binding on California trial courts. On June 9th, 2008, Union City petitioned the California Supreme Court to reverse the decision. As of August 12th, the California Supreme Court had not decided whether to accept the appeal.

The present 2003 Watsonville Emergency Response Fee Ordinance is only on land lines and capped at \$2.05 per month per residential account with an automatic cost of living adjustment. If approved by the voters, this measure would impose a general tax of \$2.05 per month on all telephone lines, cellular, land lines and voice over internet protocol (VoIP) but no automatic cost of living adjustment. The money would be deposited into the General Fund and be available to pay for general City operations and payments to the 9-1-1 Center.

The City's Administrative Services Director has prepared a separate fiscal impact analysis describing the financial impact of the proposed general tax measure as contrasted with the existing Emergency Response Fee ordinance.

This measure is a general tax and therefore requires a simple majority vote to pass.

s/ Alan J. Smith
City Attorney

FISCAL IMPACT STATEMENT BY CITY
ADMINISTRATIVE SERVICES DIRECTOR
MEASURE C

The City of Watsonville adopted Chapter 3-15 of Title 3 entitled "Emergency Response Fee" which became effective November 13, 2003. Phone providers collect the fee and remit the amounts to the City. The collections are held in a separate, audited fund and transferred into the General Fund to fund the 911 Emergency Center operating costs. The 911 Center was created in 1991 and provides 100% of the emergency dispatch services to Watsonville residents.

The audited financial statements for the fiscal year ending June 30, 2007 disclosed that the City's total Emergency Response Fee collections were \$ 415,571. The projections for 2008/09 collections are \$415,000 or just over a third of the \$1.2 million 911 Center costs to be paid by the City for 2008/09.

Federal Communication Commission rules will require the 911 Center to replace its analog equipment with digital over the next five years. The future annual debt service costs to fund the upgrade in communications equipment are estimated to be in the range of \$500,000 to \$600,000 to the City. Therefore, the City's future annual cost for the 911 Center support, including nominal cost of living increases, will increase from the current \$1.2 million to approximately \$1.8 million to \$1.9 million.

If approved by the voters, Measure C would add a new City Municipal Code Chapter 3-15 entitled "Tax on City Telephone Subscribers" and repeal the existing Chapter 3-15 "Emergency Response Fee." The tax would keep the same per line rate of \$2.05 per month as the current Emergency Response Fee but would be extended to include all forms of communications, including land lines, cellular phones, and voice over internet protocol (VoIP), would remove the cap on residential and business lines, and would remain at a fixed rate (versus the current fee that automatically increases with the cost of living). The tax would keep in place the current exemptions for Lifeline (low-income) customers, coin-operated telephones, and non-profit education or government organizations.

It is estimated that the tax would generate about \$800,000 to \$900,000 annually in new General Fund revenue which would be offset by the repeal of the Emergency Response Fee which would result in a loss of \$415,000 annually in General Fund resources.

If approved by the voters, the new tax structure would likely be implemented by communication service providers within 90 days. It would be expected that the first collections would be received by the City in April of 2009.

s/ Marc A Pimentel
Administrative Services Director
City of Watsonville

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ARGUMENT IN FAVOR OF MEASURE C

In an emergency, every second counts. When you place a call to a 9-1-1 emergency call center, you expect an operator to answer immediately and help to arrive within minutes.

When someone's life or health is at risk, the first few minutes are the ones that matter most. Public safety personnel depend on the dispatch alert of 9-1-1 centers so they can respond immediately in the event of a medical emergency, fire, crime or natural disaster.

Funding for 9-1-1 call centers and emergency response is essential for public safety. Based on a recent court decision affecting cities and counties throughout the state, the City must now pay its share of the countywide 9-1-1 center through the General Fund, which is used primarily to pay for public safety costs.

Measure C restores funding for emergency response that has been in effect since 2003. If Measure C fails, it will result in significant cuts to City resources including public safety. Precious moments could be lost in responding to emergency calls.

Measure C will allow our City to maintain high-quality emergency services without taking money away from other critical services.

Vote Yes on Measure C.

Measure C supports prompt emergency response times in the event of a medical emergency, fire, crime or natural disaster.

Without Measure C, we would have to choose between emergency service reductions and other public safety or essential services.

Measure C will allow the 9-1-1 center to upgrade critical radio and other technical equipment.

Low-income Lifeline customers and public institutions, like schools, will not have to pay for Measure C.

We know that when you dial 9-1-1 every second counts. Vote Yes on Measure C.

s/ Terry Medina
Chief of Police

s/ Betty Bobeda
Former Mayor

s/ Christopher N Valdivia
Acute Dialysis Nurse

s/ Deloris Crain
Operations Coordinator 911 Emergency Center
Bay Village Resident

s/ Rick Pettigrew
Watsonville Fire Capt.

ARGUMENT AGAINST MEASURE C

NO! Don't just take our word on it. Read the measure for yourself so you can see what this is really about.

Read Sec. 3-15.040 of the measure to see that it is a "general tax intended by the City Council to generate revenue for general City governmental purposes..." The key words in this phrase are "general tax" which means the city decides where to spend the money. That's right: this tax is NOT specifically dedicated for 911 Service.

We dare you to find any wording within the measure that guarantees the tax will be used to fund 911 Service. Go ahead, we dare you.

The City Council could have proposed this Phone Tax as a Special Tax to be solely devoted for 911 Service, but instead, they wanted it to be a "general tax." This means the City Council can spend this phone tax on other things and then come back sponsoring another tax to get you to pay for 911 all over again. We all like and support 911 Service, but the way this tax is being proposed, the decision on where the tax will be spent is left to the City Council. Are you really going to trust the politicians on such a matter?

You can be sure the politicians will declare that this proposal is not an increase in taxes. This is not true. Cell-phone subscribers are not required to pay the existing 911 Phone Fee. Under this proposed measure, cell-phone subscribers will be hit with the tax for the first time and people with extra phone lines will pay the tax on those extra lines as well.

Don't fall for it, vote NO on Measure C.

s/ Nick Bulaich
Watsonville Resident

s/ Janice Kowalkowski
Watsonville Resident