

# ATTACHMENT A

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA ENACTING CHAPTER 22 ARTICLE VI OF THE SANTA BARBARA COUNTY CODE IMPOSING A BUSINESS LICENSE TAX ON THE BUSINESS OF PRODUCING OIL**

The Board of Supervisors of the County of Santa Barbara finds that oil producers should pay a business license tax on the business of producing oil because their industry creates more County burdens than other industries, and is treated differently from other types of industries under California law.

The Board of Supervisors of the County of Santa Barbara adopts the following changes to the Santa Barbara County Code under authority of Section 7 of Article XI, Section 4 of Article XIII A, and Section 2 of Article XIII C of the Constitution of the State of California, California Government Code Sections 50075 et seq. and 53722, and California Revenue and Taxation Code Section 7284.

The Board of Supervisors of the County of Santa Barbara ordains as follows:

**SECTION ONE**

**CHAPTER 22**

**ARTICLE VI**

**BUSINESS LICENSE TAX ON THE BUSINESS OF PRODUCING OIL**

The Board of Supervisors hereby enacts and adopts Chapter 22 Article VI of the Santa Barbara County Code imposing a business license tax on the business of producing oil, as follows:

**Section 22-120 – Business license and amount of annual license tax.**

Every person who engages in the business of producing oil from any well or wells located within the unincorporated area of the County shall apply for and obtain a business license from the County Tax Collector. Every person who engages in the business of producing oil from any well or wells located within the unincorporated area of the County shall pay to the County Tax Collector an annual business license tax for each well operated by such person for the purpose of producing crude oil or other petroleum substances, computed as follows:

\$1.00 times the number of barrels of oil produced and shipped from the well during each calendar year, except as adjusted herein, which amount is referred to in this chapter as the "per-barrel tax." The per-barrel tax shall be adjusted on January 1, 2016, and on each January 1st thereafter. The adjustment shall be to increase or decrease the per-barrel tax by an amount equal to the percentage increase or decrease during the previous calendar year (January 1st through December 31st) in the Producers Price Index for Crude Petroleum and Natural Gas Extraction as published by the United States Department of Labor, Bureau of Labor Statistics. Such adjustment shall be determined annually by the Tax Collector. This tax will only apply to any well producing greater than 1800 barrels per year.

For purposes of this Article, a "well or wells located within the unincorporated area of the County" shall include any well within the boundaries of the County as defined in California Government Code Section 23142 and within three miles seaward of the mean high tide line as that line may be determined from time to time by either the California State Lands Commission or the Santa Barbara County Surveyor, excepting the areas within the city limits of incorporated cities. Any well with its wellhead within such area shall be deemed to be within the unincorporated area of the County irrespective of the location of the underground petroleum reservoir being extracted for purposes of taxing the business operation of the wellhead. Should any such wellhead pump oil from a seaward reservoir beyond three miles from the mean high tide line, the proportion of such oil shall be subtracted from the quantity taxed hereunder.

For purposes of this Article, "person" includes but is not limited to an individual, partnership, corporation, organization, business and/or entity.

#### **Section 22-121 - Determining per-barrel tax.**

For the purpose of determining the per-barrel tax, the following provisions shall apply:

- (a) A barrel of oil shall consist of forty-two U.S. gallons of crude petroleum substances corrected for temperature variations in accordance with methods generally approved in the petroleum industry. "Petroleum substances" means crude oil remaining after the removal therefrom of gas, water and other impurities by preliminary processing in the vicinity of the well site preparatory to the shipment thereof.
- (b) If oil produced from two or more wells is commingled without the production of the respective wells being separately measured, each well whose production has been so commingled shall be considered as having produced an equal part of the total.
- (c) Oil produced and shipped during a calendar year shall mean oil produced from a well either before or during said calendar year which either has been sold to another or shipped from the well site during said calendar year.

## **Section 22-122 - Special Tax, Usage of Revenues, and Accountability Measures.**

The business license tax in this Article is enacted pursuant to California Revenue and Taxation Code Section 7284 and upon approval by the electorate will be a special tax as authorized by California Constitution Article XIII A and California Government Code Section 50075 *et seq.* As a special tax, the revenue generated by this ordinance shall only be used for the following specific purposes:

- (a) Of the first \$3,000,000 collected each year, the Board of Supervisors will allocate:
  1. \$500,000 for libraries in the Countywide Library System, including books, materials, operations, deferred maintenance, repairs, construction, acquisition, replacement and/or equipment;
  2. \$1,250,000 for County-operated parks and/or open spaces, including deferred maintenance, repairs, construction, acquisition, replacement and/or equipment; and
  3. \$1,250,000 for fire stations owned by the County or the Santa Barbara County Fire Protection District, including deferred maintenance, repairs, construction, acquisition, replacement and/or equipment.
- (b) If less than \$3,000,000 is collected in a year, the allocations for each of the three specific purposes listed above will be reduced proportionally.
- (c) Additional revenues above \$3,000,000 will be allocated for any of the three specific purposes listed above at the discretion of the Board of Supervisors.
- (d) Prior to the allocations above, County departments may be funded first from the tax revenues for their actual tax administration and enforcement costs, not to exceed 5% of the total tax revenue per year.

The proceeds of the tax shall be applied only to the specific purposes identified above.

The revenue collected from the tax and allocated to parks, open spaces and fire stations cannot be used to supplant personnel costs for program operations of County-operated parks and open spaces or the County Fire Department/Santa Barbara County Fire Protection District, but will only be used for deferred maintenance, repairs, construction, acquisition, replacement and/or equipment for parks, open spaces, and fire stations.

The foregoing revenues will be allocated annually by the Board of Supervisors through the annual budget process to support appropriations for the above purposes. Such appropriations may be revised pursuant to the County Budget Act, so long as the revisions are consistent with the purposes described in this Article. The Board of Supervisors finds that the foregoing uses are of public benefit to the County and its residents.

The County Auditor-Controller shall create a segregated interest-bearing account into which the proceeds of the special tax shall be deposited. The County Auditor-Controller shall annually provide the Board of Supervisors with a copy of a report containing the amount of funds collected and expended, and the status of any project required or authorized to be funded, which report shall comply with California Government Code Section 50075.3.

**Section 22-123 - Tax due dates, delinquencies, and actions to collect.**

The annual license tax shall be due and payable and, if not paid shall become delinquent, as follows:

- (a) The amount of the per-barrel tax shall be due and payable by March 1 of each year, and shall become delinquent if not received in the office of the Tax Collector on or before 5:00 p.m. on March 31.
- (b) Original Delinquency. For any delinquent payment, the person subject to the tax shall pay 10 percent of the amount of the tax in addition to the amount of the tax.
- (c) Continued Delinquency. Any person who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency amount of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent amount first imposed upon the original delinquency.
- (d) Fraud. If the County Tax Collector determines that the nonpayment of any remittance due under this article is due to fraud, an amount of twenty-five percent of the amount of the tax shall be added thereto in addition to the delinquency amounts stated in subsections (b) and (c) of this section.
- (e) Interest. In addition to the delinquency and/or fraud amounts imposed, any person who fails to timely remit any tax imposed by this article shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of delinquency and/or fraud amounts, from the date on which the remittance first became delinquent until paid.
- (f) Delinquency, Fraud, and Interest Amounts Merged with Tax. Every delinquency and fraud amount imposed and such interest as accrues under the provisions of this section shall become part of the tax herein required to be paid.
- (g) Actions to collect. Any tax required to be paid by any person under the provisions of this Article shall be deemed a debt owed by the person to the County. Any person owing money to the County under the provisions of this Article shall be liable to an action brought in the name of the County for the recovery of such amount.

**Section 22-124 - Annual reports.**

- (a) Every person required to have a license under this Chapter shall file with the Tax Collector a report, upon a form provided by the Tax Collector, which report must be received in the office of the Tax Collector on or before 5:00 p.m. on March 31, setting forth such information as the Tax Collector shall require, including the following:
  - 1. The name or other identification of all oil wells located in the unincorporated area of the County and operated by him during the calendar year involved;
  - 2. The number of barrels of oil produced and shipped from each of the wells during the year; and
  - 3. The computation of the amount of the per-barrel tax with respect to such production due the County.

- (b) At the time of filing the report such person shall also pay to the Tax Collector any license tax which may be shown to be due. The report must be signed by the person required to have the license or by a managing officer or agent thereof and shall include a declaration substantially as follows:

“I declare under penalty of perjury that I am authorized to make and file the foregoing statement, and that to the best of my knowledge and belief it is a true, correct, and complete statement made in good faith for the period stated.”

- (c) The report required by Section 22-124(a) shall not be conclusive against the County as to the information set forth therein, nor shall the filing of a report preclude the County from collecting by appropriate action any additional tax that is later determined to be due and payable.

### **Section 22-125 - Recordkeeping required.**

Every person required to have a license under this Chapter shall keep full, true, and accurate records as to the amount of oil produced and shipped or sold by him from wells located within the unincorporated area of the County and shall, upon the demand of the Tax Collector, make the records, together with any shipping documents or sales invoices pertaining to such oil, available for the inspection of the Tax Collector at all reasonable times.

### **Section 22-126 - Tax estimates rendered by Tax Collector.**

In the event that any person required to have a license under this Chapter fails to file a report of the yearly production and shipment of oil from his wells as provided in Section 22-124, or that the information filed in such report is insufficient to enable the Tax Collector to compute the license tax liability of such person, the Tax Collector shall, by such method as he may deem appropriate, estimate the amount of the tax due from the person, along with any additional amounts due pursuant to Section 22-123. Notice thereof may be sent by the Tax Collector to such person at his latest address as shown on the County's records.

Such person may within ten days after the serving or mailing of such notice make application in writing to the Tax Collector for a hearing on the amount assessed. If application by such person for a hearing is not made within the time prescribed, the tax, interest, and additional amounts, if any, determined by the Tax Collector shall become final and conclusive and immediately due and payable. If such application is made, the Tax Collector shall give not less than five days written notice to such person to show cause at a time and place fixed in said notice why such amount specified therein should not be fixed for such tax, interest, and additional amounts. At such hearing, such person may appear and offer evidence why such specified tax, interest, and additional amounts should not be so fixed. After such hearing the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the person of such determination and the amount of such tax, interest and additional amounts, if any. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 22-127.

**Section 22-127 - Appeal from determination of Tax Collector.**

Any person subject to the tax aggrieved by any decision of the Tax Collector with respect to the amount of such tax, interest, and additional amounts, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the County Clerk within fifteen 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 person at his last known place of address. The findings of the Board of Supervisors shall be final and conclusive and shall be sent to the appellant. Any amount found to be due shall be immediately due and payable upon the serving or mailing of notice.

**Section 22-128 - Compliance with the California Environmental Quality Act (CEQA).**

Pursuant to the CEQA Guidelines section 15378(b)(4), adoption of this business license tax ordinance as a government funding mechanism is not a project subject to the requirements of CEQA. Prior to commencement of any project that may result from the expenditure of revenues from this tax, any necessary environmental review required by CEQA shall be completed.

**Section 22-129 – Severability.**

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

**Section 22-130 – Timeframes.**

Persons subject to the tax shall apply for and obtain a business license from the Treasurer-Tax Collector before January 1, 2015, or prior to engaging in the business of producing oil in the unincorporated area of the County, whichever is later. The tax shall take effect beginning January 1, 2015, with the first payments due March 1, 2016.

**SECTION TWO**

This ordinance shall take effect immediately upon its approval of two-thirds of the votes cast by voters voting upon the ordinance at the June 3, 2014 general election. This ordinance, or a summary thereof, shall be published in accordance with Government Code section 25124, with the names of the members of the Board of Supervisors voting for and against the same, in a newspaper of general circulation published in the County of Santa Barbara.

**PASSED, APPROVED AND ADOPTED** by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_ the day of \_\_\_\_\_, 2014 by the following vote, subject to approval by the electorate at the election of June 3, 2014:

AYES:

NOES:

ABSTAINED:

ABSENT:

\_\_\_\_\_  
Steve Lavagnino  
Chair, Board of Supervisors

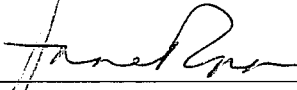
ATTEST:  
MONA MIYASATO  
CLERK OF THE BOARD

By:

  
\_\_\_\_\_  
Deputy Clerk



APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By:   
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:  
ROBERT GEIS, CPA  
AUDITOR-CONTROLLER

By: 