

Full Text of Measure X (2005 August)

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Franchise Tax Ordinance of the City of Santa Cruz

AN ORDINANCE OF THE CITY OF SANTA CRUZ ADDING CHAPTER 3.26 TO THE SANTA CRUZ MUNICIPAL CODE PERTAINING TO THE FRANCHISE TAX. BE IT ORDAINED By The City Of Santa Cruz As Follows:

Chapter 3.26 -- Franchise Tax

- 3.26.010 Short Title
- 3.26.020 Definitions
- 3.26.030 Franchise Tax Imposition
- 3.26.040 Franchise Tax Rate/Payments
- 3.26.050 Rules and Regulations
- 3.26.060 Penalties
- 3.26.070 Actions to Collect
- 3.26.080 Appeal
- 3.26.090 Refunds

Section 1. Chapter 3.26 is hereby added to the Santa Cruz Municipal Code to read as follows:

3.26.010 Short Title. This Chapter shall be known as the "Franchise Tax Ordinance of the City of Santa Cruz."

3.26.020 Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter:

1. "Person" shall mean any domestic or foreign corporation, firm, association, syndicate, joint-stock company, partnership of any kind, joint venture, club, common-law trust, society, other entity or individual.
2. "City" shall mean the City of Santa Cruz.
3. "Service user" shall mean a person required to pay the tax imposed by this Chapter.
4. "Month" shall mean a calendar month.

3.26.030 Franchise Tax Imposition. There is hereby imposed a franchise tax upon every person in the City who, through the use of City roads, City streets, City pipeline easements or any other easement or right-of-way managed, constructed and/or maintained by the City, receives water service, sewer service, refuse collection/recycling or refuse disposal service in 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.

3.26.040 Franchise Tax Rate/Payments.

The franchise tax shall be paid by service users on a monthly basis and shall be computed as follows: 3% of charges made by the City for water delivered to the service user (including minimum service charge) + 3% of charges made by the City for sewer service received by the service user + 12% of charges made by the City for refuse collection/recycling service received by the service user = service user's total monthly franchise tax. The service user shall remit the tax directly to the City as part of the service user's monthly remittance submitted in response to the City's

monthly unified utility billing for water, sewer and refuse collection/ recycling service.

3.26.050 Rules and Regulations.

1. Taxes which are not remitted by the service user to the City on or before the due date for payment as specified in the City's monthly unified utility billing are delinquent.
2. A service user who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty of ten 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.
3. If the Director of Finance determines that a service user's nonpayment of any remittance due under this Chapter is due 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.
4. Every penalty imposed under the provisions of this section shall become a part of the tax required to be remitted.
5. In addition to the penalties imposed, a service user who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of tax, 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.

3.26.070 Actions to Collect. Any tax required to be paid by a service user under the provisions of this Chapter shall be deemed a debt owed by the service user to the City. 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 and shall also be subject to any applicable judicial, administrative or criminal enforcement action authorized by Title 4 of this Code.

3.26.080 Appeal. A service user aggrieved by any decision of the Director of Finance with respect to the payment or nonpayment of the tax imposed by this Chapter or with respect to the Director of Finance'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 Section 1.16.030 within fifteen days of the serving or mailing of the determination of the tax, interest and/or penalties due. The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to the service user's last known place of address. The findings of the City Council shall be final and conclusive and shall be served upon the appellant either personally or by mail. Any amount found to be due shall be immediately due and payable upon the service of the notice.

3.26.090 Refunds. Whenever the amount of any tax, interest or penalty has been overpaid by a service user or paid more than once by a service user, or has been erroneously or illegally collected or received by the City, it may be refunded to the service user by the City provided a claim in writing therefor, stating under penalty of perjury the specified grounds upon which the claim is founded, is filed with the Director of Finance within three years of the date of payment.