

# Text for Measure N

RESOLUTION NO. NS-30,016

EXHIBIT A

AN INITIATIVE MEASURE PROPOSING AN ORDINANCE ADDING CHAPTER 3.38 TO THE SANTA CRUZ MUNICIPAL CODE TO ESTABLISH AN EMPTY HOMES TAX, A PARCEL TAX ON VACANT RESIDENTIAL PROPERTY IN THE CITY OF SANTA CRUZ

BE IT ORDAINED by the people of the City of Santa Cruz:

## **Section 1. Title**

This Ordinance may be referred to as the “City of Santa Cruz Empty Home Tax.”

## **Section 2. Purpose**

The taxes imposed under this Ordinance are solely for the purpose of raising revenue necessary to support and fund the creation of affordable housing, and related programs, described below. Because the proceeds of the parcel tax will be deposited into a special fund restricted for the services and programs specified in this Ordinance, the tax is a special tax.

## **Section 3. Code amendment**

A new Chapter is hereby added to the City of Santa Cruz Municipal Code to read as follows:

### **Chapter 3.38 Empty Home Tax**

#### **Section 3.38.010 Definitions**

#### **Section 3.38.020 Determination of vacancy**

#### **Section 3.38.030 Audit authority and procedures**

#### **Section 3.38.040 Imposition of parcel tax on vacant property**

#### **Section 3.38.050 Empty Home Tax Fund**

#### **Section 3.38.060 Use of Empty Home Tax Ordinance revenue**

#### **Section 3.38.070 Empty Home Tax Oversight Committee**

#### **Section 3.38.080 Accountability**

#### **Section 3.38.090 False declarations**

#### **Section 3.38.100 Enforcement and penalties**

#### **Section 3.38.110 Appeal process**

#### **Section 3.38.120 Administrative regulations and delegation**

#### **Section 3.38.010. Definitions.**

“Affordable housing” means housing intended to operate as affordable to low, very low, and extremely low incomes as defined in Title 25 of the California Code of Regulations, Sections 6922 (Affordable Rent), 6924 (Affordable Housing Purchase) and 6932 (Income Limits) or their successor provisions by the California Department of Housing and Community Development, in perpetuity, and not subject to a single contract period, regardless of renewability.

"Calendar year" refers to the twelve-month period from January 1 through December 31 pursuant to which the City will determine whether any parcel or unit is subject to the tax.

"City" means the City of Santa Cruz.

"Committee" means the Empty Home Tax Oversight Committee which reviews the annual independent fiscal audits and is responsible to issue an annual report on its findings regarding the special tax proceeds being spent for their authorized purposes.

"Condominium" as defined in Section 4125 or 6542 of the Civil Code of the State of California.

"County" means Santa Cruz County.

"CPI" means the San Francisco - Oakland - Hayward, CA Consumer Price Index for All Urban Consumers (CPI-U) 12-Month Percent Changes, All Items Index, Not Seasonally Adjusted, for October of the subject year.

"Financial expertise" means understanding generally accepted accounting principles and financial statements, experience preparing, auditing, analyzing, or evaluating financial statements, and internal controls and procedures for financial reporting.

"In use" means physical occupancy of a residential parcel, dwelling unit, house, apartment, condominium, or townhome by a lawful inhabitant.

"LGBTQIA2S+" means Lesbian, Gay, Bisexual, Transgender, Queer and/or Questioning, Intersex, Asexual, Two-Spirit, and the countless affirmative ways in which people choose to self-identify.

"Long-term care facility" means any licensed facility as defined in California Health and Safety Code Chapter 2.4 Section 1418.

"Mixed-use" means a parcel where residential components must be the predominant use of the property with at least fifty (50) percent of the buildings' square footage or lot area to be allocated to residential uses and has at least one (1) residential unit and at least one (1) non-residential use.

"Mobilehome park" shall mean an area of land in the city where five (5) or more mobilehome spaces are rented, or held out for rent, or made available for use, to accommodate mobilehomes used for human habitation.

"Multifamily residential parcel" means a parcel that is improved with more than one (1) residential unit.

"Nonresidential parcel" means a parcel that is improved with uses other than residential units.

"Owner" means the owner or owners of the real property located within the City of Santa Cruz as of the last day of December of the calendar year pursuant to which a property is deemed to have been vacant or not vacant for the purposes of applying any exemptions defined in Section 3.38.040(G). The owner shall not be exempt from the tax unless each person or entity that owns a portion of the real property can separately demonstrate that they are entitled to an exemption.

"Parcel" shall mean a unit of real property in the City of Santa Cruz as shown on the most current official assessment roll of the Santa Cruz County Assessor.

"Public parcel" means a parcel that is publicly owned and that is normally exempt from the levy of general ad valorem property taxes under California law, including but not limited to public streets, schools, parks, public drainage ways, public landscaping, wetlands, greenbelts, and

public open space.

"Residential parcel" means a parcel that is improved with one (1) or more residential units.

"Residential unit" means a building or structure, or portion thereof, designed for or occupied exclusively by one (1) household, including unrelated persons who live together and maintain a common household.

"Single-Family residential parcel" means a parcel which is improved with only one (1) residential unit.

"Tax" or "City of Santa Cruz Empty Home Tax" means the special tax authorized by this Chapter.

"Taxable property" means a parcel of real property excluding public, undeveloped, non-residential and mobilehome parks, within the City.

"Townhome" means a single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit extends from the foundation to roof and with a yard or public way on not less than two (2) sides.

"Undeveloped parcel" means a parcel, regardless of zoning or other land use designation, upon which no permanent improvements are constructed or placed.

"Vacant" means in use for less than one hundred and twenty (120) days within a calendar year.

#### **Section 3.38.020. Determination of vacancy.**

- A. For the purposes of this Chapter, a taxable property, shall be deemed "vacant" and subject to the tax imposed by Section 3.38.040 below if the parcel is any of the following:
  - 1. A single-family residential parcel that is in use less than one hundred and twenty (120) days during a calendar year.
  - 2. A condominium or townhome unit under separate ownership that is in use less than one hundred and twenty (120) days during a calendar year.
  - 3. A multifamily residential parcel, including mixed-use, with six (6) Residential Units or less where all units are in use less than one hundred and twenty (120) days during a calendar year, assessed on a per parcel basis.
  - 4. A multifamily residential parcel, including mixed-use, with seven (7) or more Residential Units where any unit is in use less than one hundred and twenty (120) days during a calendar year, assessed on a per unit basis.
- B. The vacancy status of a taxable property shall be determined by an annual declaration of the owner, their agent, or a representative authorized to declare on their behalf.
  - 1. The City shall establish a process for annual declaration of vacancy status for a taxable property, that shall include the following components.
    - a. A website or online portal which explains the Tax and allows declaration of vacancy status.

- b. A paper declaration form and instructions to be mailed to owners no later than December 31 of the calendar year for which the Tax is being imposed using the name and address found on the Santa Cruz County Secured Tax Roll.
  - c. A method to claim exemption from the Tax pursuant to Section 3.38.040(G) of this Chapter. Any taxable property deemed exempt from the Tax shall not be required to submit an annual declaration of vacancy status.
2. The owner or their agent or representative shall declare vacancy status no later than April 15 of the year following the calendar year for which the Tax is being imposed.

**Section 3.38.030. Audit authority and procedures**

- A. The City shall establish a process to annually audit taxable properties declared “in use” as defined in this Chapter to verify the declaration of vacancy status. The process shall include the following components:
  1. A registered owner may be required to provide information at any time and for a period of up to three (3) years after the applicable calendar year respecting:
    - a. the property;
    - b. the identity and address of the registered owner;
    - c. the status of the property; and
    - d. the nature of the occupancy of the property.
  2. If audited, the owner or their agent or representative shall be required to submit documentation or evidence as required by separate ordinance or regulation adopted by the City Council by resolution in support of their vacancy status declaration.
- B. Not more than once annually, the City may examine and perform an audit to review the requested documentation or evidence submitted by an owner to substantiate their vacancy declaration status to ensure compliance with Section 3.38.020. Audits may be performed:
  1. any time the City believes an owner is making a false declaration of vacancy status;
  2. when there is a pending ownership change; and
  3. at appropriate intervals as determined by the City.

**Section 3.38.040. Imposition of parcel tax on vacant property.**

- A. A special tax in the amounts set forth below is hereby imposed on every taxable property within the City determined pursuant to Section 3.38.020, except as exempted, as described below in Section 3.38.040(G).
- B. The Tax constitutes a debt owed by the owner of each taxable property to the City.
- C. The County shall levy and collect the Tax on each taxable property in the City for which the owner receives a separate ad valorem property tax bill, at the same time and manner, and subject to the same penalties and procedures as ad valorem property taxes collected by the County except as otherwise set forth in this Ordinance.

D. The Tax shall be imposed on the ad valorem property tax bill for the fiscal year that begins July 1 following the end of the calendar year in which the taxable property was vacant. The special tax shall first be imposed no sooner than the ad valorem property tax bill for fiscal year 2024-2025 for taxable properties that were vacant in the previous calendar year.

E. Tax Rates.

1. The tax rates for each taxable property type shall be as set forth in the table below. The City shall be responsible for assigning a tax rate for each parcel. The City shall not lower the rates or adopt further categories of exemption without voter approval.

<u><b>Taxable Property Type</b></u>	<u><b>Annual Tax Rate</b></u>
Residential parcel with six (6) or fewer units	\$6,000.00 per vacant parcel
Condominium or townhome under separate ownership	\$3,000.00 per vacant residential unit
Residential unit on parcel with seven (7) or more units	\$3,000.00 per vacant residential unit

2. For residential parcels with one to six (1-6) units, the parcel is not vacant if any unit on the parcel is "in use" as defined in this Chapter. A condominium or townhome under separate ownership is treated as a separate unit, and if not "in use", is subject to the tax regardless of the status of any other unit on the same parcel, lot or that is part of the same development. For residential parcels with seven (7) or more units, the vacancy status of each unit is assessed individually for the purposes of this Chapter, and if it is not "in use", it is subject to the tax regardless of the status of any other unit on the same parcel or that is part of the same development.
3. On January 1 of the year after the tax in this Chapter is enacted, and every January 1 thereafter, the City shall adjust the tax rates in Section 3.38.040(E) to account for the rate of inflation by the lesser of the CPI for the prior year or two (2) percent, except that in the event of a negative CPI no adjustment shall be made, rounded to the nearest one dollar (\$1). The incremental change shall be added to the associated tax rate for that year.

F. Real property otherwise wholly exempt from ad valorem tax by state law shall also be exempted from the tax imposed by this Chapter.

G. Claimed Exemptions.

1. A taxable property owner may claim an exemption from the tax imposed by this Chapter in any of the circumstances specified in this Section. The following exemptions shall be granted when such exemption has been properly claimed by the taxable property owner and when the grounds for such exemption have been fully verified:

- a. An owner, for any period of time during the relevant calendar year, experienced a significant medical event that kept the owner from engaging in their normal work or business activities for at least thirty (30) days.
- b. A taxable property that is vacant due to a demonstrable hardship that is unrelated to the owner's personal finances. The following circumstances constitute a "demonstrable hardship":
  - 1) The subject taxable property was, for at least one hundred and eighty (180) days during the relevant calendar year, subject to a lis pendens, or similar court order, giving notice of a conflict regarding title or ownership interests, pursuant to any pending lawsuit, probate action, condemnation action or other action or proceeding filed with any court.
  - 2) The owner, for at least sixty (60) days during the relevant calendar year, was serving in the military and deployed in another state or overseas.
  - 3) The then owner died at some time during the relevant calendar year.
  - 4) The owner inherited the taxable property during the relevant calendar year or in the immediately preceding calendar year.
- c. The subject taxable property is under active construction. To qualify for this exemption, an owner must keep the building permit or permits active. The "active construction" exemption applies if the owner held, for at least fifty (50) days during the relevant calendar year, a valid and active building permit for the taxable property.
- d. An owner of taxable property for which an active building permit application is being processed by the City. This "building permit application" exemption applies if during or previous to the relevant calendar year, the owner submitted a building permit application to the City and the total number of days during which the application was pending plus any number of days after the application was approved but before the end of the relevant calendar year was at least fifty (50) days.
- e. An owner of a taxable property which is included in a substantially complete application for planning approvals that has not yet received approval. An owner of a taxable property for which a project with development entitlements has been approved but needing time for completion may apply for and receive a one-time three-year exemption. The "substantially complete application for planning approvals" exemption applies if the owner held a notice from the City stating that an application for planning approvals with respect to the subject taxable property was complete and such application remained pending for at least fifty (50) days during the relevant calendar year. After an application for planning approvals is approved for the subject taxable property, the owner may apply for an administrative one-time three-year exemption, exempting the subject taxable property from being deemed vacant for the calendar year during which the application for planning approvals was

approved and for the following two calendar years. Exemption expires upon issuance of certificate of occupancy.

- f. An owner of taxable property who demonstrates to the satisfaction of the City Planning Department that the taxable property is not habitable for at least one hundred and twenty (120) days during the calendar year, due to being affected by natural disaster or environmental hazard.
  - g. An owner placed in a long-term care facility or that has moved permanently into a family member or friend's home to receive care will receive a one-time three-year exemption from the tax which includes the calendar year the owner was placed in long-term-care outside of the taxable property.
  - h. Taxable property registered under the Santa Cruz Short Term Rental Ordinance.
  - i. One hundred (100) percent of the legal interest in the taxable property is transferred within the relevant calendar year.
2. Pursuant to Section 3.38.020(B) of this Chapter, the City shall establish the procedures and guidelines for owners to apply for, and grant, the exemptions identified in this Section as part of the declaration process. owners who claim an exemption may be required to submit information annually to substantiate their continuing qualification for an exemption.
  3. The City Council may, by ordinance, provide supplemental definitions for the exemptions in this Section and for the administration of the exemptions.

#### **Section 3.38.050. Empty Home Tax Fund.**

The "Empty Home Tax Fund" ("Fund") is hereby created as a special revenue fund. Proceeds from the Santa Cruz Empty Home Tax, including penalties and interest earned on such proceeds, shall be deposited into the Fund and used only for the purposes listed in Section 3.38.060.

#### **Section 3.38.060. Use of Empty Home Tax Ordinance revenue.**

Monies deposited in the Empty Home Tax Fund shall be used solely for those purposes identified in this Section.

- A. Monies in the Fund may be used to finance the construction of affordable housing as defined in this Chapter.
- B. Monies in the Fund may be used to purchase existing housing units for the purposes of maintaining or converting them to affordable housing as defined in this Chapter.
- C. A residential unit is considered affordable housing if it falls under any of the following restrictions:
  1. public housing owned by the City, County, State, or Federal government, subject to internal legal restrictions on affordability consistent with affordable housing as defined in the Chapter;
  2. privately owned housing with a transferrable affordability restriction applied on the deed consistent with affordable housing as defined in the Chapter;

3. housing under an easement contract owned by any government agency stipulating its usability only for affordable housing as defined in this Chapter; or
  4. housing owned by a nonprofit affordable housing provider with internal bylaws that do not include a fixed contract term of affordability, and with a reasonable expectation of long-term affordability protections consistent with affordable housing as defined in the Chapter.
- D. Up to five (5) percent of the revenue deposited into the Fund in any single year may be used to provide sanitation, bathroom, and hygiene services for the unhoused community in the City.
- E. Monies in the Fund may be used to pay the costs of an independent third-party audit of the use of monies in the Fund.
- F. Monies in the Fund may be used to pay for the costs of administering the Tax, regardless of how or by what entity those administrative services are provided. No more than fifteen (15) percent of the revenue deposited into the Fund in any single year may be used to pay for such administrative costs, except that revenue used to pay for the costs of the Empty Home Tax Fund Oversight Committee established by Section 3.38.070 shall not count toward the fifteen (15) percent. Notwithstanding the foregoing, the City shall be reimbursed for its administrative costs of establishing the program for collecting the tax, whose costs shall be confirmed by a third-party auditor. Administrative costs include, but are not limited to:
1. the costs to the City associated with monitoring and enforcing compliance with this Chapter;
  2. the costs to the City associated with developing ordinances and regulations to implement this Chapter;
  3. the costs to the City associated with the operations of the Empty Home Tax Fund Oversight Committee established by Section 3.38.070; and
  4. the costs to the City associated with collecting the tax.

**Section 3.38.070. Empty Home Tax Oversight Committee.**

- A. The Empty Home Tax Oversight Committee is hereby established for community oversight of the Tax established by this Chapter, and to make recommendations to the City to improve zoning and land use designations to better support the creation of affordable housing as defined by this Chapter.
- B. The Committee shall meet at least one (1) time per calendar year and more frequently as needed. The first meeting of the Committee each year shall be held within three (3) months of the release of the annual audit. A majority of Committee members may request in writing that the City Council approve the Committee meeting more than once per year.
- C. The Committee shall review relevant financial and operational reports, including enforcement and compliance data, related to the expenditures. The Committee shall publish an annual report that shall be posted on a dedicated page of the City of Santa Cruz website



regarding how and to what extent the City has implemented this Chapter. Additionally, the Committee may obtain or prepare and publish reports regarding the following:

1. recommendations from the Committee for consideration by the City Council on how to prioritize the allocation of funds in accordance with the requirements of this Chapter, including for supporting the provision of affordable housing to households qualifying at least low-income households (those at fifty (50) percent Average Median Income or below); and
  2. information, if available, concerning the impacts of programs funded by the Empty Home Tax in the City.
- D. The Committee shall appoint a member as liaison to communicate with the City Manager and City.
- E. The Committee shall consist of nine (9) members who are all residents of the City. No fewer than three (3) members must be renters. No fewer than two (2) members must be in the low, very low or extremely low income category but do not have to be renters. No fewer than two (2) representatives must have financial expertise. No fewer than one (1) member shall be a currently enrolled student at the Santa Cruz campus of the University of California at the time of appointment. No fewer than one (1) member must be a city worker who is an active member of a union bargaining unit during their tenure on the Committee. Members may fulfill more than one (1) of these criteria for the purposes of meeting these requirements. The City will hold an open application period for all seats similar to the process for other Advisory Bodies. Members of the Committee shall be appointed by the City pursuant to Section 2.40 of the City of Santa Cruz Municipal Code. Members of the Committee shall receive no salary for serving.
- F. Members shall serve four (4) year terms, as provided for in Santa Cruz Municipal Code Section 2.40.011(c). No member shall serve more than two (2) consecutive four (4) year terms. Of the initial members of the Committee, three (3) appointments shall be for one-year terms, three (3) appointments shall serve for two-year terms, and three (3) appointments shall be for three-year terms. Thereafter, all terms shall be for four (4) years. All terms of members shall begin as of the date that nine (9) members have been appointed, which is when the Committee may begin its work. All future terms shall begin and end on that same day and month of subsequent years.
- G. A quorum of the Committee shall never be fewer than five (5) members and if seats are not filled due lack of applicants, work may begin with five (5) members and a quorum will consist of three (3) members.
- H. A member may be removed for cause by a majority vote of the City Council. Absence from three (3) consecutive regular meetings, or four (4) non-consecutive regular meetings during a single fiscal year, may constitute cause for removal from the Committee. In addition, any cause for removal may be voted on by the Committee and if a majority votes to recommend removal, it shall be referred to the City Council for a final vote on removal of the member from the Committee. If the City Council fails to appoint a Committee member following a

vacancy within three months (3) of the vacancy, the Committee may appoint an interim Committee member by a majority vote.

- I. The City Manager or designee shall provide clerical assistance, administrative support and technical assistance to the Committee and shall be present at the Committee meetings.
- J. The Committee may hold at least one (1) meeting per year at a location outside of City Hall but within the City of Santa Cruz.
- K. The Committee may convene community meetings to solicit community testimony and other input to build trust between the community, neighborhoods and the City, and to address other similar and relevant subjects as determined by the Committee within its jurisdiction.
- L. The Committee may invite subject matter experts and individuals to provide informational presentations, including but not limited to representatives from faith-based groups, non-profit affordable housing developers, land use experts, unhoused community advocates, renters' rights groups, land trusts, youth groups, LGBTQIA2S+ advocates, veterans, racial equity experts, and other members of the community.
- M. The Committee may establish by a majority vote, bylaws, working groups and sub-committees.
- N. Committee members shall be provided and shall attend training on the following:
  - 1. basic principles of Robert's Rules of Order and meeting procedures; and
  - 2. the legal requirements of California's Political Reform Act (Cal. Gov. Code section 81000, et seq.), Santa Cruz's Conflict of Interest Code (Resolution No. NS-18,483 - 2/14/89), California's Brown Act (Cal. Gov. Code section 54950, et seq.), and California's Public Records Act (Cal. Gov. Code section 6250, et seq.) and diversity, equity and inclusion.

### **Section 3.38.080. Accountability.**

In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the tax:

- A. A separate, special account, referred to as the Empty Home Tax Fund, shall be created, into which the proceeds of the Tax must be deposited.
- B. The specific purposes of the Tax are for provision of affordable housing and for the other purposes set forth in Section 3.38.060 of this Chapter. The proceeds of the tax shall be applied only to these specific purposes.
- C. The Committee established by Section 3.38.070 shall perform the oversight functions listed in that Section to ensure that the revenue from the tax is spent solely for the purposes listed in Section 3.38.060.
- D. An independent third-party auditor shall perform regular audits at least annually to ensure accountability and proper disbursement of all revenue collected by the City from the Tax imposed by this Chapter, in accordance with the objectives stated herein and in compliance with provisions of California law.

### **3.38.090. False declarations.**

Any person required to make, render, sign or verify any report under the provisions of this Chapter, who makes any false or fraudulent declaration, with intent to defeat or evade the determination of an amount due and required to be paid hereunder, is guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred (500.00) dollars or by imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment.

### **3.38.100. Enforcement and penalties.**

- A. Except as provided in Section 3.38.090, a violation of any of the provisions of this Chapter shall constitute an infraction for the first two (2) violations of this Chapter in a one-year period, which shall be punishable by a fine in a bail established by the City Council by resolution. Each person or entity in violation of this Chapter may be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued or permitted by such person or entity and shall, upon conviction, be punished accordingly. Three (3) violations within a one-year period shall constitute a misdemeanor, which shall be punishable by a fine of one thousand (1,000.00) dollars and/or by imprisonment in the county jail for a period of not more than six (6) months.
- B. In addition to any other remedy provided by this code, this Chapter may be enforced by injunction issued by the superior court upon a suit brought by the City of Santa Cruz, or upon a suit brought by any aggrieved party. Pursuant to Section 4.04.020, as part of a civil action filed to enforce provisions of this chapter, a court may assess a maximum civil penalty of two thousand five hundred (2,500.00) dollars per violation of this chapter for each day during which any person commits, continues, allows or maintains a violation of any provision of this chapter.
- C. This Chapter is enacted for the significant public benefit of promoting public health, safety and welfare to minimize any adverse impact on the community due to vacant residential units exacerbating the housing affordability crisis and to increase the affordable housing stock for the lowest income levels in the City. Therefore, if a private attorney general plaintiff successfully brings an action to enforce this Chapter against any offenders of this Chapter, it is the desire and intent of the city of Santa Cruz that the successful plaintiff be able to recover its reasonable attorneys' fees under Code of Civil Procedure Section 1021.5, or any similar private attorney general successor statute.
- D. Repeated violations of this Chapter constitute a public nuisance which may be enjoined under all applicable law, including, but not limited to, Municipal Code Section 4.04.020 and Code of Civil Procedure Section 731. Therefore, pursuant to Municipal Code Sections 4.25.010 and 4.25.020, the prevailing party to an action or proceeding to enjoin a public nuisance arising from violations of this Chapter shall recover the amount of its reasonable attorneys' fees.
- E. If the owner of a taxable property previously declared "in use" cannot provide requested required documentation to substantiate that status, the taxable property will be considered

to be “vacant”, and excluding a successful appeal pursuant to Section 3.38.110 of this Chapter, be subject to the Tax and any associated penalties. Additionally, the owner of the taxable property shall be subject to all of the following:

- a. immediate audit of the declaration of vacancy status for the three (3) preceding calendar years, except; if the tax has not yet been enacted for the preceding three (3) calendar years, the declaration of vacancy status shall be audited for all preceding calendar years in which the tax was applied; if the current majority interest property owner has not owned the taxable property for the entirety of the audit period defined above, the audit will be constrained to only the time period the current owner held a majority interest in the taxable property; if one hundred (100) percent of the legal interest in the taxable property was transferred within the preceding three (3) calendar years, the declaration of vacancy status shall be audited only back to the calendar year immediately following the transfer;
  - b. ongoing audit of the declaration of vacancy status for the two (2) following calendar years; and
  - c. pursuant to Santa Cruz Municipal Code Chapter 4.26, any additional administrative costs associated with audits required due to an owner being unable to provide required documentation to substantiate vacancy status shall be recovered from the owner directly. Monies recovered through this provision shall be deposited in the Empty Home Tax Fund.
- F. The City may take any other action permitted by law to ensure compliance with this Chapter and other City ordinances subject to its administration, including, but not limited to, general municipal code enforcement procedures in Santa Cruz Municipal Code Title 4.
- G. The remedies provided herein shall be cumulative and not exclusive. No remedy provided in this Chapter shall be deemed to be a prerequisite to the taking of any other action provided for herein.

**Section 3.38.110. Appeal process.**

- A. Request for Hearing. Following an adverse decision after an audit pursuant to Section 3.38.030 or the imposition of the tax pursuant to Section 3.38.040 an owner may, within twenty (20) days of notification of an adverse decision of an audit or receiving their ad valorem tax bill, file a petition and request an appeal hearing before a hearing officer as defined in Section 4.22 of the Santa Cruz Municipal Code. Upon such request, the City Manager shall randomly appoint an independent hearing officer from a panel of at least five (5) previously identified hearing officers.
- B. Pre-Hearing Procedure. Prior to the hearing, the hearing officer may receive supplemental materials and evidence from the petitioner and the City. As soon as practical, the hearing officer shall set a deadline to receive any supplemental materials and evidence and shall set a hearing date.
- C. Hearing Procedure. Formal rules of evidence shall not apply to the conduct of the hearing and decisions shall be made on the preponderance of the evidence standard. The hearing

officer shall have the authority and discretion to permit examination of witnesses. Any party to a hearing may be assisted by a representative, including an attorney.

Decision Following Hearing. As soon as practical following the hearing, the hearing officer shall issue a written decision regarding the vacancy status of the subject taxable property. At the discretion of the hearing officer, the decision may, but is not required to, include findings of fact. The hearing officer's decision shall be considered final on the day it is executed by the hearing officer.

- D. Further Action. After the hearing officer issues a final decision, any party may seek further appropriate relief from the superior court. Any person whose complaint, claim, or petition may be resolved by employing the administrative remedies provided in Section 3.38.110 (A-D) must exhaust those remedies before filing any suit for refund, rebate, exemption, cancellation, amendment, adjustment, or other codification of the tax.

#### **Section 3.38.120. Administrative regulations and delegation.**

- A. The City is authorized to adopt rules and regulations consistent with this Chapter as needed to implement this Chapter, and to develop all related forms and/or other materials and take other steps as needed to implement this Chapter and make such interpretations of this Chapter as they may consider necessary to achieve the purposes of this Chapter.
- B. The City Manager may delegate any authority within the City Manager's discretion pursuant to this Chapter as the City Manager deems reasonably necessary.

#### **Section 4. Severability.**

If any section or portion of this Ordinance is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the Ordinance, which shall continue in full force and effect, and to that extent, the provisions of this Ordinance are severable.

#### **Section 5. California Environmental Quality Act requirements.**

The City hereby determines that this Ordinance is not in-and-of-itself a "project" pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of the ordinance itself may have a significant effect on the environment. To the extent that special tax revenues generated by the Ordinance may in the future be used to fund the construction of capital improvements, the Ordinance may assist in the financing of future "projects" that will be subject to environmental review pursuant to CEQA at the "earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352.

#### **Section 6. Approval; effective date.**

This Ordinance, and all the provisions thereof, shall become effective only upon affirmative passage by a fifty (50) percent plus one (1) majority vote of the voters voting on the Ordinance. This Ordinance shall be considered adopted on the date that the City declares the results of the election at which it was voted upon and shall be effective ten (10) days thereafter.

**Section 7. Council amendments.**

This Ordinance may only be amended by a vote of the people if the amendment would result in the special tax being imposed, extended, decreased or increased in a manner not authorized by this Ordinance as originally approved by the voters. The City Council of the City of Santa Cruz is hereby authorized to amend Chapter 3.38 of the Santa Cruz Municipal Code as adopted by this Ordinance in any manner that does not decrease or increase the tax rates, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.