Sonoma County Child Care and Children's Health Initiative

The people of the County of Sonoma ordain as follows:

Section 1. Title.

This Ordinance shall be known as the "Sonoma County Child Care and Children's Health Initiative" (the "Ordinance").

Section 2. Findings.

1. The children of Sonoma County are our future and will provide the leadership, creativity, and productivity to strengthen and sustain the quality of life in our county;

2. We must ensure that all Sonoma County children, especially the most vulnerable, are healthy and have the opportunity to succeed. Early care and education and adequate health care are two of the most important components in attaining this goal. Children in Sonoma County should receive high-quality early education and high-quality health and mental health care so that they grow into healthy and successful adults;

3. A child's health, social-emotional well-being and educational advancement are essential and interdependent. Access to quality early care and education, social-emotional supports, and health care are fundamental for a child's well-being. Any child lacking adequate health care and/or impacted by unstable and traumatic circumstances, including homelessness, is more likely to contract illnesses or have chronic medical conditions that prevent them from regularly participating in early education programs;

4. According to the 2022/2023 Sonoma County "READY" School Readiness Assessment report, less than 20% of children entering kindergarten are fully prepared to be successful in school, the latest indicator in a six-year downward trend in the kindergarten readiness of Sonoma County's children. Attendance in a quality early care and education program was found to be the primary factor preparing children to succeed in kindergarten, which in turn is associated with high school graduation, future earnings potential, global competitiveness, and general economic productivity in the United States;

5. Accessibility to affordable, quality child care is essential for working parents and our local economy to thrive. Nearly 50% of available child care slots in Sonoma County were lost due to impacts of the COVID-19 pandemic on the child care workforce, operation of child care centers and family child care providers, according to the Community Child Care Council of Sonoma County (4Cs). The severe lack of child care availability, especially for babies and toddlers, has made it impossible for many parents, especially women, to return to work;

6. Research from the UC Berkeley Center for the Study of Child Care Employment in 2022 found that the COVID-19 pandemic had worsened an already widespread shortage of child care providers across the state. The study projects that without public funding, providers' financial health is increasingly dire;

7. Child care, preschool, and early education are more expensive than college, with average, full-time infant care costing more per year of tuition at the University of California, Berkeley and almost three times the annual cost of Sonoma State University;

8. Neuroscience research shows that a child's brain develops most dramatically, nearly 90% of brain architecture, during the first five years of life, and this critical period is a window of opportunity to lay the foundation for all of the years that follow;

9. The growing homeless population in Sonoma County includes children and their families who are often challenged with accessing quality child care, preschool, early education, and health and mental health services;

10. Each child in Sonoma County deserves to be supported by qualified, caring adults in safe and nurturing environments; effective and high-quality adult-child interactions have life-long effects on a young child's potential to succeed. Research shows children engaged in warm and responsive adult-child interactions and in positive experiences demonstrate greater social competence, fewer behavior problems, and optimal development;

11. The most effective guarantee of quality early care and education is workforce compensation; a 2014 UC Berkeley Study showed that educator wages are one of the most important predictors of the quality of education children receive;

12. Low compensation of early educators drives turnover and hampers the ability to attract and retain skilled educators, which in turn undermines stable, continuous relationships essential to children, which disproportionately affects low-income women, as early educators are almost exclusively female, with large numbers of older women, women of color, recent immigrants, and first-generation college students and mothers;

13. Research from the UC Berkeley Labor Center in 2019 found that every dollar spent in ECE generates as much as $1.88 in increased economic activity, plus an additional $0.08 in state and local tax revenue;

14. Access to high-quality health and mental health care are important in ensuring Sonoma County children have the opportunity to be successful. Young children have unique physical, mental, behavioral, developmental and therapeutic needs, which warrant specialized pediatric health care services, early childhood and perinatal mental health screening and treatment.

15. Multiple data sources indicate deepening disparities and greater need for supporting the health, social-emotional development and school readiness of vulnerable children, due to the significant health, social-emotional and economic impacts of recurring disasters in Sonoma County and COVID-19 pandemic on families and children;

16. Significant planned funding cuts to local community-based services that promote optimal early childhood development will occur in 2025 and beyond, due to the ongoing decline of state Proposition 10 tobacco tax revenue funding and the full spend-out of the First 5 Sonoma County Commission dedicated fund balance. State tobacco tax revenue has been dedicated to supporting early childhood development since 1998 but that source of funding is decreasing.

Section 3. Purpose and Intent.

It is the purpose and intent of this Ordinance to ensure that Sonoma County children receive the high-quality early care, education and health screening and care they need to be successful adults, by:

1. Providing additional support for, and to expand access to, high-quality child care, preschool, and early education services for low- and middle-income children and families in Sonoma County, especially those impacted by homelessness;

2. Improving wages, compensation and workforce development opportunities for child care providers and early educators;

3. Promoting social-emotional wellness, optimal early development, kindergarten readiness, and school success for children;

4. Providing additional support to maintain and protect the local children's health care safety net, including the maintenance and expansion of specialized staff to screen, assess and treat trauma, complex illnesses, and other health issues for children, including perinatal mental health, without regard to insurance status or ability to pay; and

5. Imposing a countywide sales tax for the purpose of maintaining the local children's health care safety net and providing child care, preschool, and early education services.

Section 4. Sonoma County Child Care and Children's Health Initiative Tax.

Article VIII of Chapter 12 of the Sonoma County Code of Ordinances is added as follows:

Sonoma County Child Care and Children's Health Initiative.

Sec. 12-59. Title.

There is growing evidence that there is an association between health, social-emotional well-being and social factors, e.g., education, economic resources, neighborhood characteristics, discrimination, and residential segregation in health. By increasing funding for and coordination with child care providers, guardians, and health care practitioners we will improve health and education outcomes for all children in Sonoma County.

(a) This article shall be known as the "Sonoma County Child Care and Children's Health Initiative" (the "Ordinance"). The tax described in this article shall be referred to as the "Sonoma County Child Care and Children's Health Tax" (the "Tax").

(b) This article shall be applicable throughout the incorporated and unincorporated territory of Sonoma County, California (the "County").

(c) The goals for expenditures from the proceeds of the Tax shall be:

(1) To ensure that Sonoma County's children are healthy, live in stable, safe, and supported families and communities, and are prepared to succeed in kindergarten and later in life;

(2) To establish Sonoma County as a family-friendly county that supports families as an important part of the County's population and civic culture;

(3) To improve the economic well-being of the early care and education sector, workforce and providers who care for and educate our county's children

and support the working parents of Sonoma County that are vital to employers and our local economy;

(4) To adopt equity as a guiding principle in funding services under this Ordinance by prioritizing services to children with the highest needs;

(5) To strengthen collaboration and partnership among Sonoma County's public agencies, community-based organizations and the private sector around shared positive outcomes for children and their families;

(6) To improve program accessibility and administrative efficiency for parents and providers, including, where appropriate, through the use of technology;

(7) To provide children with developmentally appropriate, gender-inclusive, and culturally-responsive services;

(8) To maintain and protect the local children's health care safety net, including the maintenance and expansion of diverse specialized staff that provide pediatric and perinatal mental health screening, assessment, referral and care for the treatment of illnesses, trauma and other health issues for children without regard to insurance status or their ability to pay.

Sec. 12-60: Restricted Uses of the Tax.

(a) Proceeds from the Tax shall be used exclusively to increase access to high-quality child care, preschool, and early education services to benefit low- and middle-income children and families in Sonoma County; to improve wages and compensation for family child care providers and early educators who provide those services; to maintain and protect the availability and accessibility of local health and mental health care services that are specific to the unique needs of infants, toddlers and pediatric patients; and to support the efficient administration of Tax proceeds.

(b) Proceeds from the Tax shall be deposited into the County treasury in a special fund entitled the Sonoma County Child Care and Children's Health Fund (the "Fund"). Monies deposited into the Fund, together with any interest that accrues thereon, shall be governed by and subject to the requirements set forth in Section 12.61.

(c) Audit requirement. On an annual basis, the Board of Supervisors shall cause to have conducted an independent financial audit of the revenues and expenditures of the Fund. The audit shall be conducted by an independent certified public accountant that is not an employee of the County of Sonoma, First 5 Sonoma County Commission, or a member of any designated administering, planning and/or advisory council formed under this article, and shall be submitted to the Board of Supervisors and made available to the public.

Sec. 12-61: Sonoma County Child Care and Children's Health Fund.

(a) In each year, one hundred percent (100%) of revenue generated by the Tax, after providing for the costs to administer and operate the Tax pursuant to subdivision (e) of this section, together with any interest that accrues thereon, shall be

appropriated by the Board of Supervisors for the following purposes and consistent with the Sonoma County Child Care and Children's Health Program Plan and Budget (the "Plan"):

(1) Sixty percent (60%) of the annual revenue shall be allocated to the following:

(A) To improve the compensation and benefits of family child care providers and early educator employees by providing rate increases combined with workforce development supports and enhancements.

(B) To increase the number of low- and middle-income children from birth through age five with access to safe, nurturing, affordable, and high-quality child care, preschool, and early education services across the county, with priority for children who (1) are homeless, (2) are from historically underserved communities, or (3) have other high priority needs as designated in the Plan.

(C) To develop, maintain, upgrade, and expand, as needed, early care and education facilities.

(D) For reasonable expenditures of the Administering Agency for the efficient administration of the Fund, including the obligations imposed by this Ordinance. The Administering Agency may reserve funds received in one or more fiscal years to address anticipated fluctuations in revenue in subsequent fiscal years.

(2) Forty percent (40%) of the annual revenue shall be allocated to the following:

(A) To assure the financial viability of the local children's health and mental health care safety net and its accessibility, including the expansion of specialized and community-based staff that provide perinatal, pediatric and pediatric subspecialty screening, assessment, referral and treatment of trauma, complex illnesses and conditions, and other health problems, without regard to insurance status or their ability to pay; and

(B) To explore, pilot and implement innovative programs that enable pediatric patients and their families to better access community-based, pediatric health care and mental health services, including perinatal mental health, and that enhance the effectiveness of such services.

(b) Proceeds from the Tax may not be used to replace the funding level for direct services established in the Fiscal Year 2024-2025 Sonoma County budget, or the Fiscal Year 2024-2025 First 5 Sonoma County Commission budget, to support child care, preschool, early education or pediatric health/mental health services, unless state, federal or other non-county funding earmarked for these purposes have been reduced by the same amount.

(c) Monies may be expended for the purposes set forth herein as direct grants, as contractual or program payments for services and activities, as the nonfederal share of Medicaid payments or other federal program payments through certified public expenditures or intergovernmental transfers, as reimbursement or other compensation for costs, as incentives, or through programs or other vehicles identified or developed in conjunction with County Health and Human Services departments, local hospitals, health care and specialty provider representatives.

(d) Monies may not be used to replace or otherwise supplant the tax revenue funding and other county or state funding and payments currently provided or otherwise available in support of health care providers and/or child care and early education providers.

(e) The County shall use the proceeds from the Tax to pay for the costs to administer and operate the Tax pursuant to Section 7272 of the Revenue and Taxation Code.

Sec. 12-62: Community Advisory Council.

(a) Within forty-five (45) days of the Effective Date of this Ordinance, the Board of Supervisors shall establish a Sonoma County Child Care and Children's Health Community Advisory Council (the "Council").

(b) The Council shall be composed of eleven members, including:

(1) Two members of the child care workforce, one of whom is a worker from an early care and education center who works in the classroom, and one of whom is a home-based family child care provider.

(2) Two parents and/or guardians of a child or children under the age of six (at the time of appointment to the Council), at least one of whom must have experience participating in a subsidized child care program or subsidy wait list;

(3) One administrator and/or director of a local Child Care Resource and Referral Agency, or their designee;

(4) One administrator and/or director from an early care and education center participating in a state or federally subsidized child care program in Sonoma County, or their designee; and

(5) Five members who represent pediatric and/or perinatal health and/or mental health care systems, including but not limited to providers and administrators representing local hospitals, federally qualified health centers, community-based organizations, County Department of Health Services and other entities.

(c) Members shall be appointed to the Council by the Board of Supervisors within 90 days of the Effective Date.

(d) Council members shall serve a four-year term, with the exception of the first cohort of members, five of whom shall serve a two-year term as determined by lottery at

the first meeting of the Council with the remainder serving a four-year term. No member may serve on the Council for more than twelve consecutive years.

(e) The Council shall develop policy and programmatic recommendations related to the Fund and its implementation, including but not limited to:

(1) Recommendations to the Administering Agency about the Child Care and Children's Health Plan and Annual Expenditure Plan;

(2) Recommendations to the Administering Agency about initiatives to improve the quality and capacity-building of service providers;

(3) Recommendations to the Administering Agency about initiatives to evaluate and improve access to programs, particularly including through the use of technology to streamline referral, navigation and linkage and better integration of services; and

(4) Recommendations to the Administering Agency about strategies to enhance community engagement in the planning and implementation of services.

(f) The Council shall promote transparency in the administration of the Fund by facilitating opportunities for public testimony and a community engagement process with parent, providers, early care and education organizations and other stakeholders to provide input on program development and implementation.

(g) The Council shall annually review the audit of the Fund for the prior year, which will be facilitated by the Administering Agency.

Sec. 12-63: Administering Agency for the Fund.

(a) The First 5 Sonoma County Commission (Commission) shall serve as the "Administering Agency" to develop and administer all of the programs, activities and services paid for by the Fund. The Board of Supervisors continues to maintain the authority to appoint all at-large members of the Commission and to designate a member of the Board to serve on the Commission.

(b) As the Administering Agency, the First 5 Sonoma County Commission shall be responsible for:

(1) Developing the Child Care and Children's Health Plan and Annual Expenditure Plan as set forth in Section 12.64;

(2) Allocating funds pursuant to the Annual Expenditure Plan;

(3) Developing, administering, overseeing implementation and evaluation of impact of all programs and services paid for by the Fund;

(4) Providing staff support for the Advisory Council;

(5) Developing the Program Plan Evaluation set forth in Section 12.65;

(6) Operating with the intention to promote transparency and public accountability, and maintain good fiscal stewardship of public resources;

(7) Awarding funds pursuant to the contracting requirements applicable to the Commission and the requirements of this Ordinance.

(c) The Administering Agency shall have authority, at any time, to reduce the level of service provided for in the Plan or in the Annual Expenditure Plan to respond to reduced revenues generated from the Tax.

Sec. 12-64: Child Care and Children's Health Program Plan and Budget and Annual Expenditure Plan.

(a) As the Administering Agency, the First 5 Sonoma County Commission, with recommendations from the Advisory Council, shall develop the Child Care and Children's Health Plan and Budget ("Plan"), including an annual budget, on a five-year cycle to govern the use of funds. The Plan shall be designed to meet the respective needs of regions throughout the County with respect to increasing, improving and maintaining access to quality early care and education for families and children, improving workforce compensation of family child care providers and early educator employees, and improving children's access to health and mental health care. The Plan and budget shall be approved by First 5 Sonoma County Commission and the Board of Supervisors. The Board of Supervisors shall appropriate funds necessary to carry out the Plan budget on an annual basis.

(b) When feasible, planning and budgeting processes shall be integrated into the Commission's existing strategic planning cycle and processes, should avoid duplication in administrative efforts, and leverage existing administrative efforts and resources where feasible (such as conducting community needs assessments, use of consultants, community engagement activities, etc.).

(c) The Plan shall provide for improved wages for child care providers and early educators and include programs that address early care and education workforce wages, including, but not limited to:

(1) Maintaining and enhancing the quality of participating early care and education settings;

(2) Moving toward the goal of parity with public TK-12 educators with similar experience and responsibilities;

(3) Developing a comprehensive training and professional development system, including support for educational advancement and degree attainment;

(4) Improving compensation and quality supports for participating Family, Friend and Neighbor (FFN) providers; and

(5) Providing other work supports and benefits, such as paid apprenticeship opportunities.

(d) The Plan shall describe program requirements, including the specific projects and purposes for which the monies may be expended. The Plan shall align with and

respond to emerging developments in state and/or federal early care and education programs, policy, and research.

(e) As the Administering Agency, the First 5 Sonoma County Commission shall, when developing the Plan, consider the findings of the Sonoma County Child Care Planning Council's Needs Assessment and Priorities for Funding Unmet Need as submitted to California Department of Education, the California Child Care Resource and Referral Network's annual Child Care Portfolio for Sonoma County and similar reports, as well as California Department of Education Kindergarten enrollment data available by English Language Acquisition Status (ELAS) as well as homeless data, foster care data, the READY Sonoma County Kindergarten Readiness Report, the CA Strong Start Index, the Portrait of Sonoma and other pertinent and relevant data sources.

(f) On an annual basis, the Administering Agency shall prepare an Annual Expenditure Plan ("Annual Expenditure Plan") based on recommendations of the Council, available data about the needs of the community, a stakeholder engagement process and other community input. The Annual Expenditure Plan shall be approved by the First 5 Sonoma County Commission and the Sonoma County Board of Supervisors.

(g) Every fourth year of the Plan, a new Plan shall be developed by the Commission, with input from the Council and other community stakeholders.

Sec. 12-65: Implementation of the Fund.

(a) Data Collection**.** The Commission, with input from the Council, shall develop data collection strategies in the Plan. These strategies shall be designed to support Plan transparency, program evaluation, design and decision-making, as well as the following goals:

(1) Increasing access to quality child care programs, subsidies and slots;

(2) Increasing child care provider and early educator wages, compensation and workforce development opportunities;

(3) Improving retention of early care and education staff;

(4) Improving the professional development and advancement of early educators; and

(5) Increasing access to pediatric health and perinatal mental health screening, assessment, referral and treatment services for infants, toddlers, new parents and children under age six.

As part of the data collection strategy, organizations that are selected and contracted to receive funds will be expected to provide information to the Administering Agency as part of the initial application and evaluation process. This will include, but will not be limited to, data related to employees, wages, retention, training, and compliance with relevant laws.

(b) Program Plan Evaluation. During the implementation period of each five-year Plan and prior to the development of a new Plan, the Commission shall conduct an evaluation to determine the effectiveness of investments and to inform the next Plan. The evaluation may be conducted by an external evaluator. Evaluation findings shall be disseminated to all relevant stakeholders, including the Sonoma County Child Care Planning Council, local health care systems and the Board of Supervisors.

Sec. 12-66: Operative Date.

"Operative date" means the first day of the first calendar quarter commencing more than one hundred and ten (110) days after the Effective Date of this article.

Sec. 12-67: Enactment of Retail Transaction and Use Tax.

(a) This article is adopted to achieve the following general purposes:

(1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 and of Sections 7285.5 and 7292.8 of Part 1.7 of Division 2 of the California Revenue and Taxation Code that authorize the County to adopt this article, and to provide that such tax shall be operative if approved by the electors voting on the measure to approve the imposition of the tax, as required by state law, at an election called for that purpose. This retail transactions and use tax shall be in addition to any other taxes authorized by law, including any existing or future state or local transactions and use tax. The imposition, administration, and collection of the tax shall be in accordance with all applicable statutes, laws, and rules and regulations prescribed and adopted by the California Department of Tax and Fee Administration.

(2) To enact 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 California Revenue and Taxation Code.

(3) To enact a retail transactions and use tax ordinance that imposes a tax and that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California sales and use taxes.

(4) To enact 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 each person subject to taxation under the provisions of this article.

(b) The provisions of this article shall be interpreted in order to accomplish the purposes that are set forth in this section.

Sec. 12-68: Contract With State.

Prior to the operative date, the County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this article; provided that, if the County shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Sec. 12-69: 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 Sonoma County at the rate of one-quarter 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 article.

Sec. 12-70: Place of Sale.

(a) For purposes of this article, 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 or her 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.

(b) In the event a retailer has no permanent place of business in the State of California 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 Department of Tax and Fee Administration.

Sec. 12-71: Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the incorporated and unincorporated territory of Sonoma County of tangible personal property purchased from any retailer on and after the operative date of this article for storage, use or other consumption in said territory at the rate of one-quarter of one percent (0.25%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Sec. 12-72: Incorporation of Provisions of State Law.

Except as otherwise provided in this article and except insofar as any provisions of this article may be inconsistent with Part 1.6 of Division 2 of the California Revenue and Taxation Code, all of the provisions of Part 1 (commencing at Section 6001) of Division 2 of the California Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

Sec. 12-73: Limitations on Adoption of State Law and Collection of Use Taxes.

The following requirements shall be followed in applying the provisions of Part 1 of Division 2 of the California Revenue and Taxation Code to this article:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this county shall be substituted therefor. However, said substitution shall not be:

(1) When 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 Department of Tax and Fee Administration, State Treasury or the Constitution of the State of California;

(2) When the result of that substitution would require action to be taken by or against this county or any agency, officer or employee thereof, rather than by or against the California Department of Tax and Fee Administration, in performing functions incident to the administration or operation of this article;

(3) In those sections, including but not 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 that 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 that would not be subject to tax by the State of California 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 California Revenue and Taxation Code.

(b) The word "county" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203 of the California Revenue and Taxation Code.

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

Sec. 12-74: Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the California Revenue and Taxation Code, an additional transactor's permit shall not be required by this article.

Sec. 12-75: Exemptions and Exclusions.

(a) In addition to any other exemption or exclusion required by law, 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 computation of the amount of transactions tax imposed by this article, gross receipts from:

(1) The sale 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) The sale of property to be used outside the County which is shipped to a point outside the County pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection, delivery to a point outside the County shall be satisfied:

(A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with Section 21411 of the California Public Utilities Code and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the California Vehicle Code, by registration to an out-of-county address and 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 a combination of registration to a place of business out of county and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property, if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this article;

(4) The lease of tangible personal property that constitutes a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount that was fixed by a lease executed prior to the operative date of this article; and

(5) For the purposes of subsections (b)(3) and (b)(4), 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, regardless of whether such right is exercised.

(c) There are exempted from computation of the amount of the use tax imposed by this article, gross receipts from the following storage, use or other consumption of tangible personal property:

(1) The gross receipts from the sale which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(2) The sale of 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 set forth in Sections 6366 and 6366.1 of the California Revenue and Taxation Code.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract that was entered into prior to the operative date of this article.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property shall arise under a lease that constitutes 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 that was executed prior to the operative date of this article.

(5) For the purposes of subsections (c)(3) and (c)(4), the storage, use, or other consumption or the 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, regardless of whether such right is exercised.

(6) Except as provided in subsection (c)(7), a retailer engaged in business in Sonoma County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into Sonoma County or participates within Sonoma County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in Sonoma County or through any representative, agent, canvasser, solicitor, subsidiary or person in Sonoma County under the authority of the retailer.

(7) “A retailer engaged in business in Sonoma County” shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with Section 21411 of the

California Public Utilities Code and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the California Vehicle Code. The retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle or aircraft at an address in Sonoma County.

(d) Any person subject to use tax under this article may credit the amount of such tax against any transactions tax paid to a county or district imposing or a retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the California Revenue and Taxation Code with respect to the sale of property or the storage, use or other consumption of which is subject to the use tax.

Sec. 12-76: Amendment of State Law.

After the operative date of this article, all amendments to Part 1 of Division 2 of the California Revenue and Taxation Code relating to sales and use taxes that are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the California Revenue and Taxation Code and all amendments to Part 1.6 and Part 1.7 of Division 2 of the California Revenue and Taxation Code, shall automatically become a part of this article; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this article.

Sec. 12-77: Enjoining of Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the County, or against any officer of the State or the County, to prevent or enjoin the collection under this article or Part 1.6 of Division 2 of the California Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Sec. 12-78: Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 12-79: Savings Clause.

This article shall not be interpreted in any manner that conflicts with the laws or constitutions of the United States or the State of California.

Sec. 12-80: Termination of Transactions and Use Tax.

This article shall remain in effect until ended by voter approval.

Section 5. Amendment.

This Ordinance may not be amended without voter approval.

Section 6. Severability.

The people of Sonoma County hereby declare that they would have adopted each section, sentence, clause, phrase, word, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, words, or portions of this Ordinance, or any

application thereof to any person or circumstance, could be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable. If any section, sentence, clause, phrase, word, or portion of this Ordinance, or any application thereof to any person or in any circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, words, or portions of this Ordinance, and applications thereof, shall nonetheless remain in full force and effect.

Section 7. Liberal Construction.

This Ordinance shall be liberally construed to effectuate its purposes.

Section 8. Effective Date.

Except as otherwise provided in this Ordinance, this Ordinance shall take effect ten (10) days after the Board of Supervisors declares the vote, in accordance with Elections Code section 9122.

Section 9. Appropriations Limit Increase.

Pursuant to California Constitution Article XIII B and applicable laws, for four (4) years from the day of the election at which this Act is adopted, the appropriations limit for the County shall be increased by the aggregate sum collected by the levy of the transactions and use tax imposed by this Act.

(00450879-4)