



RESOLUTION NO. 22-439

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION CALLING FOR AND ORDERING AN ELECTION TO SUBMIT TO THE VOTERS OF THE COUNTY A PROPOSED URGENCY ORDINANCE ADDING ARTICLE 9 TO CHAPTER V OF THE NEVADA COUNTY GENERAL CODE IMPOSING A ONE-HALF CENT (0.5%) NEVADA COUNTY WILDFIRE PREVENTION, EMERGENCY SERVICES AND DISASTER READINESS TRANSACTIONS AND USE TAX FOR CRITICAL EMERGENCY SERVICES AND OTHER GENERAL GOVERNMENT USE, AND ORDERING CONSOLIDATION OF THE ELECTION WITH THE NOVEMBER 8, 2022, STATEWIDE GENERAL ELECTION (4/5 AFFIRMATIVE VOTE REQUIRED)

WHEREAS, as wildfires become more frequent and more destructive, heat events become increasingly common, and climate uncertainties mean more risk of droughts, floods, and extreme weather events, Nevada County must be well prepared for ongoing natural disasters; and

WHEREAS, since 2019, Nevada County has had several major wildfires, power shut-offs, drought and heat events, and major storms. The 2021 Winter Snowstorm downed large trees, which knocked over powerlines, crashed through roofs, and blocked roadways. Thousands of residents were without power, water, communications, food, medicine, and fuel for many days, even weeks; and

WHEREAS, in Nevada County, residents live with the peril of wildfire that does not respect boundaries. With 92% of County households located in high and very high fire severity zones, residents are requesting solutions to better protect Nevada County homes and businesses; and

WHEREAS, the County intends to use Countywide "Nevada County Wildfire Prevention, Emergency Services and Disaster Readiness" funds to save lives, reduce the threat of wildfires, and improve all-hazards disaster readiness and evacuation safety; and

WHEREAS, with wildfires getting larger, faster, and deadlier, this Ordinance ("Measure") will provide for prevention and preparedness including safer evacuation routes to get residents out quickly and first responders in during an emergency; will enhance emergency alert and early warning systems to notify residents; will remove flammable brush countywide from our roadways, homes, businesses, and critical infrastructure; will help low-income seniors and disabled residents maintain defensible space around their homes; and will create fuel breaks to protect our cities and town from wildfire; and

WHEREAS, since Nevada County has the second most Firewise communities of any County in the state, dedicated to neighborhood preparedness and self-reliance, this measure will provide County support for defensible space and home hardening programs including education, enforcement, abatement, and grants for neighborhood projects and programs such as expanded chipping programs and training programs; and

WHEREAS, because illegal campfires increase the threat of wildfires countywide, this Measure will help law enforcement ensure that our parks, forests, trails, and other public recreation areas are monitored to prevent wildfires and are safe and secure for everyone; and

WHEREAS, this Measure will make the County eligible for more state and federal funding for wildfire prevention; and

WHEREAS, this Measure will generate locally controlled funding for critical services that cannot be taken away by the state; this Measure is not a tax on homes or property and is not applied to groceries purchased as food or prescription medicines; and visitors and tourists to Nevada County will also pay their fair share; and

WHEREAS, funds from the measure are intended to serve the entire County, both its unincorporated and incorporated parts; the plan anticipates direct allocations to the County's municipal partners, and/or other eligible entities, to support fuels reduction projects, defensible space programs, and other eligible uses in the categories of preparedness, mitigation, response, and recovery, with allocations memorialized in a Memorandum of Understanding (MOU), subject to Board approval, and revocable only by the participating entities; and

WHEREAS, the County is committed to the principle of regional equity, and recognizes the unique public safety needs in western and eastern county; and if approved by voters, the fund would provide for regional equity between western and eastern county ("eastern county" is defined as longitudinally east of the I-80/Hwy 20 junction); and

WHEREAS, County allocations of the fund to eastern county will equal 25% of the total annual revenue for direct programs and projects in eastern county, and for indirect programs and services such as countywide planning, shared grant writing, emergency communications, outreach and education programs, etc.; and

WHEREAS, the County implements the following actions for the sake of accountability and transparency:

- 1) The Board of Supervisors will appoint a Citizens Oversight Committee (COC). The COC will consist of seven members. Each of the five County Supervisors will appoint one member from their district. The full Board will select the two at-large members. The Citizens Oversight Committee's roles and responsibilities will include reporting annually to the Board of Supervisors and public on the receipt and expenditures of Measure revenue, reviewing revenue and expenditures for conformity to the text of the Measure, and reporting any inconsistencies; and

- 2) Revenue and expenses related to the Measure will be recorded in the accounting system distinct from other revenues and expenses to allow for clear tracking and reporting across all County departments and programs. Unspent revenue will be tracked annually and added to cumulative balances that will be clearly delineated from other County funds; and

- 3) Measure funds will be subject to the Annual Comprehensive Financial Report (audit) performed annually by an independent auditor; and

4) To ensure accountability and transparency, the County will establish an eastern and a western Technical Advisory Committee (TAC) comprised of subject matter experts, which in concert with approved plans, will recommend funding priorities as part of the County's annual budget cycle. TAC recommendations will be based on expertise, adherence to approved plans, tactical needs arising from emergencies, and commitment to cooperation and collaboration; and

WHEREAS, Revenue and Taxation Code section 7285 authorizes the County, with voter approval, to establish a one-half cent (0.5%) transactions (sales) and use tax; and

WHEREAS, the authority to levy the tax imposed shall expire ten (10) years from the operative date; and

WHEREAS, the Board of Supervisors desires to submit the Measure to the voters at the next regularly scheduled County and Statewide general election on November 8, 2022; and

WHEREAS, consolidating an election on the Measure with the November 8, 2022, County and Statewide general election significantly reduces the cost to taxpayers for conducting an election while providing for the highest level of voter participation in the election process.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Nevada, State of California, hereby directs that:

1. The foregoing recitals are adopted as findings of the Board of Supervisors as though set forth fully herein.
2. The Board of Supervisors hereby calls for and orders an election to be held and conducted in and for the County of Nevada on Tuesday, November 8, 2022, for the purpose of submitting the Measure to the voters of Nevada County, and further orders that the election be consolidated with the County and Statewide general election to be held on November 8, 2022.

3. Pursuant to Elections Code section 9140 and Government Code section 53724, the Board of Supervisors hereby submits to the voters of the County of Nevada, the following Measure:

To maintain critical County of Nevada services with locally controlled funding that cannot be taken by the State, such as: wildfire prevention / emergency preparedness; reducing flammable brush countywide; improving evacuation routes to save lives; preventing illegal campfires; helping seniors / disabled residents maintain defensible space; enhancing emergency communications, early warning / 911 response; and for general government use; shall the County of Nevada measure establishing a $\frac{1}{2}\text{¢}$ sales tax, providing \$12,000,000 annually for ten years, with citizen oversight / audits, be adopted?

Yes

No

4. The Measure shall pass only if a simple majority of the votes cast by the voters voting on the Measure are "yes" votes. In the event fifty percent plus one of the electors voting on the Measure vote in favor thereof, the Nevada County General Code shall be amended to read as set forth in Attachment "A" attached hereto and incorporated herein and, pursuant to Elections Code section 9122 and Government Code section 25123(c) and (d) shall become effective immediately once approved by the majority of the voters voting in the November 8, 2022, general election and shall expire ten (10) years from the operative date.
5. The Nevada County Registrar of Voters is hereby directed to prepare and conduct all functions for the election and canvass the returns of the election as set forth in the Elections Code, and to do all things required by law to present the proposed Measure to the electorate, including but not limited to, preparing and publishing all required postings, notices, and filings. The full text of the proposed Ordinance shall be as set forth in Attachment "A" attached hereto and made a part hereof.
6. The full text of the proposed Measure shall be as set forth in Attachment "A" attached hereto and made a part hereof. The Nevada County Registrar of Voters is hereby directed to print the full text of the Measure in the voter information pamphlet mailed to all voters in the County of Nevada.
7. Pursuant to Elections Code section 9160(b), the Board of Supervisors hereby directs the County Counsel to prepare an impartial analysis of the proposed Measure.
8. Pursuant to Elections Code section 9160(c), the Board of Supervisors hereby directs the County Auditor-Controller to prepare a fiscal analysis of the proposed Measure.
9. Arguments for and against the Measure may be filed and published consistent with Elections Code section 9162, et seq.

10. After its adoption, the Clerk of the Board is hereby directed to submit a certified copy of this Resolution to the Registrar of Voters for the County of Nevada on or before August 12, 2022.
11. The Board of Supervisors hereby finds and determines that approval of this Resolution is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(3) and 15378 because the ballot measure involves a government funding mechanism and related fiscal activities, which does not involve a commitment to a specific project.

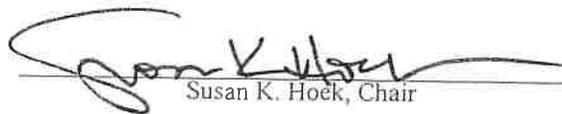
PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 9th day of August, 2022, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Susan K. Hoek and Hardy Bullock.
Noes: Dan Miller.
Absent: None.
Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By



Susan K. Hoek, Chair

8/9/2022 cc:

CEO*
AC*
Elections*

ATTACHMENT A

ARTICLE 9 WILDFIRE PREVENTION, EMERGENCY SERVICES, AND DISASTER READINESS TRANSACTION AND USE TAX

Sections:

Sec. G-V 9.1	Title
Sec. G-V 9.2	General Purpose
Sec. G-V 9.3	Operative Date
Sec. G-V 9.4	Purpose
Sec. G-V 9.5	Contract with State
Sec. G-V 9.6	Transactions Tax Rate
Sec. G-V 9.7	Place of Sale
Sec. G-V 9.8	Use Tax Rate
Sec. G-V 9.9	Adoption of Provisions of State Law
Sec. G-V 9.10	Limitations on Adoption of State Law and Collection of Use Taxes
Sec. G-V 9.11	Permit Not Required
Sec. G-V 9.12	Exemptions and Exclusions
Sec. G-V 9.13	Amendments
Sec. G-V 9.14	Enjoining Collection Forbidden
Sec. G-V 9.15	Severability
Sec. G-V 9.16	Effective Date
Sec. G-V 9.17	Election Costs
Sec. G-V 9.18	Termination Date

Section G-V 9.1. Title

This ordinance shall be known as the "Nevada County Wildfire Prevention, Emergency Services, and Disaster Readiness Transactions and Use Tax". The County of Nevada, hereinafter shall be called "County." This ordinance shall be applicable in the incorporated and unincorporated territory of the County.

Section G-V 9.2. General Purpose

- A. To provide countywide emergency services in order to save lives, reduce the threat of wildfires, and improve all-hazards disaster readiness and evacuation safety; and
- B. To provide sustainable funding to support emergency services in the categories of planning, preparedness, prevention, mitigation, response, and recovery, in addition to other general government services.

Section G-V 9.3. 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 G-V 9.4. 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 and Section 7285 of Part 1.7 of Division 2 of the California Revenue and Taxation Code, which authorizes the County to adopt this tax ordinance which shall be operative if a 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 therefore 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.

Section G-V 9.5. 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 G-V 9.6. 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 half cent (0.5%) 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 G-V 9.7. 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 their 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 G-V 9.8. 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 half cent (0.5%) 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 G-V 9.9. 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 G-V 9.10. 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 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:
 - i. 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;
 - ii. 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 California Revenue and Taxation Code 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 G-V 9.11. 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 G-V 9.12. 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 their 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:
 - i. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with Section 21411 of the California 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, their principal place of residence; and
 - ii. 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 G-V 9.13. 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 G-V 9.14. 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 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 G-V 9.15. 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 G-V 9.16. Effective Date

This ordinance relates to the levying and collecting of the County transactions and use taxes and shall take effect immediately.

Section G-V 9.17. Election Costs

Payment for the costs of the election shall be the responsibility of the County. If the election results in the approval of this ordinance by a majority of the those voting on the ordinance, the County shall be reimbursed for the cost of the election from the proceeds of the tax.

Sec. G-V 9.18. Termination Date

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