

## **ORDINANCE NO. 2022-01**

### **AN ORDINANCE OF NAPA COUNTY, STATE OF CALIFORNIA, KNOWN AS THE NAPA COUNTY WILDFIRE PREVENTION AND SUPPRESSION MEASURE, IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

The Board of Supervisors of Napa County, State of California, ordains as follows:

**SECTION 1. Overview.** Recent catastrophic fires in Napa County have made it evident that there is a need for a coordinated effort throughout the communities of Napa County to address risks of wildfires. In 2020 alone, the LNU Complex and the Glass fire burned hundreds of thousands of acres, destroying hundreds of buildings, structures and facilities. There continues to be a growing wildfire risk in Napa County that does not respect jurisdictional boundaries. Intensifying climate change and extensive fuel build-up are contributing to the increasing threat of wildfire throughout the County. This risk needs immediate action and sustained commitment to better protect Napa County residents, homes and businesses. Local fire agencies, communities, emergency service providers, city and town governments and the County must coordinate wildfire prevention and disaster preparedness and mitigation, including maintaining defensible space, reducing combustible vegetation, and making homes fire resistant.

The goal of this ordinance is to provide more efficient, effective, and enhanced fire services and programs that protect the health and safety of the public throughout Napa County. Enhanced fire services and programs means an increase in the level of fire services and programs through fire equipment, fire apparatus, fire suppression, infrastructure, technology, staffing, and training. It includes implementation of resilient fire programs such as defensible space inspections, home hardening, wildfire preparedness programs, wildfire prevention, emergency alerts, vegetation management, and education. This ordinance establishes (subject to voter approval) a dedicated source of funds to implement such enhanced fire services and programs throughout the county.

Funds come from a one-quarter percent transaction and use tax (commonly referred to as a sales tax). Ten million dollars is estimated to be generated annually through the sales tax and will be distributed between the county and the cities and town in Napa County, to be used by their respective fire agencies for enhanced fire services and programs. In recognition of the needs of each local community, the cities of Napa, St. Helena, Calistoga, the Town of Yountville and the American Canyon Fire Protection District are given the flexibility to use tax proceeds for enhanced fire services and programs meeting their specific local needs as long as expenditures are consistent with the expenditure plan set forth in this ordinance.

The ordinance requires independent oversight, mandatory financial audits and reports to the public. This tax applies to both residents and visitors. The tax shall terminate in ten years unless renewed by a two-thirds majority of the voters of Napa County. The ordinance will be placed on the June 7, 2022 ballot for voter approval.

**SECTION 2.** A new Chapter 3.38 (Napa County Wildfire Prevention and Suppression Transactions and Use Tax Ordinance) is hereby added to the Napa County Code to read in full as follows:

## Chapter 3.38

### NAPA COUNTY WILDFIRE PREVENTION AND SUPPRESSION TRANSACTIONS AND USE TAX ORDINANCE

#### Sections:

<b>3.38.010</b>	<b>Title.</b>
<b>3.38.020</b>	<b>Effective Date; Operative Date.</b>
<b>3.38.030</b>	<b>Purpose.</b>
<b>3.38.040</b>	<b>Contract with State.</b>
<b>3.38.050</b>	<b>Transactions Tax Rate.</b>
<b>3.38.060</b>	<b>Place of Sale.</b>
<b>3.38.070</b>	<b>Use Tax Rate.</b>
<b>3.38.080</b>	<b>Adoption of Provisions of State Law.</b>
<b>3.38.090</b>	<b>Limitations on Adoption of State Law and Collection of Use Taxes.</b>
<b>3.38.100</b>	<b>Permit Not Required.</b>
<b>3.38.110</b>	<b>Exemptions and Exclusions.</b>
<b>3.38.120</b>	<b>Amendments.</b>
<b>3.38.130</b>	<b>Enjoining Collection Forbidden.</b>
<b>3.38.140</b>	<b>Termination Date.</b>
<b>3.38.150</b>	<b>Receipt of Proceeds</b>
<b>3.38.160</b>	<b>Use of Proceeds.</b>
<b>3.38.170</b>	<b>Implementation of the Expenditure Plan.</b>
<b>3.38.180</b>	<b>Independent Oversight Committee.</b>
<b>3.38.190</b>	<b>Severability.</b>
<b>3.38.200</b>	<b>Technical Amendments.</b>

#### **3.38.010. Title.**

This ordinance shall be known as the **Napa County Wildfire Prevention and Suppression Transactions and Use Tax Ordinance**. This ordinance shall be applicable in the incorporated and unincorporated territory of Napa County.

#### **3.38.020 Effective Date; Operative Date.**

A. This ordinance shall become effective upon (1) approval of the ordinance by a two-thirds (2/3) majority vote of the electors of Napa County voting on the measure, at an election called for that purpose and ten (10) days after the Board of Supervisors declares the vote pursuant to Elections Code Section 9122.

B. The operative date of this ordinance shall be October 1, 2022, which is the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance.

#### **3.38.030 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 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 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. To establish a local funding source for enhanced fire services and programs provided by Napa County and the fire agencies throughout the incorporated and unincorporated territories of Napa County, as detailed in the expenditure plan. For purposes of this ordinance, “enhanced fire services and programs” means an increase in the level of fire services and programs through fire equipment, fire apparatus, fire suppression, infrastructure, technology, staffing, and training. It includes implementation of resilient fire programs such as defensible space inspections, home hardening, wildfire preparedness programs, wildfire prevention, emergency alerts, vegetation management, and education.

F. To increase the appropriations limit for the County to ensure that the proceeds of the proposed special tax may be expended for their intended purposes.

### **3.38.040 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.

### **3.38.050 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 quarter of one percent 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.

### **3.38.060 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.

**3.38.070 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 quarter of one percent 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.

**3.38.080 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.

**3.38.090 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 "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.

1. "A retailer engaged in business in the County" 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.

### **3.38.100 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.

### **3.38.110 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.

### **3.38.120 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.

### **3.38.130 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.

### **3.38.140 Termination Date.**

The authority to levy the tax imposed by this ordinance shall expire ten years after the operative date.

**3.38.150            Receipt of Proceeds.**

All revenue generated by this ordinance shall be deposited in a special fund, used solely for the identified projects as provided herein, and made available to the County and to the agencies responsible for implementing the projects set forth in the expenditure plan in Section 3.38.170.

**3.38.160            Use of Proceeds.**

The proceeds of the taxes imposed by this ordinance shall be used solely for the projects and purposes set forth in the expenditure plan, generally to improve the capabilities of the fire agencies to provide enhanced fire services and programs within Napa County. Pursuant to the requirements of Government Code §50075.1, (1) the expenditure plan constitutes the statement of the specific purposes for which the revenue generated by this ordinance may be expended, (2) the expenditure of the revenue generated by this ordinance shall be restricted to the purposes stated in the expenditure plan.

**3.38.170            Expenditure Plan.**

A.     The purpose of this ordinance is to establish a local funding source for enhanced fire services and programs. Enhanced fire services and programs means an increase in the level of fire services and programs through fire equipment, fire apparatus, fire suppression, infrastructure, technology, staffing, and training. It includes implementation of resilient fire programs such as defensible space inspections, home hardening, wildfire preparedness programs, wildfire prevention, emergency alerts, vegetation management, and education. Accordingly, the expenditure plan set forth in this section allocates the proceeds established by this ordinance to five categories: fuel management, wildfire response support, communication and education, critical infrastructure, and planning. Subsection F below describes each program category and the types of projects and activities that the funding would support.

B.     Use of Revenues: The revenues generated pursuant to this ordinance, after deduction of the required California Department of Tax and Fee Administration costs for administering and collecting the tax, costs of the independent oversight committee, and costs for services provided by the Napa County Auditor-Controller, including costs of any required audits by the County Auditor-Controller under this ordinance, shall be used to fund the improvements (“projects” or “programs”) set forth herein. Under no circumstances shall revenues be used for fire departments that are not operated or managed by a public agency.

C.     Allocation: Tax proceeds, including any interest thereon, will be allocated to the following agencies: Napa County, City of Napa, City of St. Helena, City of Calistoga, and Town of Yountville for use by their fire departments, and to the American Canyon Fire Protection District (collectively “fire agencies”), to be utilized in furthering the purposes of this ordinance. The term “revenue” or “revenues” means the proceeds from the tax, and any interest accruing thereon.

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Revenues shall be allocated to each fire agency pursuant to the distribution formula set forth in the table below.

<b><u>Years 1-5</u></b> <ol style="list-style-type: none"><li>1. American Canyon Fire Protection District: 4.72% of the annual revenues available</li><li>2. Napa County: 75.00% of the annual revenues available</li><li>3. City of Calistoga: 2.00% of the annual revenues available</li><li>4. City of Napa: 14.28% of the annual revenues available</li><li>5. City of St. Helena: 2.00% of the annual revenues available</li><li>6. Town of Yountville: 2.00% of the annual revenues available</li></ol>
<b><u>Year 6-8</u></b> <ol style="list-style-type: none"><li>1. American Canyon Fire Protection District: 5.48% of the annual revenues available</li><li>2. Napa County: 70.00% of the annual revenues available</li><li>3. City of Calistoga: 2.00% of the annual revenues available</li><li>4. City of Napa: 18.52% of the annual revenues available</li><li>5. City of St. Helena: 2.00% of the annual revenues available</li><li>6. Town of Yountville: 2.00% of the annual revenues available</li></ol>
<b><u>Year 9-10</u></b> <ol style="list-style-type: none"><li>1. American Canyon Fire Protection District: 7.44% of the annual revenues available</li><li>2. Napa County: 60.00% of the annual revenues available</li><li>3. City of Calistoga: 2.00% of the annual revenues available</li><li>4. City of Napa: 26.56% of the annual revenues available</li><li>5. City of St. Helena: 2.00% of the annual revenues available</li><li>6. Town of Yountville: 2.00% of the annual revenues available</li></ol>

Net revenues, plus interest earned, shall be apportioned to the fire agencies' designated wildfire prevention and suppression special account on a quarterly basis.

D. Fire agencies may use the revenues to implement enhanced fire services and programs so long as the expenditures are consistent with the guidelines of this expenditure plan and the purposes of this ordinance. Additionally, fire agencies may use the revenues to pay for actual costs they incur to conduct any audits required of them by this ordinance.

E. Revenues shall be used to pay the following administrative costs prior to allocations being made under the expenditure plan:

1. Actual costs incurred for any annual audits required to be conducted by the Napa County Auditor-Controller or by an independent certified public accountant, who is contracted with Napa County, that outlines the amount of funds collected and expended from the special tax and the purposes for which such funds were expended.

2. Actual costs incurred in the administration of the oversight committee set forth in Section 3.38.190.

3. Actual costs incurred by the Napa County Auditor-Controller in the distribution and receipt of tax proceeds.

4. Revenues received by the fire agencies will be less than the gross revenue actually collected because the fees that the California Department of Taxes and Fee Administration



charges to collect the sales tax will be deducted before the revenues are transferred to the County Auditor-Controller.

#### F. Program Expenditure Categories

The intent of this ordinance is that sales tax proceeds, including any interest accruing thereon, be used to implement enhanced fire services and programs within the incorporated and unincorporated areas of the county. Revenues shall be used only to supplement existing services. Accordingly, revenues must be spent for the purposes authorized in this expenditure plan and may not be used for other purposes. It is the intent of this ordinance that revenues may be used for personnel service costs and contracted costs where necessary to implement enhanced fire services and programs.

The program expenditure categories are as follows:

##### 1. Fuels Management Program and Subcategories.

- a. Protect drinking water reservoirs and facilities through vegetation management in the immediate sub-watershed to limit sediment movement into reservoirs. Create defensible space around all facilities.
- b. Protect evacuation routes by removing hazardous trees and reducing fuel volumes within 100- feet on both sides of emergency access and evacuation routes as defined by Napa County and in the Napa County Community Wildfire Protection Plan 2021.
- c. Create perimeter fuel breaks around communities by treating vegetation, linking low fuel volume locations, and working with large landowners.
- d. Treat roadside vegetation to provide emergency access and egress; remove hazard trees and thin understory and coniferous canopy.
- e. Improve forest health and resiliency by managing vegetation to reduce fuel volume, vegetation density and creating a forest structure that mimics that found in a natural fire regime.
- f. Promote containment by treating vegetation along strategic containment locations to reduce fuel loads and restore fuel conditions and fire regimes. Identify as boundaries key ridgelines and access roads.
- g. Restore and rehabilitate wildlands and defensible space in communities that have burned.
- h. Prevent ignitions from powerlines by removing vegetation from within striking distance and around selected power poles.
- i. Purchase of equipment required for fuels mitigation projects or to enhance fire protection services. Examples of allowable purchases include, but are not limited to the following: chippers, masticators, dozers, water tenders, fire engines, wildland hand tools, weeders, backpack blowers.
- j. Engineering and environmental review that may be required to implement any of the above.

##### 2. Wildfire Response Support Program and Subcategories.

The tax measure may provide for a 24/7 wildfire detection and alert system for Napa County, and in more depth than the existing ALERT Wildfire camera. Wildfire Response Support priorities include the following:

- a. Support fire containment by maintaining select dozer lines installed during wildfires. Realign select dozer lines to limit environmental impacts.

- b. Support enhanced fire services, response, and programs.
- c. Install 911 signs and address badges that indicate access and water supply.
- d. Install Knox Box facilities at base of roads with information (water supply, access, power shutoff) to assist emergency responders.
- e. Improve roads by creating turnouts along roads through vegetation removal or minor dirt removal or improving road surface.
- f. Engineering and environmental review that may be required to implement any of the above.

- 3. Communication and Education Program and Subcategories.
  - a. Educate and promote creation and maintenance of defensible space.
  - b. Augment current notification systems during emergency.
  - c. Educate residents about criteria of locations suitable for emergency refuge.
  - d. Prevent ignitions from mechanical devices by informing workers of best practices.
  - e. Educate property owners on how to harden structures and facilities against wildfire damage.

- 4. Critical Infrastructure Program and Subcategories.
  - a. Protect critical infrastructure (e.g., cameras, communication towers, hospitals, schools, water treatment plants) from wildfire damage through creation of defensible space and ignition resistant construction.
  - b. Protect drinking water facilities by creating defensible space around all facilities and retrofitting structures with ignition-resistant construction.
  - c. Engineering and environmental review that may be required to implement any of the above.

- 5. Planning Program and Subcategories.
  - a. Develop a geodatabase to track project implementation and maintenance.
  - b. Participate fully in General Plan and Local Multi-hazard Mitigation Plan revisions.
  - c. Engineering and environmental review that may be required to implement any of the above.

### **3.38.180 Implementation of the Expenditure Plan**

Implementation of the expenditure plan shall be guided by the following procedures to ensure that the revenue generated by the ordinance is spent in the most efficient and effective manner possible, consistent with serving the public interest in Napa County, and the desires of the voters of Napa County. The implementation of this ordinance will be the responsibility of Napa County.

A. The County Auditor-Controller shall transfer all revenues generated by the ordinance to the special fund as they are received by the County and shall allocate funds to the fire agencies in accordance with the percentages outlined in the expenditure plan on a calendar quarter basis, together with any accrued interest, by the 20<sup>th</sup> day of the month following the end of the quarter.

B. The Auditor-Controller shall be reimbursed actual costs associated with the collection, distribution and reporting of revenues and expenses.

C. Accounting Records.

1. Each fire agency receiving the tax revenues pursuant to this ordinance shall have its revenues deposited in a separate special interest-bearing revenue fund. Interest earned on revenues allocated pursuant to this ordinance shall be expended only for those purposes permitted by this ordinance. All revenue sources and expenditures using the revenue sources shall be fully accounted for and subject to review at any time. A special revenue fund is a governmental fund type used to account for the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The use of a special revenue fund ensures segregation of restricted funds, the ability to allocate proper interest earnings and ease of tracking the inflows and outflows of the revenues.

2. Each fire agency receiving tax proceeds should record the proceeds as “Other Governmental Revenue” on the general ledger. All project expenditures should be budgeted for and disbursed from these funds so that a full accounting is captured, within proper accounting categories.

3. Each agency must provide a full accounting of all revenues and expenses attributed to each specific project.

4. Agencies shall keep the records using accrual accounting, setting up both receivables and payables as of June 30 of each year.

D. Financial Reporting Requirements. Every expenditure will have supporting documentation, including invoices and authorizations to ensure that all costs charged to the funds are eligible and in full compliance with this expenditure plan and ordinance. This documentation shall be maintained by each agency and shall be made available for inspection and audits upon request by the board of supervisors, the Napa County Auditor-Controller, or the oversight committee.

1. Semi-Annual Progress Reports are due March 1st (for the period of July – December) and September 1st (for the period of January – June). Each progress report shall provide a summary listing consisting of the following:

- Project Name,
- Approved Budget,
- Amount spent-to-date,
- Remaining Balance,
- Percentage of Completion,
- Date Completed or Estimated Completion Date.

2. Attached to each summary shall be a system generated trial balance report and detailed expenditure listing for the special revenue funds. If it is determined that an ineligible expense was made, the jurisdiction will be directed to return the funds to the special revenue fund(s) for a future eligible expense. Once the agency’s books are closed for the fiscal year and a comprehensive audit is completed, by January 31st of the following year, each agency will provide a copy of the Annual Comprehensive Financial Report to the Napa County Auditor-Controller. Due to the timing of these reports, where numbers vary, the agency shall provide a reconciliation explaining the differences.

E. Audits.

1. All audits and record keeping will be performed in accordance with generally accepted accounting principles (GAAP) and Generally Accepted Government Accounting Standards (GAGAS). The Auditor-Controller will oversee the annual accounting and fiscal process through review of quarterly and annual reports submitted by each agency. The oversight committee will oversee project performance through review of semi-annual reports submitted by each agency.

2. Each member agency will procure an independent certified public accountant to conduct an annual financial audit that includes all transactions regarding use of the tax proceeds, including any accrued interest. This will not be an additional audit on top of their Annual Comprehensive Financial Report, as these funds are included in their overall agency operations for specified projects. Any findings will be communicated to the Napa County Auditor-Controller, who will then present to the oversight committee and the board of supervisors.

F. The County is charged with a fiduciary duty in administering the tax proceeds in accordance with applicable laws and this ordinance. Receipt of tax proceeds may be subject to appropriate terms and conditions as determined by the County in its reasonable discretion, including, but not limited to, the right to require recipients to execute funding/grant agreements and the right to audit recipient's use of the tax proceeds. Funding or grant agreements shall be required before any tax proceeds are distributed. The agreements will acknowledge that the ordinance provides funding to achieve effective and efficient wildfire fuels mitigation and prevention. Local agencies receiving tax proceeds must certify that use of tax measure proceeds are consistent with the purposes of this ordinance, including the expenditure plan, and that the tax measure expenses will result in a higher level of service than would otherwise be provided by the local agency(ies).

E. All funds generated by this ordinance shall only be used for projects that are consistent with applicable general plans, specific plans, master plans, and zoning ordinances. Environmental reporting, review and approval procedures as provided for under the National Environmental Policy Act, and/or California Environmental Quality Act, or other applicable laws will be adhered to as a prerequisite to the implementation of any project.

F. Actual tax proceeds may be higher or lower than estimated over the duration of this ordinance due to variability in annual receipts caused by changes in the economy generally and the level of tourism spending in Napa County.

G. Revenue may be accumulated over multiple years so that sufficient funding is available for larger and long-term projects. All interest income shall be used for the purposes identified in the expenditure plan.

H. Revenues generated by the ordinance shall not be used to incur bonded indebtedness.

### **3.38.190 Independent Oversight Committee.**

A. To promote transparency and accountability, an Oversight Committee ("committee") shall be created within six months of the effective date of this ordinance and shall remain in existence for as long as the transactions and use tax is in effect. The committee shall review the receipt and expenditures of the revenue from the transactions and use tax.

#### **B. Membership and Meeting Requirements**

1. The committee shall consist of seven at-large members, the composition and qualifications of which will be determined by the board of supervisors, with at least five committee members selected by the board of supervisors from a list of names provided by the mayors of the cities and town in Napa County. It is the intent of this ordinance that each of the cities and town has a representative on the oversight committee. In the event there are insufficient nominations to meet this intent, the board of supervisors shall determine how the city/town seats on the oversight committee will be filled. All members of the committee shall be appointed by the board of supervisors and shall serve terms of office as established by the board of supervisors. The County Auditor-Controller shall serve as a non-voting ex-officio member of the committee. The board of supervisors shall adopt a resolution regarding any additional duties of the committee and shall also approve bylaws related to the conduct of committee meetings

and business. Meetings of the committee shall be open to the public and shall be held in compliance with the Ralph M. Brown Act, California's open meeting law.

2. Members of the committee shall be individuals who live in the incorporated or unincorporated areas of Napa County who are neither elected officials of any government within Napa County, nor employees from any agency or organization that either oversees or benefits from the proceeds generated by this ordinance. Committee members shall not have a commercial interest or employment with any public or private entity which receives transactions and use tax revenues authorized by this ordinance. Participants on the committee may be required to submit a statement of financial disclosure; and participation will be restricted to individuals without economic interest in any of the projects or improvements funded by the tax. No salary or stipend shall be paid to committee members.

C. Responsibilities

1. Provide the board of supervisors and the public with information regarding the manner in which the expenditure of the transactions and use tax proceeds has occurred.

2. Review the receipt and expenditures of the revenue from the transactions and use tax, including the independent audit of each agency's use of the tax, to ensure they conform to the expenditure plan.

3. Inform the public and advise the board of supervisors if there is an expenditure of the transactions and use tax which is inconsistent with the purpose and intent of this chapter.

4. 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, city, town or fire agency staff or officials.

D. Role of the County Auditor-Controller

1. Receive the tax revenues from the State and transfer them into an account specifically created for the transactions and use tax established by this ordinance.

2. File an annual report with the board of supervisors no later than February 28 of each year that contains the amount of funds collected and expended and the status of any project required or authorized to be funded as identified in the expenditure plan as required by Government Code Sections 50075.1 and 50075.3. All reports and audits provided by the Auditor- Controller are reimbursable through tax proceeds as set forth in the expenditure plan. This report from the Auditor-Controller shall be in addition to the annual county audit prepared by an independent auditor.

**3.38.200 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.

**3.38.210 Technical Amendments.**

Technical amendments to this ordinance may be enacted by the board of supervisors without a vote of the people if required by the California Department of Tax and Fee Administration to enable the tax to be collected so long as such changes do not increase the rate of the tax or the length of time the tax will remain in effect.

**SECTION 3.** The Board of Supervisors may adopt implementing ordinances, resolutions, rules and policies that are not inconsistent with the intent of this ordinance and take

such other actions as may be necessary and appropriate to carry out the County's responsibilities under this ordinance.

**SECTION 4.** The Board of Supervisors finds that pursuant to the State CEQA Guidelines section 15378(b)(4), adoption of this transaction and use tax ordinance and expenditure plan is not a project, subject to the requirements of CEQA. Additionally, and in the alternative, it can be seen with certainty that there is no possibility the proposed Ordinance may have a significant adverse effect on the environment and therefore CEQA is not applicable. (See Guidelines for the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3).) Prior to commencement of any project included in the expenditure plan, any necessary environmental review required CEQA shall be completed.

**SECTION 5.** An election shall be ordered to enable the voters of Napa County to approve or reject this ordinance. The date of the election shall be June 7, 2022.

**SECTION 6.** A summary of this ordinance shall be published at least once five days before adoption and at least once before the expiration of 15 days after its passage in the Napa Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing ordinance was duly passed and adopted at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the 8<sup>th</sup> day of March, 2022, by the following vote, which is no less than a two-thirds vote of all members of the Napa County Board of Supervisors as required by Government Code Section 53724(b) and Revenue and Taxation Code Section 7285.5.

AYES:	SUPERVISORS	_____
		_____
NOES:	SUPERVISORS	_____
ABSTAIN:	SUPERVISORS	_____

ABSENT: SUPERVISORS \_\_\_\_\_

\_\_\_\_\_  
RYAN GREGORY, Chair  
Napa County Board of Supervisors

APPROVED AS TO FORM Office of County Counsel  By: S. Darbinian Date: March 3, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS  Date: Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors  By: _____
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This ordinance shall be considered as adopted upon the date the vote is declared by the Board of Supervisors and shall go into effect ten (10) days after that date, all pursuant to Section 9122 of the California Elections Code.

As required by Revenue and Transactions Code Section 7285.5, the foregoing ordinance was approved by no less than a two-thirds vote of the people of Napa County, on June 7, 2022

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

The vote on this ordinance was declared by the Board of Supervisors on July \_\_, 2022.

\_\_\_\_\_  
Ryan Gregory, Chair  
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel  By: Date:	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS  Date: Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors  By: _____
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