

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

TIn order to limit further reductions in the City's General Fund and in order to recoup funds lost as a result of the repeal of the City's emergency response (911) fee, shall the City impose a tax on City telephone service subscribers in the amount of \$3.49 per land and cellular line per month? The tax would reduce future budget cuts and enable the City Council to allocate additional funding to public safety including 911 Emergency Communication Center services.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA CRUZ ADDING CHAPTER 3.14 TO THE SANTA CRUZ MUNICIPAL CODE PERTAINING TO THE COMMUNICATIONS TAX

BE IT ORDAINED By The City Of Santa Cruz As Follows:

Chapter 3.14 PUBLIC SAFETY COMMUNICATIONS TAX

Sections:

- 3.14.010 Short Title.
- 3.14.020 Definitions.
- 3.14.030 Tax Imposition.
- 3.14.040 Tax Rate/Payments.
- 3.14.050 Tax Collection.
- 3.14.060 Rules And Regulations.
- 3.14.070 Penalties.
- 3.14.080 Actions To Collect.
- 3.14.090 Appeal.
- 3.14.100 Refunds.
- 3.14.110 Suspension Of Tax.
- 3.14.120 Exemptions.

3.14.010 SHORT TITLE.

This Chapter shall be known as the "Public Safety Communications Tax Ordinance of the City of Santa Cruz."

3.14.020 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) "Taxpayer" shall mean a person required to pay the tax imposed by this Chapter.

(4) "Month" shall mean a calendar month.

(5) "Place of Primary Use" shall mean the street address 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.

(6) "Telephone Service Provider" shall mean any person supplying local telephone service, mobile telecommunications service or voice over internet protocol (VoIP) service to any person at any location in the City, including, but not limited to, places of primary use within the City, and may include, without limitation, local exchange carriers, interexchange carriers, competitive access providers, cable television providers offering telecommunication services, mobile telecommunication service providers and any other persons offering direct telecommunication connections between their premises and the premises of a telephone or telecommunication subscriber.

(7) "Telephone Service" shall refer to any of the telephone or telecommunication services referenced in subparagraph (6) above.

(8) "Tax" shall refer to the Public Safety Communications Tax imposed by this Chapter.

3.14.030 TAX IMPOSITION.

There is hereby imposed a tax on every person who subscribes to 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, public safety communication services. This tax is in addition to, and not in lieu of, the Utility Users Tax imposed pursuant to Chapter 3.29 of this Code.

3.14.040 TAX RATE/PAYMENTS.

The tax rate shall be \$3.49 per land and cellular line per month. Unless otherwise specified in the rules and regulations promulgated by the City Finance Director pursuant to Section 3.14.060, the tax shall be paid by taxpayers on a monthly basis.

3.14.050 TAX COLLECTION.

A. Taxpayers shall remit the tax to their telephone service provider. Telephone service providers shall hold tax revenues in trust for the City and shall remit the tax revenues to the City's Finance Department on a monthly basis on or before the last day of the month following the month during which the tax is collected.

B. The tax required to be collected by telephone service providers under this Chapter shall be added and stated separately as the City of Santa Cruz Public Safety Communications Tax in the telephone service provider's billing invoices to the taxpayer.

C. If the amount paid by a taxpayer to a telephone service provider in response to a customer billing invoice is less than the full amount of the charges for telecommunication services made by the telephone service provider and the tax to be collected by the telephone service provider pursuant to the invoice, a proportionate share of both the charges for service and the tax shall be deemed to have been paid.

D. The telephone service provider, at its option, may assess the City a service charge of up to one-eighth of one percent (0.125%) of the tax revenues actually collected by the telephone service provider. The service charge may be deducted from the tax revenues remitted to the City at the time of disbursement by the telephone service provider to the City.

E. The duty to collect the tax from a taxpayer shall commence with bills issued by the telephone service provider on or after the effective date of this Chapter.

3.14.060 RULES AND REGULATIONS.

The City Finance Director shall have power to adopt rules and regulations not inconsistent with the provisions of this Chapter for the purpose of carrying out 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 Finance Director'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.

3.14.070 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 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 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 Finance 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.



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E. In addition to the penalties imposed, a taxpayer 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 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.

3.14.080 ACTIONS TO COLLECT.

Any tax required to be paid by a taxpayer under the provisions of this Chapter shall be deemed a debt owed by the taxpayer to the City. Any person owing or holding taxes due to the City under the provisions of this Chapter shall be liable in 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.

3.14.090 APPEAL.

A taxpayer aggrieved by any decision of the City Finance Director with respect to the payment or nonpayment of the tax imposed by this Chapter or with respect to the Finance 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 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 taxpayer's last known place of address. The findings of the City Council shall be final and conclusive and shall be served upon the taxpayer either personally or by mail. Any amount found to be due shall be immediately payable to the City upon the service of the notice.

3.14.100 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, it may be refunded to the taxpayer 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 City Finance Director within three years of the date of payment.

3.14.110 SUSPENSION OF TAX.

The tax imposed by this Chapter shall be suspended, and therefore neither remitted nor collected, during any time period in which a tax imposed by the Santa Cruz County Emergency Communications Center Joint Powers Authority for the operation and/or capital improvement of the Santa Cruz County Emergency Communications Center is in effect.

3.14.120 EXEMPTIONS.

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

- A. A lifeline 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. City or any other governmental agency.

PASSED AND ADOPTED this 27th day of May, 2008, by the following vote:

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

NOES: None.

ABSENT: None.

DISQUALIFIED: None.



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IMPARTIAL ANALYSIS BY CITY ATTORNEY

PROPOSED CITY OF SANTA CRUZ PUBLIC SAFETY COMMUNICATIONS TAX BALLOT MEASURE T

The City of Santa Cruz, along with the cities of Watsonville and Capitola and the County of Santa Cruz, is a member of the Santa Cruz County Emergency Communications Center Joint Powers Authority, a separate legal entity which constructed, and now operates and maintains, the Santa Cruz County Emergency Communications Center. The Emergency Communications Center provides "911" emergency communication dispatch service for jurisdictions throughout Santa Cruz County with the exception of Scotts Valley.

Since 2003, the City has generated the revenue necessary to pay for its proportionate share of Emergency Communications Center operating and capital costs through the assessment of an emergency response or "9-1-1" fee assessed to telephone users in the City and paid as part of the user's monthly telephone bill. In April 2008, a California appellate court declared that tax revenue must be used to fund 9-1-1 emergency call centers rather than fees of the type historically charged by the City. Accordingly, in the future the City will now pay for its share of Emergency Communications Center costs with money from its General Fund which is also used to pay for other City operations and public safety costs.

This ballot measure, if adopted by the voters, would impose a tax in the amount of \$3.49 per month on every person who subscribes to telephone service within the City. All revenue generated from the proposed tax would be deposited into the City's General Fund and, accordingly, would be available for use by the City to pay for general City operations and public safety services including emergency communication services provided by the City by virtue of its participation in the Santa Cruz County Emergency Communications Center Joint Powers Authority.

The Santa Cruz City Council, in conjunction with its placement of this initiative on the August 2008 ballot, adopted a resolution finding that the addition of Emergency Communications Center cost liability to the City's General Fund will increase the anticipated General Fund budgetary shortfall to a figure approximating \$5,000,000 and that the proposed tax is therefore necessary in order to avoid reducing or eliminating City programs and City services which are paid for with General Fund revenue including governmental services necessary to preserve the health, safety and general welfare of the City's residents, workers and visitors such as public safety services and emergency communication services.

The \$3.49 monthly tax rate corresponds in amount to the \$3.49 per month emergency response fee paid by City telephone users through December 2007.

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

By: John G. Barisone, City Attorney

FISCAL ANALYSIS BY CITY FINANCE DIRECTOR

PROPOSED CITY OF SANTA CRUZ PUBLIC SAFETY COMMUNICATIONS TAX BALLOT MEASURE T

We estimate that the proposed Public Safety Communications Tax, if approved by voters, would produce approximately \$1.2 million for the partial 2008–2009 fiscal year, and approximately \$2.5 million per year thereafter. The number of telephones is variable, so annual revenues will fluctuate.

All revenue generated by the proposed tax would be deposited into the City's General Fund. The City Council has stated that if the tax measure is adopted by the voters it will commit itself during General Fund budget proceedings to using the proceeds of the proposed tax in support of emergency 911 communications services, related plant and equipment, and public safety services. More than 60% of the General Fund is directed to public safety services.

s/ Sandra Benoit
Finance Director
City of Santa Cruz

ARGUMENT IN FAVOR OF MEASURE T

In an emergency, every single 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 stake, the first minutes are the ones that matter most. Those of us who work to save lives every day depend on 9-1-1 call centers to ensure we can respond immediately in the event of a medical emergency, fire or natural disaster.

Funding for 9-1-1 call centers and emergency response is essential for public safety. In accordance with a recent court decision affecting communities throughout the state, the City must now pay its share of the countywide 9-1-1 center through its General Fund, which is also used to pay for other operational and public safety costs.

Measure T restores funding for emergency response that was put in place in 2003, at the same rate that was established in 2003. If Measure T fails, there will be significant cuts to City resources. Precious moments could be lost in responding to emergency calls.

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

Vote YES on Measure T

- **Measure T supports prompt emergency response times** in the event of a medical emergency, fire or natural disaster, like an earthquake.
- Without Measure T, we would have to choose between emergency service reductions and other public safety or essential services.
- Low-income Lifeline customers and public institutions, like schools, will not have to pay for Measure T.
- An **independent citizen oversight committee** will make sure that Measure T funds are spent wisely and appropriately.

We know that when you dial 9-1-1, every second is crucial. **Vote YES on Measure T.**

s/ Melody MacDonald
Emergency Dispatcher; 2008 Red Cross Community Hero

s/ Steve Belcher
Retired Santa Cruz Police Chief

s/ Rob Oatey
President, Santa Cruz Firefighters Association; Paramedic

s/ Linda Koss, RN
Emergency Department Charge Nurse, Dominican Hospital

s/ Kent Benedict, MD
Medical Director, Emergency Medical Services, Santa Cruz County

NO ARGUMENT AGAINST MEASURE T WAS FILED.

