

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

E To protect public health and the environment by reducing pollution, trash, toxics and dangerous bacteria in our river, bay and ocean; helping to keep beaches clean; protecting fish and wildlife habitat; shall the City of Santa Cruz adopt a Clean River, Beaches and Ocean Tax, with revenues spent locally under independent citizen oversight? The annual rates will be \$28 for single-family parcels, \$94 for other developed parcels, and \$10 for undeveloped parcels.

FULL TEXT OF BALLOT MEASURE E

Chapter 3.14

CLEAN RIVER, BEACHES AND OCEAN TAX ORDINANCE

THE PEOPLE OF THE CITY OF SANTA CRUZ DO ORDAIN AS FOLLOWS:

SECTION 1. Clean River, Beaches and Ocean Tax Ordinance. Chapter 3.14 of the Santa Cruz Municipal Code, entitled "Clean River, Beaches and Ocean Tax Ordinance," is hereby enacted and shall read as follows:

3.14.010 Title and Purpose

This Chapter may be cited as the "Clean River, Beaches and Ocean Tax Ordinance."

3.14.020 Definitions

The following words and phrases whenever used in this Chapter shall be construed and defined in this Section as follows:

- (a) "Director" shall mean the Director of Public Works, or his/her designee.
- (b) "Owner" shall mean the legal owner of any parcel of real property, except when the legal owner of the real property is such due to the holding of a mortgage, note or other security, in which case the "owner" shall be deemed to be the beneficial owner of said parcel of real property.
- (c) "Parcel" shall mean the smallest, separately segregated lot, unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given an assessor's identification number by the County of Santa Cruz Tax Assessor.
- (d) "Parcel Size" shall mean the size of the Parcel measured in acres.
- (e) "Possessory Interest" shall mean possession of, claim to, or right to the possession of, land or improvements and shall include any exclusive right to the use of such land or improvements.
- (f) "Single Family Dwelling" shall mean a developed tax parcel with one single family housing unit, and not more than one additional permitted accessory dwelling unit.

3.14.030 Necessity, Authority, and Purpose

- (a) The City Council of the City of Santa Cruz hereby finds:
 - (1) that the reduction of pollution, trash, toxics and dangerous bacteria in our streams, river, bay, ocean and on our beaches is necessary to protect public health and safety, to protect fish and wildlife habitat, to protect the environment, and to protect the quality of life and economic vitality of the City;
 - (2) that the City is mandated, under federal and state law, to protect water quality and reduce water pollution associated with runoff from streets and properties in the City;
 - (3) that the cost for programs and projects necessary to reduce and prevent water pollution at the level required exceeds the amount of revenues available from other sources;
 - (4) that additional revenues are needed to fund improved management practices for protection of watersheds and water quality; maintenance, capital improvements, environmental restoration, and upgrades to stormwater collection, convey-

ance, management and treatment systems; implementation of stormwater best management practices; and public education and outreach activities to prevent and reduce pollution.

(5) that the levy of a city-wide special tax as hereinafter provided is necessary to fund the foregoing municipal improvements and services.

(b) This Ordinance was approved by the voters of the City at the consolidated State general election held on November 4, 2008 by the following vote:

Yes: _____ No: _____

Accordingly, the City of Santa Cruz Clean River, Beaches and Ocean Ordinance (the "Tax") is levied under this Chapter pursuant to the City's Charter, Government Code Section 50075 et seq., and other applicable laws.

3.14.040 Tax Levy

The Tax as set forth in this section 3.14.040 is hereby levied as follows, commencing the fiscal year 2008-2009, on all Parcels, improved or unimproved, within the boundaries of the City.

- (a) For each Parcel which is a Single Family Dwelling, the annual Tax rate shall be twenty-eight dollars (\$28).
- (b) For each developed Parcel that is not a Single Family Dwelling, the annual Tax rate shall be ninety-four dollars (\$94).
- (c) For each undeveloped or park Parcel that is not a Single Family Dwelling, the annual Tax rate shall be ten dollars (\$10).
- (d) The Tax imposed by this Chapter shall be assessed to the owner unless the owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of the Possessory Interest in such Parcel, unless such holder is also by law exempt from taxation.
- (e) For the purposes specified in section 3.14.050 below, the Tax shall be levied so long as it is necessary to pay for any financing of capital improvements, and so long as necessary for services as specified in section 3.14.050.
- (f) The Tax is levied pursuant to California Government Code Section 50075 et seq. and is a tax upon each Parcel of property.
- (g) The amount of the Tax is not measured by the value of the Parcel.

3.14.050 Purposes and Uses of Tax

- (a) There is hereby established a special segregated fund entitled "Clean River, Beaches and Ocean Parcel Tax Fund" to be maintained and administered by the City.
- (b) Proceeds of the tax, together with any interest and penalties thereon (collectively, the "Tax Proceeds"), shall be collected each fiscal year and deposited in said special fund, and shall be used exclusively for the purpose of reducing and preventing water pollution and managing stormwater runoff, including but not limited to, improved management practices for protection of watersheds and water quality; maintenance, capital improvements, environmental restoration, and upgrades to stormwater collection, conveyance, management and treatment systems; implementation of stormwater best management practices; and public education and outreach activities to prevent and reduce water pollution; as well as complying with local, state, and federal stormwater regulations and paying for, or securing the payment of, any indebtedness incurred for these purposes, and any and all other purposes as more fully discussed therein.

(c) The Tax Proceeds may also be used to enforce and administer the Tax, including costs for submission of any measure to the voters for the establishment or alteration of the Tax, and any costs that may be assessed by the County of Santa Cruz in connection with the collection of the Tax.

3.14.060 Exemptions

- (a) The Tax imposed by this Chapter shall not be construed as imposing a tax upon any person when the imposition of such tax upon that person would be in violation of either the Constitution of the United States or the Constitution of the State of California.

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.

3.14.070 Computation and Collection of Tax; Interest and Penalties

(a) The Director or his/her designee or employee is hereby authorized and directed each fiscal year, commencing with the fiscal year 2008-2009, to determine the Tax amount to be levied for the next ensuing fiscal year for each taxable parcel of real property within the City, in the manner and as provided in Section 3.14.040. The City Finance Director is hereby authorized and directed to provide all necessary information to the Auditor-Controller of the County of Santa Cruz to affect proper billing and collection of the Tax, so that the installments of the Tax shall be included on the secured property tax roll of the County of Santa Cruz. Unless otherwise required by the Council, no Council action shall be required to authorize the annual collection of the Tax as herein provided.

(b) The Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes collected by the County of Santa Cruz; provided, however, that the Council may provide for other appropriate methods of collection of the Tax.

(c) The Tax shall constitute a lien upon the Parcel upon which it is levied until it has been paid. Any unpaid Tax due under this Chapter shall be subject to all remedies provided under the City's Municipal Code and as provided by law.

3.14.080 Accountability; Citizen's Oversight Committee

(a) Pursuant to Sections 50075.1 and 50075.3 of the California Government Code, the specific purposes of the Tax and the requirement that the Tax proceeds be applied to such purposes and the establishment of a special fund for the Tax proceeds are as set forth in section 3.14.050. So long as the Tax is collected hereunder, commencing no later than July 1, 2010, the Finance Director is hereby authorized and directed to cause to be prepared and filed with the Council a report that shows the amount of Tax collected and expended and the status of any projects funded with the Tax Proceeds. For purposes of this section, the Finance Director is authorized to retain such consultants, accountants or agents as may be necessary or convenient to accomplish the foregoing.

(b) The Council shall designate a citizen's oversight committee to review the use of the Tax Proceeds. The membership, scope and responsibilities of the Citizen's Oversight Committee shall be determined by the Council in its exercise of discretion.

3.14.090 Examination of Books and Records and Annual Audit

(a) The Finance Director or Director of Public Works or their designee, is hereby authorized and directed to examine assessment rolls, property tax records, records of the Santa Cruz County Recorder and any other records of the County of Santa Cruz deemed necessary in order to determine ownership of parcels and computation of the Tax.

(b) A certified public accounting firm retained by the City will perform an annual audit to assure accountability of the proper disbursement of these Tax Proceeds in accordance with the objectives stated herein.

3.14.100 Property Tax

(a) This special parcel tax is a property tax and qualified property owners and renters shall be entitled to the benefits of the Gonsalves-Deukmejian-Petris Senior Citizen's Property Tax Assistance Law (California Revenue & Taxation Code Section 20501 et seq.) and the Senior Citizens and Disabled Property Tax Postponement Law (California Revenue & Taxation Code Section 20581 et seq.).

3.14.110 Refund of Tax, Penalty, or Interest Paid More Than Once, or Erroneously or Illegally Collected

(a) When the amount of the Tax, any penalty, or any interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded provided a verified claim in writing therefore, stating the specific grounds upon which the claim is founded, is filed with the Finance Director within one (1) year from the date of payment. If the claim is approved by the Finance Director, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the

person from whom it is collected or by whom paid, and the balance may be refunded to such person, his/her administrators or executors.

3.14.120 Savings Clause

The provisions of this Chapter shall not apply to any person, or to any property as to whom or which it is beyond the power of the City to impose the Tax herein provided. If any provision, sentence, clause, section or part of this Chapter is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such provision, sentence, clause, section or part of this Chapter and shall not affect or impair any remaining provisions, sentences, clauses, sections or parts of this Chapter. It is hereby declared to be the intention of the City that this Chapter would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

3.14.130 Regulations

The Finance Director is hereby authorized to promulgate such regulations as she or he shall deem necessary in order to implement the provisions of this Chapter.

3.14.140 Increase Appropriations Limit

Pursuant to California Constitution Article XIII B, the appropriations limit for the City of Santa Cruz is hereby increased by the aggregate sum authorized to be levied by this Tax for the fiscal year 2008-2009 and each year thereafter.

SECTION 2. Amendment or Repeal. The City Council is hereby authorized to adopt additional provisions consistent with the intent of this Ordinance and to amend the provisions of this Ordinance without voter approval, provided such amendments do not extend the Tax to a taxpayer not subject to the Tax or increase the amount of the Tax beyond the amount authorized by this Ordinance. Any amendment to this Ordinance which extends the Tax to a taxpayer who would otherwise not be subject to it or increase the amount of Tax beyond the tax rates authorized by this Ordinance must be approved only by a vote of the qualified voters of the City.

SECTION 3. Severability. If any provision, section, paragraph, sentence or word of this Ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance, and their application to other persons or circumstances shall not be affected thereby and shall remain in full force and effect and to that end the provisions of this Ordinance are severable.

SECTION 4. Effective Date. This Ordinance relates to the levying and collecting of the Tax by the City and shall be in full force and effect ten (10) days after the certification by the City Council of the election returns indicating passage of the Ordinance by two-thirds of the voters casting votes in the election.

PASSED AND ADOPTED this 22nd day of July, 2008, by the following vote:

AYES: Councilmembers Robinson, Porter, Reilly, Rotkin, Madrigal, Vice Mayor Mathews; Mayor Coonerty.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

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.

IMPARTIAL ANALYSIS BY CITY ATTORNEY
BALLOT MEASURE E

PROPOSED CITY OF SANTA CRUZ CLEAN RIVER, BEACHES AND OCEAN TAX

This ballot measure, if adopted by the voters, would result in the imposition of a special parcel tax on each parcel of property in the City of Santa Cruz. The tax would not be imposed upon parcel owners who are exempt from local taxation by virtue of the United States or California Constitution. The tax proceeds would be deposited into a special segregated "Clean River, Beaches and Ocean Parcel Tax Fund" to be maintained and administered by the City. Tax proceeds would be used exclusively for the purposes of: reducing and preventing water pollution and managing stormwater runoff, including but not limited to, improved management practices for protection of watersheds and water quality; maintenance, capital improvements, environmental restoration and upgrades to stormwater collection, conveyance, management and treatment systems; implementation of stormwater best management practices; public education and outreach activities intended to prevent or reduce water pollution; compliance with local, state and federal stormwater regulations; and underwriting costs associated with the administration, enforcement and amendment of the subject tax ordinance.

The ballot measure proposes the following annual parcel taxation rates:

- parcels developed with a single family dwelling: \$28 per year
- parcels developed for uses other than single family dwelling: \$94 per year
- vacant parcels/park parcels: \$10 per year

The tax would be levied so long as tax revenue is necessary to pay for any financing of capital improvements undertaken to obtain the objectives for which the tax is levied or as long as tax revenue is necessary to underwrite any services undertaken for which the tax is levied.

The tax ordinance would require the City Council to designate a citizens' oversight committee to review the ongoing use of tax proceeds, would require the City's Finance Director to file annual reports with the City Council summarizing the amount of tax proceeds collected and expended as well as the status of any projects funded with tax proceeds, and would require an annual audit by an independent public accounting firm to assure the proper disbursement of tax proceeds in accordance with the objectives and purposes of the tax ordinance.

The City Council is proposing the tax on the basis of its finding, among others, that the reduction of pollution, trash, toxics and dangerous bacteria in our streams, river, bay, ocean and on our beaches is necessary to protect public health and safety, to protect fish and wildlife habitat, to protect the environment, and to protect the quality of life and economic vitality of the city.

This ballot measure proposes a "special purposes tax" rather than a "general tax" and therefore requires a two-thirds (2/3) majority for adoption.

Date: August 8, 2008

s/ John G. Barisone
City Attorney

FISCAL IMPACT STATEMENT BY CITY FINANCE DIRECTOR
BALLOT MEASURE E

PROPOSED CITY OF SANTA CRUZ CLEAN RIVER, BEACHES AND OCEAN TAX

The proposed Clean River, Beaches and Ocean Tax, if approved by voters, will be first levied on January 1, 2009, and will be first collected in connection with the annual County tax bills issued in November 2009. It will subsequently be assessed and collected on the same dates during all subsequent years that the tax ordinance is in effect. If adopted by the voters during the City's 2008-2009 fiscal year, the tax ordinance will have no retroactive effect and will be applied prospectively commencing on January 1, 2009. The tax will produce approximately \$626,000 for the 2009-2010 fiscal year and approximately the same amount for each year thereafter. Revenues generated would be used exclusively for the purpose of reducing and preventing water pollution and managing stormwater runoff, as well as complying with local, state and federal regulations relating to the aforementioned purpose.

s/ Sandra Benoit
Finance Director
City of Santa Cruz

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.

ARGUMENT IN FAVOR OF MEASURE E

We love Santa Cruz for its beaches, ocean and natural beauty. Our local economy and community's health depend on protecting this beautiful environment.

Each year our streets and parking areas produce pollutants which enter the river and ocean. It's time to prevent and treat this pollution in order to protect our public health, fish and wildlife.

- **Measure E** will help keep our water clean, protect our children and families, and reduce contamination of our river, beaches and ocean by dangerous bacteria and toxic substances.
- **Measure E** will improve our storm drains and reduce stormwater pollution before it reaches the beaches and the Monterey Bay Marine Sanctuary.
- **Measure E** will help prevent pollution in the San Lorenzo River, provide for removing trash and debris, and help restore its natural environment.
- **Measure E** keeps ocean waters cleaner for surfers, swimmers, and all ocean activities.

Strict new state regulations have increased the requirements for clean-up of beaches and ocean pollution. Measure E allows our community to continue its leadership in protecting our beaches, ocean and river. Without Measure E, cuts in other vital services will need to be made as the City fulfills these new requirements.

Measure E is an investment in our community's future. It will fund engineering, cleaning and restoration projects to ensure that our commitment to clean ocean, beaches and river continues for future generations.

All the funds raised by Measure E will be subject to review by an **independent Citizen's Oversight Committee**, and will be spent in our community.

Surf City needs your help. Join us in voting Yes on Measure E to protect the unique and priceless environment we call home.

Vote Yes on Measure E — for today and the future.

s/ Jack O'Neill
O'Neill Wetsuits, O'Neill Sea Odyssey

s/ Laura J. Kasa
Executive Director, Save Our Shores

s/ Joseph Marini
President Marinis At The Beach

s/ Lisa C. Sloan
Professor of Earth & Planetary Sciences;
Director, Climate Change and Impacts Laboratory

s/ Fred Keeley
Trustee, California Ocean Science Trust

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE E

Beach closures and contamination warnings at Cowell and Main Beach resulting from polluted runoff are as frequent as ever, even though we have been paying a Stormwater Fee since 1994 for essentially the same purposes as those mentioned to justify this new Tax. It has not been shown that it is a lack of money that has prolonged this unhealthy situation.

This Tax was drafted with no public participation. It has been sprung on the public, with the promise that adding a new Tax on top of an existing Fee is going to meet lofty, but vague, environmental goals.

The proponents' argument that there will be a Citizen's Oversight Committee rings hollow because the Committee will not have the ultimate decision-making power.

Some think that this new tax will bring environmental progress, but which specific improvements will it actually deliver? In the case of the present Stormwater Fee, its foremost purpose was "to improve water quality of surface water and stormwater runoff," but instead the Fee was redirected to fund, mostly, replacement/retrofit of bridges. This new Tax may suffer the same fate.

Here is an alternate plan: instead of a new Tax for nonspecific generalities, let us use the revenue from the existing Stormwater Fee for specific pollution abatement projects for the next few years; show visible results; identify and plan specific projects for the longer term, and then evaluate whether additional tax revenue is truly needed.

Until then, vote NO.

s/ Aldo Giacchino

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.

ARGUMENT AGAINST MEASURE E

While we certainly need to reduce storm water pollution, the purposes of these Tax dollars are nonspecific. The first priority is to develop specific plans, with public input, and evaluate the available/additional fiscal resources needed. Through this Special Tax the City reverses the process. It taxes us first, then determines what to do.

The City already imposes a Fee to fund stormwater runoff projects. The "Santa Cruz City Storm Water Enterprise Utility Fee" has been on our property tax bills since 1994. It has been used to improve San Lorenzo River bridges and levees, but it has not produced any visible storm water pollution abatement. Now that the bridges and levees are restored, this existing Fee should fund stormwater projects, as originally promised. The new Tax is a ruse to get additional money, on top of the existing levy, without any specific improvement guarantee.

Runoff is largely caused by factors such as parcel size, area covered by buildings and pavement. The existing Fee recognizes this through a non-single-family dwelling rate of \$261.08 per acre. The proposed new Tax is arbitrary and does not consider parcel size. The rate for shopping centers, big box stores, commercial, industrial, and parking lots, is only a flat \$94 per parcel, while the rate on single family dwellings is \$28. By failing to give proportionate weight to the factors that generate runoff, the proposed Tax is grossly discriminatory against single family dwellings.

This Measure imposes the Tax for the fiscal year which began last July, even though voters will not vote on it until November. The retroactive imposition of the tax violates the constitutional provision (Art. 13C) that no Special Tax may be imposed until approved by the voters.

Vote No. Insist on a fair program and specific deliverables. No more blank checks.

s/ Aldo Giacchino

REBUTTAL TO ARGUMENT AGAINST MEASURE E

Respected voices from business, environmental and community organizations agree;

Measure E demonstrates sound planning for environmental protection. Over the years, Santa Cruz has made steady progress in protecting our river, ocean and beaches, based on thorough environmental and engineering work plus extensive public process.

Measure E will fund NEW environmental cleanup measures required by the California Water Quality Board and Federal Environmental Protection Agency.

The existing Stormwater Fee has a dual purpose: flood control and stormwater cleanup. Since 1994 this fee has helped fund San Lorenzo River levee improvements, reconstruction of bridges to reduce flooding hazard, and related projects. \$4.5 million generated by this fee has leveraged over \$60 million in state and federal funds to benefit our community and environment.

Unfortunately, inflation since 1994 has severely limited the existing Stormwater Fee's ability to fund new, necessary water quality measures. The City has developed a detailed Stormwater Management Program for future work. (<http://www.ci.santa-cruz.ca.us/pw/Stormwater2008/index.html>.) With State approval, this plan will guide spending of Measure E funds.

Measure E is fiscally responsible. It creates a separate fund to ensure that revenues are spent appropriately. An independent Citizens Oversight Committee ensures the cost-effectiveness of required pollution prevention and cleanup. And contrary to opponents' claims, Measure E is not retroactive; it won't appear on tax statements until 2009.

The modest flat rate structure reflects shared responsibility for water cleanup costs. It's a reasonable solution for necessary protection of our watersheds, river, beaches and ocean.

Vote YES on E.

s/ Dan Haifley
Co-chair, Clean Water Campaign

s/ Mary Silver
Prof. UCSC-Ocean Sciences

s/ Laura Kasa
Executive Director, Save Our Shores

s/ Stefano Carniglia
Owner Carniglia's on the Wharf

s/ Nik Strong-Cvetich
Associate Director Coastal Watershed Council