

JUL 21 2016

ORDINANCE NO. 1

SONOMA COUNTY CLERK

AN ORDINANCE OF THE
SONOMA COUNTY LIBRARY IMPOSING A TRANSACTIONS AND USE (SALES) TAX
TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION TO MAINTAIN,
RESTORE AND ENHANCE LIBRARY SERVICES
(4/5 VOTE REQUIRED)

Section 1. TITLE. This ordinance shall be known as the Sonoma County Library Maintenance, Restoration and Enhancement Act. The Sonoma County Library, a joint powers agency, hereinafter shall be called "Library." This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Sonoma. The County of Sonoma shall hereafter be called "County." If approved by the voters, this Ordinance will impose a one-eighth of one percent (0.125%) transactions and use tax to be used exclusively to supplement existing funding for library operations, maintaining and enhancing library hours, programs, acquisitions, construction and modernization throughout the incorporated and unincorporated territory of the County.

Section 2. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the election approving the imposition of the tax imposed by this ordinance, such election to be held on November 8, 2016. The Operative Date shall be April 1, 2017.

Section 3. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, Section 7285.5 of Revenue and Taxation Code, Government Code section 6508 and sections II.B(8) and VI.A(5) of the First Amended and Restated Joint Powers Agreement for the County-Wide Provision of Library Services which authorizes the Library to adopt this tax ordinance to fund library operations, maintain and enhance library hours, programs and purposes described in the attached Expenditure Plan. This ordinance shall be operative if two-thirds (2/3) of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 4. USE OF THE TAX; EXPENDITURE PLAN. After the reimbursement for the costs of the election, as provided in Section 15, and payment for any fee charged by the State Board of Equalization for preparing to administer the tax, revenues from the tax shall be deposited into a special fund and used exclusively to fund projects and purposes described in the Expenditure Plan, attached hereto. Such revenues shall be used only to supplement existing Library funding, provided by a portion of the property tax designated for Library purposes, and shall not be used to supplant existing funding for the support of the Library.

Section 5. CONTRACT WITH STATE. Prior to the operative date, the Library shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Library shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 6. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 7. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 8. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the County of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eighth of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 9. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 10. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of the Sonoma County Library shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, Victim Compensation and Government Claims Board, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against the Library or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 11. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 12. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the County which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the County shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-County address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this County of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7. "A retailer engaged in business in the County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a County imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 13. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 14. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Library, or against any officer of the State or the Library, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 15. ELECTION COSTS. Payment for the costs of the election shall be the responsibility of the Library. If the election is successful, the Library shall be reimbursed for the cost of the election from the proceeds of the tax.

Section 16. ADOPTION OF EXPENDITURE PLAN AND ACCOUNTABILITY FOR EXPENDITURE OF PROCEEDS OF THE TAX. The Library Commission hereby adopts the

Expenditure Plan as set forth in this ordinance. After the reimbursement of the Library for the costs of the election, as provided in Section 15, and payment for any fee charged by the State Board of Equalization for preparing to administer the tax, proceeds of the tax imposed by this ordinance shall be placed in a special account, and shall be spent only to implement the projects set forth in the Expenditure Plan. The Library Commission shall establish an 11 member Citizen Oversight Committee to annually review expenditures and appropriations of the tax revenues to ensure that all such revenues are spent or appropriated for the purposes and uses set forth in the Expenditure Plan. Each member of the Library Commission shall appoint one member of the Committee who shall have a term coinciding with the term of the appointing Library Commission member. The Committee shall receive the assistance of Library staff and shall issue an annual public report on the expenditures and appropriations of the tax revenues.

Section 17. ANNUAL REPORT. The Library Commission shall annually cause to be prepared a report setting forth (a) the amount of funds collected and expended; and (b) the status of any projects authorized to be funded in the Expenditure Plan adopted by the Library in Section 16 herein.

Section 18. INCREASE IN APPROPRIATIONS LIMIT. The appropriations limit of the Sonoma County Library shall be increased by the anticipated amount of revenue generated by the tax to allow spending of the tax for the period allowed by law.

Section 19. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to the State CEQA Guidelines section 15378(b)(4), adoption of this retail transactions and use tax ordinance and Expenditure Plan is not a "project" subject to the requirements of CEQA. Prior to commencement of any project included in the Expenditure Plan, any necessary environmental review required by CEQA shall be completed.

Section 20. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 21. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the Library transactions and use taxes and shall take effect on November 8, 2016 after certification of the vote, if the measure is approved by two-thirds of the electors voting on the measure at the election held that day.

Section 22. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire ten (10) years from the operative date of this ordinance.

PASSED AND ADOPTED by the Library Commission for the Sonoma County Library in the County of Sonoma, State of California, on July 18, 2016, by the following vote:

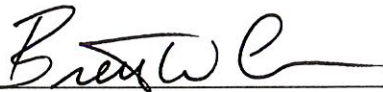
AYES: Tim May, Helena Whistler, Linda Garcia, Reece Foxen, Paul Grill, David Ebright, Paul Heavenridge, Randall Neff, Hilary Smith, Barbara Mackenzie

NOES: None

ABSENT: Joanne Sanders Helena D. Whistler
Chair person

Chairperson

Attest:

A handwritten signature in black ink, appearing to be "Brent W. C.", written over a horizontal line.

(Signature)

Secretary

(Title)

EXPENDITURE PLAN

- A. Proceeds from tax shall be deposited into the County Treasury in a separate, special fund which can only be used to maintain, restore and enhance Library services, materials and facilities in Sonoma County (hereinafter the “Fund”), and not for other purposes.
- B. The revenues collected from the tax shall be used only to supplement existing revenue collected for the Library and shall not be used to supplant existing Library funding.
- C. Monies deposited into the Fund, together with any interest that accrues thereon, shall be used exclusively for library purposes, including maintaining the existing libraries; reversing the deterioration in services at existing libraries, upgrading of facilities, services and collections and to support libraries in the cities of Cloverdale, Healdsburg, Petaluma, Rohnert Park, Cotati, Santa Rosa, Sebastopol, Sonoma, the Town of Windsor, and libraries and library services in the unincorporated areas of the county. Expenditures are intended to provide the residents of Sonoma County with vital, quality libraries comparable to those operated in other Bay Area communities.
- D. Based on feedback received from residents throughout Sonoma County on their priorities for local libraries, the Sonoma County Library Commission has determined the following library service and facility needs to be essential community priorities to be addressed with the proceeds from this Fund. Specific library services and projects for which the revenues from the transactions and use tax may be expended are as follows:
 - a. Supporting library collections, educational programs, and classes for Sonoma County’s school age and pre-school children.
 1. Maintain children’s book and material collections;
 2. Continue reading clubs for children and teens to encourage reading;
 3. Maintain children’s classes and services;
 4. Provide educational programs, including teen homework help, and computer labs;
 5. Maintain children’s story times;
 6. Provide computer labs/classes at all libraries.
 - b. Improving access to local libraries – one of the few places left in the community that benefit everyone – and maintaining library collections.
 1. Keep qualified librarians;
 2. Expand senior and disabled services;
 3. Restore and enhance library hours;
 4. Maintain book, material and digital collections;

5. Extend library service to underserved communities;
6. Keep the new Roseland Library from being closed.

c. Maintaining aging library facilities – many of which are over forty years old – to make them safe, clean and welcoming.

1. Maintain library facilities;
2. Provide safe places for children after school;
3. Keep libraries safe and clean;
4. Provide computer labs, updated technology, and WiFi at all libraries.

E. As provided in sections 4, 15 and 16 of the Ordinance imposing this transactions and use tax, funds from the tax may be used to reimburse the Library for the share of the cost of conducting the election allocated to this measure, and to pay any fee imposed by the State Board of Equalization to administer tax collection.