

**FULL TEXT OF MEASURE D
ORDINANCE NO. 3281
ORDINANCE SUBMITTING TO VOTERS
IMPOSITION OF CAMPING FACILITY USE TAX**

The Board of Supervisors of the County of Santa Cruz do ordain as follows:

SECTION I

SUBMISSION OF SPECIAL TAX FOR VOTER APPROVAL. The Board of Supervisors of the County of Santa Cruz hereby submit an ordinance for enactment of an ordinance adding Chapter 7.07 to the Santa Cruz County Code to impose a special tax on camping facility use (excluding organized camps) in the unincorporated portion of the County of Santa Cruz at the rate of eight percent of the rent charged for use of a camping facility. Such ordinance shall be submitted to the voters of the unincorporated portion of the County of Santa Cruz on November 2, 1982, and upon approval of two-thirds of the votes cast by the voters voting upon said measure, shall take effect on January 1, 1983.

SECTION II

ORDINANCE IMPOSING CAMPING FACILITY USE TAX UPON VOTER APPROVAL. Upon voter approval as described in Section I hereof, Title VII of the Santa Cruz County Code is hereby amended by adding Chapter 7.07 thereto, said new Chapter to read:

**CHAPTER 7.07
CAMPING FACILITY USE TAX**

Sections:

- 7.07.010 Title
- 7.07.020 Definitions
- 7.07.030 Tax Imposed
- 7.07.035 Exemptions
- 7.07.040 Operator's Duties
- 7.07.050 Registration
- 7.07.060 Reporting and Remitting
- 7.07.070 Penalties and Interest
- 7.07.080 Determination of Tax Upon Failure to Collect and Report Tax
- 7.07.090 Appeal
- 7.07.100 Records
- 7.07.110 Refunds
- 7.07.120 Actions to Collect
- 7.07.130 Violations; Misdemeanor

7.07.010 TITLE. This Chapter shall be known as the Camping Facility Use Tax of the County of Santa Cruz.

7.07.020 DEFINITIONS. Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter.

(a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(b) "Camping Facility" means land or premises which are issued or intended to be used, let or rented for occupancy by campers traveling by vehicles or otherwise, or for occupancy by tents or similar quarters, excluding organized camps as defined at County Code Section 11.60.020.

(c) "Occupancy" means the use or possession or the right to the use or possession of any camping facility or portions thereof, for dwelling, lodging or sleeping purposes.

(d) "Camper" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a camping facility shall be deemed to be a camper until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a camper, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be used.

(e) "Rent" means the consideration charged, whether or not received, for the occupancy of space in a camping facility valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

(f) "Operator" means the person who is proprietor of the camping facility whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(g) "Tax Administrator" means the County Tax Collector.

7.07.030 TAX IMPOSED. For the privilege of occupancy in any camping facility, each camper is subject to and shall pay a tax in the amount of eight percent (8%) of the rent charged by the operator. Said tax constitutes a debt owed by the camper to the

County which is extinguished only by payment to the operator or to the County. The camper shall pay the tax to the operator of the camping facility at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon camper's ceasing to occupy space in the camping facility. If for any reason the tax due is not paid to the operator of the camping facility, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator. The Board of Supervisors shall be authorized to establish the amount of the special tax at below the rate set forth in this section prospectively on an annual basis.

7.07.035 EXEMPTIONS. The provisions of this Chapter shall not apply to use of a camping facility owned or operated by a private non-profit organization which is tax exempt under state and federal law, and used for religious, educational or charitable purposes.

The provisions of this Chapter shall not apply to use of a camping facility which is subject to the Transient Occupancy Tax set forth at Chapter 7.05 of the Santa Cruz County Code.

7.07.040 OPERATOR'S DUTIES. Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every camper. The amount of tax shall be separately stated from the amount of the rent charged, and each camper shall receive a receipt for payment from the operator. No operator of a camping facility shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

7.07.050 REGISTRATION. Within 30 days after the effective date of this Chapter, or within 30 days after commencing business, whichever is later, each operator of any camping facility renting occupancy to campers shall register said camping facility with the Tax Administrator.

7.07.060 REPORTING AND REMITTING. Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for camper occupancies. At the same time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any operator if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the County until payment thereof is made to the Tax Administrator.

7.07.070 PENALTIES AND INTEREST.

(a) **Original Delinquency.** Any operator who fails to remit any tax imposed by this ordinance within the time required shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of tax.

(b) **Continued Delinquency.** Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the ten percent (10%) penalty first imposed.

(c) **Fraud.** If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs (a) and (b) of this section.

(d) **Interest.** In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof on the amount of the tax exclusive of penalty, from the date on which the remittance first became delinquent until paid.

(e) **Penalties, Interest and Costs Merged with Tax.** Every penalty imposed, all interest due and all costs incurred under the provisions of this section shall become a part of the tax herein required to be paid.

7.07.080 DETERMINATION OF TAX UPON FAILURE TO COLLECT AND REPORT TAX.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this Chapter, any report and remittance of said tax or any portion thereof required by this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in

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said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in Section 7.05.090.

7.07.090 APPEAL. Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the County Clerk within 15 days of the serving or mailing of the determination of tax due. The Board of Supervisors shall fix a time and place for hearing such appeal, and the County Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Board of Supervisors shall be final and conclusive and shall be served upon the applicant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

7.07.100 RECORDS. It shall be the duty of every operator liable for the collection and payment to the County of any tax imposed by this Chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of any payment to the County, which records the Tax Administrator shall have the right to inspect at all reasonable times.

7.07.110 REFUNDS.

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the County under this Chapter, it may be refunded as provided in subparagraphs (b), (c) and (d) of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The Claim shall be on forms furnished by the Tax Administrator.

(b) An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a camper; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the camper or credited to rent subsequently payable by the camper to the operator.

(c) A camper may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the County by filing a claim in the manner provided in subparagraph (a) of this section, but only when the tax was paid by the camper directly to the Tax Administrator, or when the camper, having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the camper has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

7.07.120 ACTIONS TO COLLECT. Any tax required to be paid by any camper under the provisions of this Chapter shall be deemed a debt owed by the camper to the County. Any such tax collected by an operator which has not been paid to the County shall be deemed a debt owed by the Operator to the County. Any tax which an operator has failed to collect wilfully or negligently or by failure to carry out the duties hereunder required, and any interests, penalties or costs thereon shall be deemed a debt owed the County by such operator. Any person owing money to the County under the provisions of this Chapter shall be liable to an action brought in the name of the County of Santa Cruz for the recovery of such amount.

7.07.130 VIOLATIONS: MISDEMEANOR Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment.

Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid.

SECTION III

SEVERABILITY. If any part of the ordinance set forth at Section II is for any reason declared invalid by final judgment of any court, such judgment shall not affect the remaining portion of the ordinance. The people of the unincorporated portion of the County of Santa Cruz hereby declare that they would have adopted the ordinance and each and every section, subsection, sentence, phrase, clause or part thereof, irrespective of whether any one or more of said parts may be declared invalid.

SECTION IV

AMENDMENT. The Board of Supervisors may from time to time amend the provisions of Chapter 7.07 of the Santa Cruz County Code, provided that the rate of tax shall not be amended to exceed eight percent (8%) except by voter approval in accordance with law.

IMPARTIAL ANALYSIS OF MEASURE D CAMPING FACILITY USE TAX

Existing law authorizes the County of Santa Cruz to impose a special tax if two-thirds of the voters approve. There is no existing special tax on use of camping facilities.

If approved by the voters, the proposed special tax on use of camping facilities would operate as follows. A special tax on the privilege of occupancy by each camper in a camping facility in the unincorporated portion of the County of Santa Cruz would be imposed effective January 1, 1983 at the rate of eight percent (8%) of the rent charged by the operator. Organized camps as defined at Santa Cruz County Code Section 11.60.020 would be excluded from the special tax. The tax would be collected and remitted by the camping facility operator. The measure would establish a system for registration, reporting and remitting, penalties and interest, record keeping, appeals, refunds, and actions to collect. Violation of the ordinance establishing the special tax on camping facility use would be a misdemeanor. The Board of Supervisors would be authorized to amend the ordinance except that the tax rate could not be amended to exceed eight percent (8%) without voter approval in accordance with law. The Board of Supervisors would be authorized to establish the amount of the special tax at below eight percent (8%) prospectively on an annual basis.

CLAIR A. CARLSON, COUNTY COUNSEL
s/ JONATHAN WITTWER
Assistant County Counsel

ARGUMENT IN FAVOR OF MEASURE D

INTRODUCTION

The new tax proposed in this Measure will make our existing Transient Occupancy Tax system more equitable, and will close a kind of "loophole" in the present system.

THE PRESENT SYSTEM

Presently, an 8% Transient Occupancy Tax is charged to all visitors to the unincorporated portions of Santa Cruz County who stay in hotel or motel rooms, or in single-family rentals.

The present tax is reasonable. Visitors use various County services and facilities. For instance, visitors use our law enforcement services, litter clean-up services, drive on our roads, and use our parks. It's only fair to ask visitors to help pay for the services they use. The existing Transient Occupancy Tax applies only to visitors, not to County residents.

THE "LOOPHOLE"

A kind of "loophole" exists in our present Transient Occupancy Tax system. Only those who stay in hotel or motel rooms, or in single-family rentals or the like have to pay the tax. Visitors who use commercial camping facilities do not have to pay the tax, even though they also use County services.

This Measure will extend the existing 8% tax to visitors who stay in commercial camping facilities, and thus make certain that all visitors are treated equally.

CONCLUSION

Measure D will apply only to visitors, not to County residents. Adoption of the Measure will make our system of Transient Occupancy Taxes more equitable, treating all visitors the same, and will help raise revenues from visitors who are not now helping to pay for services they use. Adoption of this Measure will reduce costs to local taxpayers, and help insure that visitors pay their own way in Santa Cruz County.

s/ DAN FORBUS, Supervisor
First District
s/ GARY A. PATTON, Supervisor
Third District
s/ JOE CUCCHIARA, Supervisor
Fifth District

NO ARGUMENT AGAINST
THIS MEASURE WAS SUBMITTED

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