

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS, COUNTY OF SONOMA, STATE
OF CALIFORNIA, IMPOSING A TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE
ADMINISTRATION

Section 1. TITLE. This ordinance shall be known as the Sonoma County Local Mental Health, Addiction and Homeless Services Measure Transactions and Use Tax Ordinance. The County of Sonoma, hereinafter shall be called "County or District." This ordinance shall be applicable in 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 adoption of this ordinance, the date of such adoption being as set forth below.

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 and Section 7285.5 of Part 1.7 of Division 2 which authorizes the County to adopt this tax ordinance which shall be operative if a (2/3) majority 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 California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration 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.

E. Sonoma County Behavioral Health Services' mission is to promote recovery and wellness to Sonoma County residents through mental health and substance use disorder services across the spectrum, from prevention, early intervention and treatment to aftercare and recovery.

F. Suicide and mental health conditions have become a growing epidemic across the country and in Sonoma County. The current coronavirus pandemic has added additional strain, negatively impacting mental health and creating new barriers for those seeking treatment.

G. Many in Sonoma County are experiencing homelessness or are still healing from the trauma caused by the wildfires. Sixty percent of households are impacted by a mental health condition or opioid use and drug addiction. The lack of necessary mental health resources and substance abuse services has overwhelmed law enforcement and first responders who are left to handle mental health and substance abuse emergencies.

H. At the same time that more and more residents need treatment, budget shortfalls have forced drastic reductions to services. Lack of Federal and State funding has resulted in cuts to essential programs, such as early intervention programs serving children at schools and reductions in the number of beds available at facilities to serve those in a crisis. Additional funding is needed to ensure that those who need it most—children, veterans, seniors, those experiencing homelessness and people facing trauma or drug addiction—have access to the essential care they need.

I. The proposed tax would provide local mental health and addiction services and facilities for children, adults, veterans, seniors and those experiencing homelessness, including: permanent supportive housing, crisis assessment, emergency psychiatric care, early detection and intervention, suicide prevention, and opioid and substance use prevention, treatment and recovery.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the County shall not have contracted with the California Department of Tax and Fee Administration 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 5. 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 District at the rate of one quarter of one per cent (0.25%) 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 6. 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 California Department of Tax and Fee Administration.

Section 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District 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 quarter of one per cent (0.25%) 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 8. 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 9. 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 this County 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, 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 this County or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, 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 "District" 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.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

Section 10. 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 11. 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 District which is shipped to a point outside the District, 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 District 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-District 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-District 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 District 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 District 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 District or participates within the District 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 district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" 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 District.

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 district 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 12. 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 13. 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 County, or against any officer of the State or the County, 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 14. 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 15. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately.

Section 16. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire March 31, 2031.

Section 17. ELECTION COSTS. Payment for the costs of the election shall be the responsibility of the County. If the election is successful, the County shall be reimbursed for the cost of the election from the proceeds of the tax.

Section 18. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION COSTS. Payment for the costs of contracting with the California Department of Tax and Fee Administration for administration of the tax shall be the responsibility of the County. If the election is successful, the County shall be reimbursed for any fee charged by the California Department of Tax and Fee Administration from the proceeds of the tax.

Section 19. ADOPTION OF THE EXPENDITURE PLAN. The Board hereby adopts the attached Expenditure Plan, which is incorporated into this Ordinance by reference.

Section 20. INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE AND ANNUAL AUDIT. As further defined in Expenditure Plan (Exhibit A) the Board of Supervisors shall establish a citizens' oversight committee to provide transparency and ensure fiscal accountability.

Section 21. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to the State CEQA Guidelines section 15378(b)(4), adoption of this Ordinance and Expenditure Plan is not a "project" subject to the requirements of CEQA. Prior to the commencement of any project included in the Expenditure Plan, any necessary environmental review required by CEQA shall be completed. Estimated costs in the Expenditure Plan include the cost of such environmental review.

PASSED AND ADOPTED

In regular session of the Board of Supervisors of the County of Sonoma introduced on the 28th day of July, 2020, and finally passed and adopted this 4th day of August, 2020, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Rabbitt: ___ Zane: ___ Gore: ___ Hopkins: ___ Gorin: ___

Ayes: _____ Noes: _____ Absent: _____ Abstain: _____

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton, County Clerk and
Clerk of the Board of Supervisor

Sonoma County Local Mental Health, Addiction and Homeless Services Measure Expenditure Plan

Introduction

Sonoma County Behavioral Health Services' mission is to promote recovery and wellness to Sonoma County residents through mental health and substance use disorder services across the service spectrum, from prevention, early intervention and treatment, to aftercare and recovery. These services are provided directly or through partnerships with community based agencies.

Suicide and mental health conditions have become a growing epidemic across the country and in Sonoma County. The current coronavirus pandemic has added additional strain, negatively impacting mental health and creating new barriers for those seeking treatment. Many in Sonoma County are experiencing homelessness or are still healing from the trauma caused by wildfires. 60% of households are impacted by a mental health condition or opioid use and drug addiction. The lack of necessary mental health resources and substance abuse services has overwhelmed law enforcement and first responders who are left to handle mental health and substance abuse emergencies.

At the same time that more and more residents need treatment, budget shortfalls have forced drastic reductions to services. Lack of Federal and State funding has resulted in cuts to essential programs, such as early intervention programs serving children at schools and reductions in the number of beds available at facilities to serve those in a crisis. Additional funding is needed to ensure that those who need it most—children, veterans, seniors, those experiencing homelessness and people facing trauma or drug addiction—have access to the essential care they need.

The Sonoma County Department of Health Services and Sonoma County Community Development Commission have come together to put forth a measure to provide needed additional resources for Sonoma County. The Sonoma County Local Mental Health, Addiction and Homeless Services Measure Expenditure Plan below provides investment into five program categories. Each program category will receive a percentage share of sales tax revenues, currently estimated at a total of \$250 million (in 2020 dollars) over a 10-year period.

The ballot question reads: *To provide local mental health and addiction services and facilities for children, adults, veterans, seniors and those experiencing homelessness including: permanent supportive housing; crisis assessment; emergency psychiatric care; early detection and intervention; suicide prevention; and opioid and substance use prevention, treatment and recovery, shall the County of Sonoma establish a countywide ¼ cent sales tax for ten years , providing approximately \$25 million annually, with annual audits and citizen oversight to ensure funds are properly spent?*

Project Descriptions

The Expenditure Plan has five program categories that include specific program areas. The Expenditure Plan calls for a specific percentage of revenue to be allocated to each of the categories and the funding then distributed to the proposed list of program areas.

Cost for the items listed under each expenditure category includes support cost for accounting, planning, project management and audits.

The list below does not reflect priority order. Assumes \$25 million per year.

| Expenditure Category | Percentage of total |
|--|--|
| 1. Behavioral Health Facilities | 22% of total funding |
| Residential Care Facility (RCF) | RCFs provide housing & services to individuals with Severe Mental Illness (SMI) who need additional social and behavioral health support to live in the community. |
| Transitional Housing for individuals discharging from crisis services | Transitional Housing is a needed service for individuals who have high levels of mental health needs and do not have a long-term placement agreement. |
| Psychiatric Health Facility & Operations | There is a need for a local locked psychiatric facility to serve Sonoma County residents. This will ensure individuals access emergency psychiatric services more timely, at a cost savings to the County. |
| 2. Emergency Psychiatric / Crisis Services | 44% of total funding |
| Mobile Support Team (MST) Expansion/ Crisis, Assessment, Prevention, and Education (CAPE) | MST accompanies law enforcement on calls to provide crisis intervention to individuals in psychiatric distress. CAPE provides crisis services to schools in Sonoma County. |
| Crisis Stabilization Unit (CSU) | The CSU provides services to individuals in psychiatric crisis, to assist them to stabilize and return to the community or transfer to a psychiatric facility for ongoing treatment. |
| Residential Crisis Services | Crisis Residential Treatment facilities provide housing & mental health services to individuals who require longer-term services to stabilize & do not require a locked setting. |
| Inpatient Hospital Services – Adult | County Department of Health Services (DHS), as the Mental Health Plan, is required to provide inpatient psychiatric care to Medi-Cal beneficiaries on involuntary holds or otherwise in need of intensive psychiatric services. |
| 3. Mental Health & Substance Use Disorder Outpatient Services | 18% of total funding |
| Mental Health Services at Children's Shelters | DHS provides on site mental health services to children who have experienced trauma living in the County Children's Shelter. |
| Mental Health Services for Children and Youth | Children and youth with mental health needs will receive services for prevention, early intervention and case management. |
| Services to support Residential Care Facilities, Permanent Supportive Housing, and other Housing | Individuals with mental health and/or Substance Use Disorder (SUD) needs who require in-home and community-based services to live successfully in the community. These services will support individuals provided with permanent supportive housing, which interrupts the cycle of homelessness. |
| Substance Use Disorder Services Expansion | Expand Sonoma County Drug Medi-Cal Services to provide outpatient and residential treatment services to individuals with substance use disorders. |
| 4. Behavioral Health Homeless / Care Coordination | 14% of total funding |
| Behavioral Health Services for individuals who are homeless | Individuals who are homeless or need mental health and substance use disorder services to successfully transition to housing in the community. |

| Expenditure Category | Percentage of total |
|---|--|
| Care Coordination for High Needs Homeless | Care Coordination provides multi-disciplinary case management and other services to enable individuals who have been homeless to live successfully in permanent supportive housing in the community. |
| 5. Transitional & Permanent Supportive Housing | 2% of total funding |
| Supportive Housing Pool | To help secure housing resources to service the homeless populations in the County. |

Oversight and Administration

The implementation of the Measure will be the responsibility of the Sonoma County Board of Supervisors. The Board of Supervisors may approve by a four-fifths vote authorizing the transfer of transaction and use tax revenue from one category to another category for the specific programs identified in the Expenditure Plan. Funds may also be reallocated within one of the five categories set forth in the Expenditures Plan if a program is needed to be expanded or contracted; and/or came under budget; and/or additional federal or state revenue or grant funding became available; and/or program could not be implemented due to extraordinary circumstances; and/or the implementing agency requested a change to the program.

Independent Citizens' Oversight Committee and Annual Audit

The Board of Supervisors shall establish a citizens' oversight committee to provide transparency and ensure fiscal accountability. The committee shall review the receipt and expenditures of the revenue from the transactions and use tax, including the County's annual independent audit. The committee's review shall be completed in conjunction with the County's budget process. The committee shall produce an annual oral or written report on its review which shall be considered by the Board at a public meeting. Any final written report shall be a public record. The Board shall adopt a resolution regarding the appointment of seven committee members, and any additional duties of the committee. Two of the Committee members will be selected by the Sonoma County City Selection Committee. Additional members shall include a Hospital Representative or first responder (a list of names of potential members submitted by the hospital association, fire chiefs association or law enforcement association), a business community representative (a list of names of potential members submitted by a chamber or business association), and a community member with lived experience of mental health needs or homelessness. Committee Members will serve a three-year term and are eligible to be reappointed by their appointing body.

The funds collected from the transactions and use tax ordinance shall be accounted for and tracked by the County Auditor-Controller Treasurer-Tax Collector to facilitate citizen oversight.

The amount generated by this revenue source and how it was used shall be included in the annual review of the County's financial operations by an independent certified public accountant, which the committee shall review.

To preserve the integrity and independence of the oversight process, the committee's responsibilities shall not include decision-making on spending priorities, financing plans or tax rate projections or assumptions and the committee shall have no authority to direct, nor shall it direct, County or City staff or officials.

Annual Report

An annual *Sonoma County Local Mental Health, Addiction and Homeless Services Measure Transactions and Use Tax Ordinance Report* shall be prepared by Sonoma County Department of Health Services no later than the last day of the sixth month following the end of each fiscal year. The Report shall be submitted to the Citizens' Oversight Committee for review. The Committee will submit their findings and conclusions to the County Board of Supervisors. The Report will also be made available to the public. The Annual Report shall detail the prior fiscal year's activities related to the retail transactions and use tax. The Report shall include revenues generated by the Transactions and Use Tax, expenditures (in summary form), funds carried over from previous fiscal years, and any remaining funds to be carried over for expenditure in subsequent fiscal years. The report may also include any future expenditures/projects that the County is considering and for which they are seeking confirmation of eligibility for use of the proceeds from this measure.

California Department of Tax and Fee Administration Costs.

Payment for the costs of contracting with the California Department of Tax and Fee Administration for administration of the tax shall be the responsibility of the County. If the election is successful, the County shall be reimbursed for any fee charged by the California Department of Tax and Fee Administration from the proceeds of the tax.

Election and Administration Costs

Payment for the costs of the election shall be the responsibility of the County. If the election is successful, the County shall be reimbursed for the cost of the election from the proceeds of the tax. The annual administrative cost borne by the County's Auditor staff and the California Department of Tax and Fee Administration will be deducted from the annual proceeds from the sales tax before distribution to the Health Department.