

**TITLE VII - FINANCE, REVENUE AND TAXATION**

**DIVISION 1**

**REVENUE AND TAXATION**

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[DID NOT PASS BY MAJORITY VOTE OF THE ELECTORATE AS REQUIRED BY ORDINANCE 2323, 07/06/2004, THEREFORE, WAS NOT CODIFIED]

**TITLE VII - FINANCE, REVENUE AND TAXATION**

**DIVISION 1**

**REVENUE AND TAXATION**

**CHAPTER 1**

**SALES AND USE TAX**

**711-1. TITLE.**

This chapter shall be known as the Humboldt County Uniform Local Sales and Use Tax Ordinance. (Ord. 337, § 1, 8/20/56)

**711-2. PURPOSES.**

The Board of Supervisors of the County of Humboldt hereby declares that this chapter is adopted to achieve the following purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To adopt a sales and use tax chapter which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California.

(b) To adopt a sales and use tax chapter which 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 1.5 of Division 2 of the said Revenue and Taxation Code. (Ord. 337, § 2, 8/20/56)

(c) To adopt a sales and use tax chapter which imposes a one and one-quarter percent (1-1/4%) tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes. (Ord. 848, § 1, 5/9/72)

(d) To adopt a sales and use tax chapter which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, minimize the cost of collecting County sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. (Ord. 337, § 2, 8/20/56)

**711-4. SALES TAX IMPOSED.**

(a)(1) For the privilege of selling tangible personal property at retail and tax is hereby imposed upon all retailers in the County at the rate of one percent (1%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the County of Humboldt on and after October 1, 1956, to and including June 30, 1972, and at the rate of one and one-quarter percent (1-1/4%) thereafter. (Ord. 848, § 2, 5/9/72)

(2) For the purposes of this chapter, 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 Board of Equalization. (Ord. 416, § 2, 11/14/61)

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California; all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on October 1, 1956, applicable to sales taxes are hereby adopted and made a part of this section as though fully set forth herein.

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code of the State of California is named or referred to as the taxing agency, the County of Humboldt shall be substituted therefor. Nothing in this subsection shall be deemed to require the substitution of the name of the County of Humboldt for the word "State" when that word is used as part of the title of the State Controller, State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the County shall not be substituted for that of the State in §§ 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6728 of the Revenue and Taxation Code as adopted. (Ord. 337, § 4, 8/20/56)

(3) If a seller's permit has been issued to a retailer under § 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section. (Ord. 848, § 3, 5/9/72)

(4) There shall be excluded from the gross receipts by which the tax is measured:

A. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

B. Eighty percent (80%) of the gross receipts from the sales of property to operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carrier or waterborne vessels principally outside of this County. (Ord. 848, § 4, 5/9/72)

(4.5) There shall be excluded from the gross receipts by which the tax is measured:

A. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

B. Eighty percent (80%) of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

C. Eighty percent (80%) of the gross receipts from the sale of tangible personal property 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. (Ord. 948, § 1, 10/9/73)

**711-5. USE TAX.**

(a) An excise tax is hereby imposed on the storage, use or other consumption in the County of Humboldt of tangible personal property purchased from any retailer on or after October 1, 1956, for storage, use or other consumption in the County at the rate of one percent (1%) of the sales price of the property to and including June 30, 1972, and at the rate of one and one-quarter percent (1-1/4%) thereafter. 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. (Ord. 848, § 6, 5/9/72)

(b) (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on October 1, 1956, applicable to use taxes, are hereby adopted and made a part of this section as though fully set forth herein. (Ord. 337, § 5, 8/20/56)

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code of the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefor. Nothing in this subsection shall be deemed to require the substitution of the name of this County for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; and neither shall the substitution be deemed to have been made in those section 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 provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provision of Part 1 of Division 2 of the said Revenue and Taxation Code, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; and in addition, the name of the County shall not be substituted for that of the State in §§ 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code as adopted, and the name of the County shall not be substituted for the word "State" in the phrase "retailer engaged in business in this State" in § 6203 nor in the definition of that phrase in § 6203. (Ord. 416, § 5, 11/14/61)

(3) There shall be exempt from the tax due under this section:

A. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer. (Ord. 337, § 5, 8/20/56)

B. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State. (Ord. 416, § 6, 11/14/61)

C. Provided, however, that the storage or use of tangible personal property in the transportation or transmission or persons, property, or communications or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State of California shall be exempt from eighty percent (80%) of the tax due under this section. (Ord. 848, § 7, 5/9/72)

(3.5) There shall be exempt from the tax due under this section:

A. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State, shall be exempt from the tax due under this chapter.

C. Provided, however, that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from eighty percent (80%) of the tax.

D. And provided that, in addition to the exemptions provided in §§ 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property 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 is exempt from eighty percent (80%) of the tax. (Ord. 948 § 2, 10/9/73)

**711-6. CREDIT ALLOWED.**

Any person subject to a sales and use tax under this chapter shall be entitled to credit against the payment of taxes due under this chapter the amount of sales and use tax due any city in this County; provided, that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivisions (1) to (8), inclusive, of subsection (h) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions or Part 1.5 of Division 2 of that Code. (Ord. 416, § 7, 11/14/61)

**711-6.5. CREDIT ALLOWED.**

Any person subject to a sales or use tax or required to collect a use tax under this chapter shall be entitled to credit against the payment of taxes under this chapter the amount of sales and use tax due any city in this County provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (10), inclusive, of subsection (I) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code. (Ord. 948, § 3, 10/9/73)

**711-7. PREVENTING OR ENJOINING COLLECTION.**

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 this County or against any officer of the State or this County to prevent or enjoin the collection under this chapter or Part 1.5 or Division 2 of the Revenue and Taxation Code of any tax or any amount or tax required to be collected. (Ord. 337, § 7, 8/20/56)

**711-8. SUBSEQUENT AMENDMENTS TO STATE LAW ADOPTED.**

All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this chapter which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. (Ord. 337, § 8, 8/20/56)

**711-8.1. OPERATION DATE.**

(a) §§ 711-4(b)(4.5), 711-5(b)(3.5), and 711-6.5 of this chapter shall become operative on January 1st of the year following the year in which the State Board of Equalization adopts an assessment ratio for state-assessed property which is identical to the ratio which is required for local assessments by § 401 of the Revenue and Taxation Code, at which time §§ 711-4(b)(4), 711-5(b)(3), and 711-6 shall become inoperative.

(b) In the event that §§ 711-4(b)(4.5), 711-5(b)(3.5), and 711-6.5 of this chapter become operative and the State Board of Equalization subsequently adopts an assessment ratio for state-assessed property which is higher than the ratio which is required for local assessments by § 401 of the Revenue and Taxation Code, §§ 711-4(b)(4), 711-5(b)(3), and 711-6 shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time §§ 711-4(b)(4.5), 711-5(b)(3.5), and 711-6.5 of this chapter shall be inoperative until the first day of the month following the month in which the Board again adopts an assessment ratio for state-assessed property which is identical to the ratio required for local assessments by § 401 of the Revenue and Taxation Code at which time §§ 711-4(b)(4.5), 711-5(b)(3.5), and 711-6.5 shall again become operative and §§ 711-4(b)(4), 711-5(b)(3), and 711-6 shall become inoperative. (Ord. 948, § 4, 10/9/73)

**711-8.5. INOPERATIVE FOR LACK OF COMPLIANCE.**

This chapter may be made inoperative not less than sixty (60) days, but not earlier than the first day of the calendar quarter, following the County's lack of compliance with Article II (commencing with § 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code. (Ord. 848, § 8, 5/9/72)

**711-9. INOPERATIVE DATE.**

The provisions of this chapter may, by a subsequent ordinance, be made inoperative not less than sixty (60) days, but not earlier than the first day of the calendar quarter, following an increase by any city within this County of the rate of its sales or use tax above the rate in effect at the time this chapter was enacted. (Ord. 564, § 1, 5/31/66)

**711-10. PENALTY.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. (Ord. 337, § 10, 8/20/56)

**CHAPTER 2**

**TRANSIENT OCCUPANCY TAX**

**712-1. TITLE.**

This chapter shall be known as the Uniform Transient Occupancy Tax Ordinance of the County of Humboldt. (Ord. 1158, § 1, 8/23/77)

**712-2. DEFINITIONS.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

(a) Person. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(b) Living Space. "Living Space" means any structure, or any portion of any structure, which is occupied, intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other living space. "Other Living Space" does not include camping sites or space at a campground or recreational vehicle park, facilities operated by a local government entity or any campsite excluded from taxation pursuant to Revenue and Taxation Code Section 7282, or its successor provisions.

(c) Occupancy. "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms or portion thereof, in any living space for dwelling, lodging or sleeping purposes.

(d) Transient. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a living space shall be deemed to be a transient until the period of thirty (30) days has expired unless there in an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.

(e) Rent. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a living space valued in money, wither to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

(f) Operator. "Operator" means the person who is proprietor of the living space, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs

his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both. (Ord. 2005, § 1, 6/22/93; Ord. 2128, § 2, 8/20/96)

(g) Tax Administrator. "Tax Administrator" means the Tax Collector. (Ord. 1158, § 2, 8/23/77)

**712-3. TAX IMPOSED.**

For the privilege of occupancy in any living space, each transient is subject to an shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the tax to the operator of the living space at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the living space. If for any reason the tax due is not paid to the operator of the living space, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator. (Ord. 1158, § 3, 8/23/77; Ord. 1593, § 1, 5/17/83; Ord. 2005, § 1, 6/22/93)

**712-4. EXEMPTIONS.**

No tax shall be imposed upon:

(a) Any person as to whom, or any occupancy as to which, it is beyond the power of the County to impose the tax herein provided;

(b) Any Federal or State of California officer or employee when on official business; or,

(c) Any officer or employee of a foreign government who is exempt by reason of express provisions of Federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and, under penalty of perjury, upon a form prescribed by the Tax Administrator. (Ord. 1158, § 4, 8/23/77)

**712-5. OPERATOR'S DUTIES.**

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be funded except in the manner hereinafter provided. (Ord. 1158, § 5, 8/23/77)

**712-6. REGISTRATION.**

Within thirty (30) days after the effective date of this chapter or within thirty (30) days after commencing business, whichever is later, each operator of any living space renting occupancy to transients shall register said living space with the Tax Administrator and obtain from him a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the living space;
- (c) The date upon which the certificate was issued; and

(d) The following statement: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a living space without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this County. This certificate does not constitute a permit." (Ord. 1158, § 6, 8/23/77; Ord. 2005, § 1, 6/22/93)

**712-7. REPORTING AND REMITTING.**

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he/she deems it necessary in order to insure collection of the tax, and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the County until payment thereof is made to the Tax Administrator. (Ord. 1158, § 7, 8/23/77)

**712-8. PENALTIES AND INTEREST.**

(a) Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax.

(b) Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the ten percent (10%) penalty first imposed.

(c) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs (a) and (b) of this section.

(d) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent ( $\frac{1}{2}\%$ ) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties Merged With Tax. Every penalty imposed and such interest as accrued under the provisions of this section shall become a part of the tax herein required to be paid. (Ord. 1158, § 8, 8/23/77)

**712-9. FAILURE TO COLLECT AND REPORT TAX; DETERMINATION OF TAX BY TAX ADMINISTRATOR.**

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to made such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or be depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Tax Administrator for hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in § 712-10. (Ord. 1158, § 9, 8/23/77)

**712-10. APPEAL.**

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the County Clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The Board of Supervisors shall fix a time and place for hearing such appeal, and the County Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. 1158, § 10, 8/23/77)

**712-11. RECORDS.**

It shall be the duty of every operator liable for the collection and payment to the County of any tax imposed by this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the County, which records the Tax Administrator shall have the right to inspect at all reasonable times. (Ord. 1158, § 11, 8/23/77)

**712-12. REFUNDS.**

(a) Whenever the amount of any tax, interest or penalty has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the County under this chapter, it may be refunded as provided in subparagraphs (b) and (c) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three (3) years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(b) An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(c) A transient may obtain a refund of taxes overpaid, paid more than once, or erroneously or illegally collected or received by the County by filing a claim in the manner provided in subparagraph (a) of this section, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his/her right thereto by written records showing entitlement thereto. (Ord. 1158, § 12, 8/23/77)

**712-13. ACTIONS TO COLLECT.**

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the County. Any such tax collected by an operator which has not been paid to the County shall be deemed a debt owed by the operator to the County. Any person owing money to the County under the provisions of this chapter shall be liable to an action brought in the name of the County of Humboldt for the recovery of such amount. (Ord. 1158, § 13, 8/23/77)

**712-14. PENALTY; VIOLATIONS.**

(a) Penalty. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

(b) Violations. Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Ord. 1158, § 14, 8/23/77)

**712-15. TAX LIEN.**

(a) The Tax Collector is authorized to record a Certificate of Delinquency of Transient Occupancy Tax Lien with the Humboldt County Recorder against any operator who fails to remit taxes, penalties, or interest due under this chapter within the times required herein. The Tax Collector shall add to the amount of the lien the costs incurred by the County in collecting the tax due, such costs specified in Section 712-8 above. The Certificate of Delinquency of Transient Occupancy Tax Lien may be filed by the Tax Collector: (Ord. 2449, § 1, 05/03/2011)

(1) Ten (10) days after the serving or mailing of the notice required by Section 712-9, if the Operator does not file the application for appeal permitted by Section 712-9. (Ord. 2449, § 1, 05/03/2011)

(2) If the Operator files the application permitted by Section 712-9, thirty (30) days after the Tax Collector's determination of the amount of tax to be remitted pursuant to Section 712-9, unless the Operator files an appeal pursuant to Section 712-10. (Ord. 2449, § 1, 05/03/2011)

\_\_\_\_\_The Certificate of Delinquency of Transient Occupancy Tax Lien shall be filed within three (3) years after the tax becomes due. The Certificate of Delinquency of Transient Occupancy Tax Lien shall specify the amount due, the name and last known address of the Operator liable for the same, and a statement that the Tax Collector has complied with all provisions of this article with respect to the computation and levy of the tax owed by the Operator. From the time of the recording of the Certificate of Delinquency of Transient Occupancy Tax Lien, the amount required to be paid, together with penalties, constitutes a lien upon all real property in the county owned by the Operator or thereafter acquired before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the

Certificate of Delinquency of Transient Occupancy Tax Lien, unless sooner released or otherwise discharged. Within ten (10) years of the date of the recording of the Certificate of Delinquency of Transient Occupancy Tax Lien (or within ten (10) years of the date of the last extension of the lien), the Tax Collector may extend the lien by filing for record a new certificate in the Office of the Humboldt County Recorder, and from the time of filing the lien under the original Certificate of Delinquency of Transient Occupancy Tax Lien shall be extended for an additional ten (10) years, unless sooner released or otherwise discharged. The lien shall not be removed until the delinquent taxes, penalties for delinquency, and costs of collection are fully paid or the property is sold for payment of the delinquent taxes, penalties for delinquency, and costs of collection. (Ord. 2449, § 1, 05/03/2011)

(b) At any time within three (3) years after the recording of a Certificate of Delinquency of Transient Occupancy Tax Lien under subsection (a) above, the Tax Collector may issue a warrant directed to any sheriff or marshal for the enforcement of the lien and the collection of any tax and penalties required to be paid to the County under this article. The warrant shall have the same effect as a writ of execution, and be executed in the same manner and with the same effect as a levy and sale pursuant to a writ of execution. The Tax Collector may pay or advance to the sheriff or marshal such fees, commission, and expenses for services as are provided by law for similar services pursuant to a writ of execution. (Ord. 2449, § 1, 05/03/2011)

(c) In lieu of issuing a warrant under subsection (b), at any time within the three (3) years after a Certificate of Delinquency of Transient Occupancy Tax Lien was recorded under subsection (a), the Tax Collector may collect the delinquent amount by seizing, or causing to be seized, any property, real or personal, of the Operator and sell any non-cash or non-negotiable property, or a sufficient part of it, at public auction to pay the amount of tax due, together with any penalties, interest, and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall only be of property of the Operator not exempt from execution under the provisions of the Code of Civil Procedure. (Ord. 2449, § 1, 05/03/2011)

**CHAPTER 3**

**DOCUMENTARY TRANSFER TAX**

**713-1. TITLE.**

This chapter shall be known as the "Documentary Transfer Tax Ordinance of the County of Humboldt." It is adopted pursuant to Part 6.7 (commencing with § 11901) of Division 2 of the Revenue and Taxation Code of the State of California. (Ord. 952, § 1, 11/20/73)

**713-2. TAX IMPOSED.**

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County of Humboldt shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or person by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred Dollars (\$100.00) at the rate of fifty-five cents (\$.55) for each Five Hundred Dollars (\$500.00) or fractional part thereof. (Ord. 952, § 2, 11/20/73)

**713-3. PERSONS LIABLE.**

The tax imposed by § 713-2 shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 952, § 3, 11/20/73)

**713-4. EXCEPTION - INSTRUMENT IN WRITING TO SECURE DEBT.**

The tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 952, § 4, 11/20/73)

**713-5. EXEMPTION - PUBLIC AGENCIES.**

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this chapter when the exempt agency is acquiring title. (Ord. 952, § 5, 11/20/73)

**713-6. EXEMPTION - CONVEYANCE TO EFFECTUATE BANKRUPTCY.**

The tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to made effective any plan or reorganization or adjustment:

- (a) Confirmed under the Federal Bankruptcy Act, as amended;

(b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of § 205 of Title II of the United States Code, as amended;

(c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of § 506 of Title II of the United States Code, as amended; or

(d) Whereby a mere change in identity, form or place or organization is effected.

Subsections (a) and (d), inclusive, of this section shall only apply if the making, delivery or filing or instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval, or change. (Ord. 952, § 6, 11/20/73)

**713-7. EXEMPTIONS - CONVEYANCE TO EFFECTUATE SECURITIES AND EXCHANGE COMMISSION ORDER.**

The tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

(a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of § 79(k) of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

(b) Such order specifies the property which is ordered to be conveyed;

(c) Such conveyance is made in obedience to such order. (Ord. 952, § 7, 11/20/73)

**713-8. EXEMPTION - REALTY HELD BY PARTNERSHIP.**

(a) In the case of any realty held by a partnership, no tax shall be imposed pursuant to this chapter by reason of any transfer of any interest in the partnership or otherwise, if:

(1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of § 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of § 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one (1) tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 952, § 8, 11/20/73)

**713-9. EXCEPTION - INSTRUMENT IN WRITING IN LIEU OF FORECLOSURE.**

The tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or writing to a beneficiary or mortgagee which is taken in lieu of a foreclosure. (Ord. 952, § 9, 11/20/73)

**713-10. CREDIT FOR CITY TAX.**

If the legislative body of any city of the County imposes a tax pursuant to Part 6.7 of Division 2 of the Revenue and Taxation Code equal to one-half (½) the amount specified in § 713-2 of this chapter, a credit shall be granted against the taxes due under this chapter in the amount of the city's tax. (Ord. 952, § 10, 11/20/73)

**713-11. ADMINISTRATION BY COUNTY RECORDER.**

The County Recorder shall administer this chapter and shall also administer any ordinance adopted by any city in the County pursuant to Part 6.7 (commencing with § 11901) of Division 2 of the Revenue and Taxation Code imposing a tax for which a credit is allowed by this chapter.

On or before the 15th day of the month, the Recorder shall report to the County Auditor the amounts of taxes paid during the preceding month pursuant to this chapter and each such city ordinance. The Auditor shall allocate and distribute monthly said taxes as follows:

(a) All moneys which relate to transfers of real property located in the unincorporated territory of the County shall be allocated to the County.

(b) All moneys which relate to transfers of real property located in a city in the County which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half (½) to such city and one-half (½) to the County.

(c) All moneys which relate to transfers of real property located in a city in the County which imposes a tax on transfers of real property not in conformity with said part 6.7 shall be allocated to the County.

(d) All moneys which relate to transfers of real property in a city in the County which does not impose a tax on transfers of real property shall be allocated to the County. (Ord. 952, § 11, 11/20/73)

**713-12. RECORDATION OF TAX PAYMENT.**

The Recorder shall not record any deed, instrument or writing subject to the tax imposed by this chapter unless the tax is paid at the time of recording. A declaration of the amount of the tax due, signed by the party determining the tax or his agent, shall appear on the face of the document or on a separate paper as provided herein, and the Recorder may rely thereon, provided he has no reason to believe that the full amount of the tax due has not been paid. The declaration shall include a statement that the consideration or value on which the tax was computed was, or that it was not, exclusive of the value of a lien or encumbrance remaining on the interest or property conveyed at the time of the sale.

If the party submitting the document for recordation so requests, the amount of the tax due shall be shown on a separate paper which shall be affixed to the document by the Recorder after the permanent record is made and before the original is returned as specified in § 27321 of the Government Code of the State of California. (Ord. 952, § 12, 11/20/73)

**713-13. TAX ROLL PARCEL NUMBERS.**

Every deed, instrument or writing by which lands, tenements, or other realty is sold, granted, assigned, transferred, or otherwise conveyed, shall have noted on the face of the document the tax roll parcel number. The number will be used only for the administrative and procedural purposes and will not be proof of title; and, in the event of any conflicts, the stated legal description noted on the document shall govern. (Ord. 1136, § 1, 5/3/77)

**713-14. REFUNDS.**

Claims for refunds of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code. (Ord. 952, § 14, 11/20/73)

**713-15. UNPAID TAXES.**

Whenever the County Recorder has reason to believe that the full amount of tax due under this chapter has not been paid, he may, by notice served upon any person liable therefor, require him to furnish a true copy of his records relevant to the amount of the consideration or value of the interest or property conveyed. (Ord. 952, § 15, 11/20/73)

**713-16. VIOLATION AND PENALTY.**

Any person or persons who makes, signs, issues or accepts or causes to be made, signed, issued or accepted and who submits or causes to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this chapter and makes any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this chapter shall be guilty of a misdemeanor.

No person or persons shall be liable, either civilly or criminally, for any unintentional error made in designating the location of the lands, tenements or other realty described in a document subject to the tax imposed by this chapter.  
(Ord. 952, § 16, 11/20/73)

**CHAPTER 4**

**RECORDING FEES**

**714-1.            ADDITIONAL RECORDING FEES.**

There is hereby imposed an additional fee of One Dollar (\$1.00) for recording every instrument, paper, or notice for record, in order to defray the cost of converting the Recorder's document storage system to micrographics. Upon completion of the conversion and payment of the conversion costs, such additional fee shall no longer be imposed.

The additional One Dollar (\$1.00) fee shall be deposited in a special trust fund for the Auditor-Controller, and the disposition of such funds shall be determined at the conclusion of pending litigation. (Ord. 1455, § 1, 2/3/80)

CHAPTER 5

COMMERCIAL WEIGHING AND MEASURING  
DEVICE REGISTRATION PROGRAM

**715-1. TITLE.**

The title of this chapter shall be known as the Registration Requirements for Commercial Weighing and Measuring Device Registration Program. (Ord. 1812, § 1, 11/10/1987)

**715-2. PURPOSES.**

The purpose of this chapter is to establish a system for the registration of weighing and measuring devices for the recovery of costs incurred from the inspecting and testing of such devices, as established in California Business and Professions Code § 12210 and 12240, et seq. (Ord. 1812, § 1, 11/10/1987)

**715-3. DEFINITIONS.**

For the purpose of this chapter, the following terms and phrases shall be defined as set out below:

"Weighing and Measuring Devices" shall, but may not be limited to, include the following devices:

1. Electric Meters - Up to 200 AMP maximum capacity\*
2. All cord/wire and fabric meters
3. Liquid meters - Up to 30 GPM maximum capacity
4. Liquefied petroleum gas meters - stationary
5. Taximeters
6. Vapor meters - Up to 450 CFH maximum capacity\*
7. Water meters - Up to 30 GPM maximum capacity
8. Computing scales/POS systems/counter scales
9. Monorail and meat beam scales - up to and including 1,000 lbs.
10. Platform scales - Up to and including 1,000 lbs.
11. Jewelers', prescription and precious metal scales
12. Hanging scales - Up to and including 1,000 lbs.
13. Odometers.

\* Each house or mobile home is considered to be one location, except in a mobile home park or apartment complex where the park or complex is considered one location. (Ord. 1812, § 1, 11/10/1987; Ord. 2308, § 15, 9/23/2003)

"Business Location" means: (1) the room, enclosure, building, space or area where one or more weighing and measuring instruments are located or operated; (2) each vehicle containing one or more commercial device; (3) each business location that uses different categories or types of commercial devices that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official. (Ord. 1812, § 1, 11/10/1987; ord. 2408, § 6, 01/06/2009)

"Commercial Purposes" shall have the meaning assigned to it by § 12500(e) of the Business and Professions Code. (Ord. 1812, § 1, 11/10/1987)

"County Sealer" shall mean the Sealer/Director appointed by the Humboldt County Board of Supervisors and his duly authorized agents. (Ord. 1812, § 1, 11/10/1987)

**715-4. REGISTRATION CERTIFICATE.**

No person shall use any weighing and measuring device for commercial purposes without having a current annual registration certificate for such device. The certificate shall be in addition to any other certificate, license or permit which may be required by the County or any other governmental entity. In the case of LP-gas vapor meters, a certificate shall be issued based on an annual count of an LP-gas dealer's meters located in the County, and if changes in the number of meters occur during the year, no additional certificate(s) shall be required. (Ord. 1812, § 1, 11/10/1987)

**715-5. APPLICATION.**

An application for a registration certificate must be submitted to the County sealer in the form prescribed by him/her. The County sealer shall, upon receipt of a completed application and the payment of the applicable fee described herein, issue a current registration certificate. (Ord. 1812, § 1, 11/10/1987; ord. 2308, § 15, 9/23/2003)

**715-6. ANNUAL FEE.**

An annual registration fee shall be charged for the fiscal year, or any part thereof, for all weighing and measuring devices requiring a registration certificate as set forth in the annual Humboldt County Schedule of Fees and Charges adopted by the Humboldt County Board of Supervisors. (Ord. 2408, § 6, 01/06/2009)

For the purpose of this section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, and a device fee, as set forth in the annual Humboldt County Schedule of Fees and Charges adopted by the Humboldt County Board of Supervisors. (Ord. 2408, § 6, 01/06/2009)

A. For a single measuring and weighing device with a maximum capacity of 30 (thirty) pounds which is used seasonally (less than six months) to weigh produce and which is submitted to the Sealer for examination and registration the fee shall be as set forth in the annual Humboldt County Schedule of Fees and Charges adopted by the Humboldt County Board of Supervisors. (Ord. 1812, § 1, 11/10/1987; ord. 2052, 9/27/1994; Ord. 2408, § 6, 01/06/2009)

B. For marinas, mobile home parks, recreational vehicle parks, and apartment complexes, where the owner of the park or complex owns and is responsible for the utility meters, the owner shall pay a device fee and location fee as set forth in the annual Humboldt County Schedule of Fees and Charges adopted by the Humboldt County Board of Supervisors. Marinas, mobile home parks, recreational vehicle parks and apartment complexes for which the above fees are assessed, shall be inspected and tested as frequently as required by regulation. (Ord. 1812, § 1, 11/10/1987; Ord. 2408, § 6, 01/06/2009)

C. Fees and charges related to testing commercial hopper scales are authorized by Section 12210.5 of the California Business and Professions Code. The fees and charges for testing commercial hopper scales shall be as set forth in the annual Humboldt County Schedule of Fees and Charges adopted by the Humboldt County Board of Supervisors. (Ord. 2408, § 6, 01/06/2009)

D. Fees and charges related to farm milk tanks shall be as set forth in the annual Humboldt County Schedule of Fees and Charges adopted by the Humboldt County Board of Supervisors. (Ord. 2408, § 6, 01/06/2009)

**715-7. ISSUANCE TO CORPORATION.**

A registration certificate may be issued to a corporation duly authorized to transact business in this state or to any person operating under a fictitious name who has complied with the provisions of Chapter 5 (commencing with § 17900) of Part 3 of Division 7 of the Business and Professions Code. Otherwise all such certificates shall be issued in the true name of the applicant. Except as provided above, no business, occupation or activity for which a certificate is required by this article may be conducted under any false or fictitious name. A certificate issued to a corporation shall designate such corporation by the exact name which appears in the Articles of Incorporation of such corporation.

**715-8. TRANSFER.**

A registration certificate is transferable from one person to another and is valid only for the specific devices and, if the devices are to be used at fixed location, for the specific location for which it is issued. Replacement of specific devices shall be allowed without a new certificate being required.

**715-9. LOST CERTIFICATE.**

If a current registration certificate has been lost, the person to whom it was issued may obtain a replacement from the Sealer of Weights and Measures upon payment of a replacement fee of \$5.00.

**715-10. DELINQUENCY.**

Any person failing to renew a permit on or before July 31st of each year shall be required to pay an additional sum equal to 100% of the registration fee as a penalty for any delinquency.

**715-11. POSTING CERTIFICATE.**

Every person using any weighing or measuring device for which a registration certificate is require under the provisions of this article shall keep such certificates conspicuously posted at all times at the location where such device is being used.

CHAPTER 6

PARIMUTUEL WAGERING

**716-1. PARIMUTUEL WAGERING (REDWOOD ACRES FAIR).**

The County of Humboldt elects to receive a distribution from the total parimutuel wagers placed within the Redwood Acres Fair enclosure or at its satellite wagering facility, pursuant aid the provisions of § 19610.4 of the Business and Professions Code. (Ord. 1860, 4/4/89)

**TITLE VII - ADMINISTRATION**

**DIVISION 1**

**LIBRARY TRANSACTIONS AND USE TAX**

**CHAPTER 7**

**717-1. TITLE**

This ordinance shall be known as the Library Transactions and Use Tax Ordinance. The County of Humboldt hereinafter shall be called *District*. This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Humboldt, which shall be referred to herein as *District*. (Ord. 2163, 3/10/98)

**717-2. OPERATIVE DATE**

This ordinance shall become operative on 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. (Ord. 2163, 3/10/98)

**717-3. 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: (Ord. 2163, 3/10/98)

a. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7286.51) of Division 2 of the Revenue and Taxation Code and Section 7251 of Part 1.7 of Division 2 which authorizes the District to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose. (Ord. 2163, 3/10/98)

b. To adopt a retail transactions and use tax ordinance which 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. (Ord. 2163, 3/10/98)

c. To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes. (Ord. 2163, 3/10/98)

d. To adopt a retail transactions and use tax ordinance which can be administered in a manner which 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.

**717-4. EXPENDITURE PLAN**

The expenditure plan is designated to accomplish the specific projects listed below with the expenditures from the transactions and use tax. The expenditure plan provides for preserving the existing libraries; reversing the deterioration in services at the existing libraries and upgrading their services and collections. (Ord. 2163, 3/10/98)

This expenditure plan is intended to provide Humboldt County with libraries that are on a par with those operated in the urban areas of California. (Ord. 2163, 3/10/98)

The specific projects for which the revenues from the transactions and use tax will be expenditure are as follows in the order of priority: (Ord. 2163, 3/10/98)

a. Maintaining and operating the Humboldt County public libraries and the Bookmobile service. (Ord. 2163, 3/10/98)

b. Restoring staff and open hours at least to the 1992/93 levels in all existing county library outlets, and restoring the bookmobile staff and schedule to full-time. (Ord. 2163, 3/10/98)

c. Restoring the book and materials budget for the library system to 1992/93 levels, and increasing it when demand and funding allows. (Ord. 2163, 3/10/98)

d. Improving wherever possible the library facilities, automation, services and collections of all Humboldt County Library outlets. (Ord. 2163, 3/10/98)

e. If appropriate, renting, leasing or constructing additional library branches or bookmobiles and maintaining and operating such additional library outlets. (Ord. 2163, 3/10/98)

**717-5. CONTRACT WITH STATE**

Prior to the operative date, the District shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the District shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. (Ord. 2163, 3/10/98)

**717-6. 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 District at the rate of one-fourth of one percent (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. (Ord. 2163, 3/10/98)

**717-7. PLACE OF SALE**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. (Ord. 2163, 3/10/98)

In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 2163, 3/10/98)

**717-8. 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-eighth of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. 2163, 3/10/98)

**717-9. 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. (Ord. 2163, 3/10/98)

**717-10. 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: (Ord. 2163, 3/10/98)

a. Wherever the State of California is named or referred to as the taxing agency, the name of this District shall be substituted therefor. However, the substitution shall not be made when: (Ord. 2163, 3/10/98)

1. The word State is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California; (Ord. 2163, 3/10/98)

2. The result of that substitution would require action to be taken by or against this District or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance. (Ord. 2163, 3/10/98)

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: (Ord. 2163, 3/10/98)

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; (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 or the Revenue and Taxation Code. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

**717-11. 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. (Ord. 2163, 3/10/98)

**717-12. 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. (Ord. 2163, 3/10/98)

b. There are exempted from the computation of the amount of transactions tax the gross receipts from: (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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/her 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: (Ord. 2163, 3/10/98)

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 Chapter 2 of 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 (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

5. For the purposes of subsections (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. (Ord. 2163, 3/10/98)

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: (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

5. For the purposes of subsections (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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

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 Chapter 2 of 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. (Ord. 2163, 3/10/98)

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. (Ord. 2163, 3/10/98)

**717-13. 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 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 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. (Ord. 2163, 3/10/98)

**717-14. 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 District, or against any officer of the State or the District, 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. (Ord. 2163, 3/10/98)

**717-15. TERMINATION DATE**

This ordinance will terminate on September 30, 2014. (Ord. 2163, 3/10/98)

**717-16. 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. (Ord. 2163, 3/10/98)

**717-17. EFFECTIVE DATE**

This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately. (Ord. 2163, 3/10/98)

TITLE VII - ADMINISTRATION

DIVISION 1

TRANSACTIONS AND USE TAX TO BE ADMINISTERED  
BY THE STATE BOARD OF EQUALIZATION

CHAPTER 8

[DID NOT PASS BY MAJORITY VOTE OF THE ELECTORATE AS REQUIRED  
BY ORDINANCE 2323, 07/06/2004, THEREFORE, WAS NOT CODIFIED]

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