

CITY OF LARKSPUR MEASURE C

C MEASURE C: Larkspur Street Repair/Essential City Services Measure. To repair aging and deteriorating neighborhood streets and roads; repair potholes; maintain police and fire protection; maintain 9-1-1 emergency/medical response; clear hazardous and flammable brush to prevent fires and improve emergency vehicle access; and maintain essential city services, shall the City of Larkspur enact a 1/2 cent sales tax for 5 years with annual performance reviews, independent annual audits, citizens oversight, and no money for Sacramento?	YES
	NO

CITY ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE C

The City Council of the City of Larkspur placed Measure C on the ballot to ask the City’s voters to approve a temporary one-half of one percent (0.50%) transactions and use tax. The proposed tax would add a half-cent to the price of an item that costs a dollar, or 50¢ to the price of an item that costs \$100.

Because Measure C would not limit the use of tax revenue, it is a “general tax,” not a “special tax” that restricts the funds to specific purposes. Therefore, the City may use the funds for any legitimate governmental purpose. At the time that the City Council called for an election on Measure C, it also directed the preparation of an alternative City budget to be considered at a subsequent meeting of the City Council. The alternative budget would be implemented in the event that voters approve Measure C, directing the spending of additional revenue on projects and services such as repairing neighborhood streets and roads; pothole repair, maintaining police and fire protection; maintaining 9-1-1 emergency and medical response; and clearing hazardous and flammable brush to prevent fires and improve emergency vehicle access.

The proposed tax would terminate automatically after five years, unless extended by the voters.

Measure C would require the formation of a Citizens’ Oversight Committee consisting of at least five members of the public, which could be residents, representatives of Larkspur businesses, or a mix of the two. Each year, the City’s auditors would complete a report reviewing the collection, management, and expenditure of revenue from Measure C. The Oversight Committee would review the report, evaluate the projects and services provided with revenue from Measure C, and make recommendations to the City Council regarding priorities for expenditure of revenue from Measure C in the following budget year, such as spending funds on street and road repair. Measure C requires the City Council to consider those recommendations as part of its annual budget deliberations while Measure C is in effect.

Currently, the total “sales tax” rate in Larkspur is 8.5%. The City’s share is only 0.75% of that 8.5%.

Technically, the existing “sales tax” is a combination of “sales and use tax” and “transactions and use tax.” With some exceptions, both are levied on the sale or use of tan-

gible personal property sold at retail. Retailers collect the tax at the time of sale and remit the funds to the State Board of Equalization, which administers the tax.

Measure C would authorize a 0.50% transactions and use tax, increasing the total sales tax rate in Larkspur to 9%. Revenue from the tax would go to the City’s general fund and be available to support the full range of municipal services.

A “Yes” vote is a vote to approve a half-cent sales tax for five years, with annual review by independent auditors and a citizens’ oversight committee. A “No” vote is a vote against the tax. Measure C would be approved if it received a simple majority of “Yes” votes.

s/SKY WOODRUFF
City Attorney
City of Larkspur

The above statement is an impartial analysis of Ordinance or Measure C. If you desire a copy of the ordinance or measure, please call the elections official’s office at 415-927-5002 and a copy will be mailed at no cost to you.

ARGUMENT IN FAVOR OF MEASURE C

Concerned about Larkspur Streets and Roads? Then vote **YES on C!**

While Larkspur's quality of life is something we are all proud of, our local roads are not. You have a chance to do something about it by voting **YES on C**.

- Larkspur's roads are among the worst in the entire Bay Area
- Larkspur's roads are riddled with dangerous potholes and cracks
- The cost of repairs only increases, the longer we wait
- These problems can't be ignored – our roads will only get worse and more expensive to fix

YES on C provides a locally-controlled source of funds to address neighborhood streets and roads and other essential service priorities.

- **YES on C** will help repair deteriorating streets before their costs become even more expensive by as much as 40 times higher.
- **YES on C** also preserves funding for essential services: police/fire protection, 911 emergency and medical response.
- **YES on C** helps clear hazardous/flammable brush, preventing fires and improving emergency vehicle access, drainage and seismic safety so Larkspur is prepared for a range of natural disasters: fires, floods, earthquakes.

YES on C is fiscally accountable and continues the City's tradition of transparent, responsible financial management. **YES on C** requires Independent Citizens' Oversight and annual Financial Audits and Performance Reviews to ensure funds are spent as promised. ALL funds are required to stay local for Larkspur and cannot be taken by Sacramento. **YES on C** is legally required to end in 5 years unless renewed by voters.

Out-of-town Larkspur shoppers will pay their fair share under Measure C, which does not apply to food purchased as groceries or prescription medications.

Join Larkspur community and business leaders – **Vote YES on C** to repair neighborhood streets and maintain our quality of life. Visit www.RepairLarkspurStreets.com and remember, vote **YES on C!**

s/DANIEL HILLMER

Mayor

s/JULIA RITTER

Larkspur-Corte Madera School Board Member

s/ROBERT B. SINNOTT

45-Year Larkspur resident/Larkspur Fire Chief

NO ARGUMENT AGAINST MEASURE C WAS SUBMITTED.

FULL TEXT OF MEASURE C

CITY OF LARKSPUR

ORDINANCE No. 993

AN ORDINANCE OF THE CITY OF LARKSPUR IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, Larkspur's essential service needs include repairing deteriorating streets, roads and potholes, preparing Larkspur for natural disasters, and preserving public safety services such as fire and police protection and 9-1-1 emergency medical response times;

WHEREAS, Larkspur's streets and roads are some of the worst in the Bay Area. In 2011, Larkspur's roads were rated as the second worst in the entire Bay Area;

WHEREAS, Larkspur's neighborhood streets and roads are deteriorating, riddled with cracks, and mostly on steep hillsides, creating hazardous road conditions for residents;

WHEREAS, continuing to delay maintenance and repair of Larkspur's local streets and roads will increase costs in the long-run;

WHEREAS, it is fiscally responsible to address street and road needs now, before they become more expensive in the future;

WHEREAS, essential service needs include clearing hazardous and flammable brush to prevent fires and improve emergency vehicle access so Larkspur is prepared for natural disasters, such as fires, floods and earthquakes;

WHEREAS, additional funds are needed to address Larkspur's essential community service needs and priorities including repairing deteriorating streets, roads and potholes, preparing Larkspur for natural disasters, and preserving public safety services such as fire and police protection and 9-1-1 emergency medical response times; and

WHEREAS, a local funding measure would maintain our essential city services and address community priorities by creating a local source of revenue that cannot be taken by Sacramento.

NOW THEREFORE, THE PEOPLE OF THE CITY OF LARKSPUR DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The People of Larkspur find that the above Recitals are true and correct and are incorporated herein by reference.

Section 2. Amendment of Larkspur Municipal Code to Add Chapter 3.24. Title 3 of the Larkspur Municipal Code is hereby amended by adding a new Chapter 3.24, which shall read as follows:

3.24.010 Title.

This ordinance shall be known as the Larkspur Transactions and Use Tax Ordinance. The City of Larkspur hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.

3.24.020 Operative Date.

"Operative Date" means the first day of the first calen-

dar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being as set forth below.

3.24.030 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 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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

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

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

3.24.040 Contract with State.

Prior to the operative date, the City 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 City 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.

3.24.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of .5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.24.060 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 retail-

er or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made.

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

3.24.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City 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 .5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.24.080 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.

3.24.090. 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 City 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 Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.
3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

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

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

B. The word "City" 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.

3.24.100 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.

3.24.110 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 City which is shipped to a point outside the City, 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 City 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-City 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-City 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 City 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 City 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 City or participates within the City 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 City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

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

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.

3.24.120 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.

3.24.130 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 City, or against any officer of the State or the City, 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.

3.24.140 Annual Audit; Citizens' Oversight.

A. By no later than December 31 of each year after the operative date, the City's independent auditors shall complete a report reviewing the collection, management and expenditure of revenue from the tax authorized by this Chapter. The auditors' report shall be a public document.

B. There shall be a committee consisting of no fewer than five members of the public to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this Chapter.

The committee shall review the auditors' report, for each year in which the auditors prepare such a report, evaluate the projects and services provided with revenue from the tax, and make recommendations to the City Council regarding priorities for expenditures of revenue from the tax authorized by this Chapter for the following budget year. The City Council shall consider the committee's recommendations as part of its budget deliberations.

C. By December 31, 2013, the City Council shall adopt a resolution establishing the composition of the committee required by subsection B, setting the terms of office of the committee members, and defining the scope of the committee's responsibilities, which at a minimum shall include reviewing the annual auditor's report and making recommendations to the City Council for use of revenue from the tax authorized by this Chapter. The City Council shall appoint all members of the committee by January 31, 2014. Thereafter, appointment of committee members and filling vacancies shall be governed by the resolution required by this subsection.

3.24.150 Termination Date.

The authority to levy the tax imposed by this Chapter shall expire on the 5th anniversary of the last day of the calendar quarter preceding the operative date.

Section 3. Compliance with the California Environmental Quality Act. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax imposed by the adoption of this Ordinance is general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date and Publication. This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

* * * * *

IT IS HEREBY CERTIFIED that the foregoing Ordinance was approved by the following vote of the People of the City of Larkspur on November 5, 2013:

YESES:

NOES:

IT IS HEREBY FURTHER CERTIFIED that the foregoing Ordinance was adopted by Declaration of the November 5, 2013 election results by the City Council of the City of Larkspur on _____, 2013, by the following vote, to wit:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

ABSTAIN: COUNCILMEMBER:

Mayor

ATTEST:

City Clerk